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Friday
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Friday
April 19, 1985

Selected Subjects

Administrative Practice and Procedure
Federal Grain Inspection Service

Air Pollution Control
Environmental Protection Agency

Archives and Records
National Archives and Records Administration

Aviation Safety
Federal Aviation Administration

Endangered and Threatened Species
Fish and Wildlife Service

Food Grades and Standards
Agricultural Marketing Service

Government Procurement
Agency for International Development

Indians—Lands
Land Management Bureau

Libraries
List of libraries announcing availability of Federal Register and CFR—Part II, Reader Aids

Marketing Agreements
Agricultural Marketing Service

Radio
Federal Communications Commission

Radio Broadcasting
Federal Communications Commission

CONTINUED INSIDE

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Selected Subjects

Contents

Federal Register
Vol. 50, No. 76
Friday, April 19, 1985

Separate Parts in This Issue

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.

Federal Register
Vol. 50, No. 76
Friday, April 19, 1985

Presidential Documents

Title 3—

The President

Executive Order 12510 of April 17, 1985

Non-Foreign Area Cost-of-Living Allowances

By the authority vested in me as President by the Constitution of the United States of America and section 5941 of title 5 of the United States Code, it is hereby ordered as follows:

Section 1. Section 205 of Executive Order No. 10000 of September 16, 1948, as amended, is further amended to provide as follows:

"Sec. 205. Additional living cost compensation.

(a) The Office of Personnel Management shall from time to time, subject to applicable law, (1) designate places in non-foreign areas eligible to receive additional compensation by virtue of living costs that are substantially higher than in the Washington, D.C., area, (2) fix for each place so designated an additional rate or rates of compensation by reason of such higher living costs, and (3) prescribe by regulation such additional policies or procedures as may be necessary to administer such compensation. Additional compensation under this section is referred to as a 'non-foreign area cost-of-living allowance'.

"(b) In fixing the non-foreign area cost-of-living allowances, the Office of Personnel Management shall make appropriate deductions when quarters or subsistence, or commissary or other purchasing privileges are furnished as a result of Federal civilian employment at a cost substantially lower than the prevailing costs in the allowance area concerned."

Sec. 2. (a) Section 201 of Executive Order No. 10000, as amended, is further amended by deleting "the word 'Territories' means Alaska, Hawaii, the" and inserting in its place "the term 'non-foreign areas' includes Alaska, Hawaii, the territories and".

(b) Executive Order No. 10000, as amended, is further amended by deleting "Territorial" and "Territories" wherever they appear and inserting in their place "non-foreign area" and "non-foreign areas", respectively.

Sec. 3. Executive Order No. 12070 of June 30, 1978, is hereby superseded.

Sec. 4. This Order shall be effective upon publication in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
April 17, 1985.

[FR Doc. 85-9699
Filed 4-18-85; 11:26 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 76
Friday, April 19, 1985

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Growers' Referendum Results

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to the referendum on the designation of the consolidated flue-cured tobacco markets of Valdosta and Hahira, Georgia. A referendum was conducted during the period of March 25–29, 1985, among tobacco growers who sell their tobacco at auction in Valdosta and Hahira, Georgia, to determine producer approval of the designation of these two markets as one consolidated market. Eligible producers voted in favor of the designation. Therefore, for the 1985 and succeeding flue-cured marketing seasons, the Valdosta and Hahira, Georgia, tobacco markets shall be designated as and be called Valdosta-Hahira. The regulations are herein amended to reflect this new designated market.

EFFECTIVE DATE: April 19, 1985.

SUPPLEMENTARY INFORMATION: A notice was published in the March 15, 1985, issue of the **Federal Register** (50 FR 10501) advising that a referendum would be conducted among flue-cured producers who market their tobacco on the Valdosta and Hahira, Georgia, markets to ascertain if such producers favored the designation of the consolidated markets. Valdosta and Hahira had been officially and separately designated on June 2, 1940 (5 FR 2335) and October 9, 1941 (6 FR 5147), respectively, under the Tobacco Inspection Act of 1935 (7 U.S.C. 511 *et seq.*).

The referendum was conducted among producers who were engaged in the production of flue-cured tobacco marketed in Valdosta and Hahira, Georgia, for calendar year 1984. Ballots for the March 25–29 referendum were mailed to 415 producers. Approval required votes in favor of the proposal by two-thirds of the eligible voters who cast valid ballots. The Department received a total of 176 responses: 152 eligible producers voted in favor of the consolidation of the Valdosta and Hahira markets; 9 eligible producers voted against the consolidation; and 15 ballots were determined to be invalid because they were not completed and/or signed.

Upon the basis of the results of the referendum, it is determined that the consolidated market of Valdosta-Hahira, Georgia, is hereby designated as a flue-cured tobacco auction market and that this designated market shall receive mandatory, federal grading of tobacco sold at auction for the 1985 and succeeding seasons.

The referendum was held in accordance with the provisions of 7 U.S.C. 1312(c) and the regulations set forth in 7 CFR Parts 29 and 717.

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be a "nonmajor" rule because it does not meet any of the criteria established for major rules under the executive order.

Additionally, in conformance with the provisions of Pub. L. 96–354, Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Tobacco warehousemen and producers fall within the confines of "small business" as defined in the Regulatory Flexibility Act. A number of firms which are affected by these adopted regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will have no adverse economic impact upon all entities, small or large, and will in no way effect the normal competition in the market place.

List of Subjects in 7 CFR Part 29

Administrative practices and procedure, Tobacco.

PART 29—TOBACCO INSPECTION

Accordingly, the Department amends the regulations under the Tobacco Inspection Act contained in 7 CFR Part 29, Subpart D, as follows:

§ 29.8001 [Amended]

The table contained in § 29.8001, entitled "Designated Tobacco Markets" is amended as follows:

(1) Item (o) is amended by removing the entire entry for Georgia, and by designating the entry for Florida as "(o)".

(2) Item (q) is amended by deleting the words "Hahira, Ga." from the column entitled Auction Markets.

(3) A new item (xx) is added under (ww) at end of the table, the new (xx) to read as follows:

Territory	Types of tobaccos	Auction markets	Order of designation	Citation
(xx) Georgia	Flue-Cured	Valdosta-Hahira	(Date of publication in Federal Register).	50 FR ——

Dated: April 1, 1985.

Karen Darling,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 85-9389 Filed 4-18-85; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 512]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 290,000 cartons during the period April 21–27, 1985. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

DATES: Effective for the period April 21–27, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on April 16, 1985, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the lemon demand pattern has improved on all sizes of fruit.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.812 is added as follows:

§ 910.812 Lemon Regulation 512.

The quantity of lemons grown in California and Arizona which may be handled during the period April 21, 1985, through April 27, 1985, is established at 290,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: April 17, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–9630 Filed 4–18–85; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–ASW–7; Amdt. 39–5020]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model SE3130, SE313B, SA3180, SA318B, SA318C, and SA315B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection for proper shot peening of certain tail rotor pitch control rods on Aerospatiale Model SE3130, SE313B, SA3180, SA318B, SA318C, and SA315B helicopters. Cracks may occur in an improperly shot peened rod which may cause failure of the rod and possible loss of helicopter directional control.

DATES: Effective April 19, 1985.

Compliance required within 50 hours' time in service after the effective date of this AD, unless already accomplished.

The incorporation by reference of the service bulletins listed in this AD is approved by the Director of the Federal Register as of April 19, 1985.

ADDRESSES: A copy of the service information may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office c/o American Embassy, Brussels, Belgium, APO New York 09667, or J. H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, FAA, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877–2549.

SUPPLEMENTARY INFORMATION: The FAA has determined that tail rotor pitch rods modified per AMS2178 may not be properly shot peened. The affected rods may be installed on Aerospatiale Model SE3130, SE313B, SA3180, SA318B, SA318C, and SA315B helicopters. An airworthiness directive is being issued which requires a one-time inspection for proper shot peening (surface treatment) of certain tail rotor pitch change control rods on Aerospatiale Model SE3130, SE313B, SA3180, SA318B, SA318C, and SA315B helicopters. Cracks may occur in an improperly shot peened rod which may cause failure of the control rod and possible loss of helicopter directional control. To ensure that the shot peening operation was correctly applied in the fillet between the splines and shank of each control rod modified per AMS2178, a one-time inspection for proper shot peening is required within 50 hours' time in service, or as specified. Immediate replacement of a control rod with improper shot peening is then required. The inspection and associated replacement, if required, shall be accomplished as prescribed in Aerospatiale Service Bulletin No. 01.19 or No. 01.50 for the appropriate model helicopter.

Since a situation exists that requires the 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.

About 98 helicopters may be affected for an estimated fleet expense of $114,000. These aircraft are owned by large entities. Therefore, I certify that this regulation is not a "major rule" under Executive Order 12291, and is not a significant "rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the

regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety and incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale (SNIAS): Applies to Model SE3130, SE313B, SA3180, SA318B, SA318C, and SA315B helicopters, certificated in all categories, that are equipped with a tail rotor pitch change control rod that has been modified in accordance with AMS2178.

Compliance is required within 50 hours' time in service after the effective date of the AD or before the accumulation of 750 hours' total time in service for tail rotor gearboxes, whichever occurs later, unless already accomplished.

To ensure that proper shot peening of the control rod has been accomplished and thereby prevent possible cracks in the control rod, accomplish the following:

(a) Comply with paragraph C of Aerospatiale Service Bulletin No. 01.19 or No. 01.50, dated May 2, 1984, for the appropriate helicopter model. Paragraph C of each bulletin contains disassembly, inspection, and assembly information.

(b) Equivalent means of complying with this AD must be approved by the Manager, Aircraft Certification Office, FAA, Europe, Africa, and Middle East Officer c/o American Embassy, Brussels, Belgium.

(c) Aircraft may be flown in accordance with FAR §§ 21.197 and 21.199 to a base where compliance may be accomplished.

(d) The Director of the Federal Register approved the incorporation by reference of the manufacturer's specifications and procedures identified and described in this directive pursuant to 5 U.S.C. 552(a)(1). Persons may obtain copies of the service bulletins upon request to Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support. The documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983]; 14 CFR 11.89)

This amendment becomes effective April 19, 1985.

Issued in Fort Worth, Texas, on March 19, 1985.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 85-9442 Filed 4-18-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-ASW-21; Amdt. 39-5024]

Airworthiness Directives; Boeing Vertol Model 234 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Boeing Vertol Model 234 series helicopters by individual telegrams. The AD requires an initial and repetitive inspection of the forward main rotor drive shaft and removal and replacement of cracked shafts prior to further flight. The AD is prompted by a report of splines cracking on a forward main motor drive shaft. Failure of a main rotor drive shaft could lead to separation of the forward main rotor and subsequent loss of the helicopter.

DATES: Effective April 22, 1985, as to all persons except those to whom it was made immediately effective by telegraphic AD T84-10-51, issued May 3, 1984, which contained this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 22, 1985.

Compliance as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Boeing Vertol Company, Boeing Center P.O. Box 16858, Philadelphia, Pennsylvania 19142.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Murry Schoenberger, ANE-174, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone number (516) 791-7421.

SUPPLEMENTARY INFORMATION: On May 3, 1984, telegraphic AD T84-10-51 was issued and made effective immediately as to all known U.S. owners and operators of Boeing Vertol Model 234 series helicopters. The AD required an initial and repetitive inspection of forward main rotor drive shafts and removal and replacement of cracked drive shafts prior to further flight. The AD was prompted by a report of splines cracking on a forward main rotor drive shaft. Failure of a main rotor head drive shaft could lead to separation of a main rotor and loss of the helicopter.

Service Bulletin No. 234-63-1009, dated June 29, 1984, has been issued and is referenced in paragraph (a) of this AD. This later bulletin incorporates the inspection instructions and supersedes, but does not change, the inspection procedures contained in Telex Bulletin No. 234-63-1009, dated April 20, 1984, that were listed in paragraph A of the telegraphic AD.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued May 3, 1984, to all known U.S. owners and operators of Boeing Vertol Model 234 helicopters. These conditions still exist and the AD is revised as noted and hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Ten aircraft may be affected by this AD for an estimated annual cost of $33,280 per aircraft. None of these aircraft are owned by a small entity.

The FAA 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 action 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). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Boeing Vertol Company: Applies to Boeing Vertol Model 234 series helicopters, certificated in all categories, equipped with forward main rotor drive shaft Part Number (P/N) 114D1245–7 mated with, or which has ever been mated with, rotor hub P/N 114R2050–17 or –23.

Compliance is required as indicated, unless already accomplished. To prevent possible hazards in flight associated with cracking of the forward main rotor drive shaft, accomplish the following:

(a) Within 35 hours' time in service after the effective date of this AD or upon accumulation of 1,600 total hours' time in service on the rotor shaft, whichever occurs later, and thereafter at intervals not to exceed 35 hours' time in service from the last inspection, inspect the rotor drive shaft in accordance with paragraph 3, "Accomplishment Instructions," Boeing Vertol Service Bulletin No. 234–63–1009, dated June 29, 1984, or FAA-approved equivalent.

(b) Remove from service forward main rotor drive shafts having a crack and replace with a serviceable part prior to further flight.

(c) An equivalent method of compliance with this AD may be used when approved by the Manager, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

(d) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, New York Aircraft Certification Office, FAA New England Region, may adjust the compliance times specified in this AD.

(e) The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Vertol Company, Boeing Center, P.O. Box 16858, Philadelphia, Pennsylvania 19142. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89)

This amendment becomes effective April 22, 1985, as to all persons except those persons to whom it was made immediately effective by telegraphic AD No. T84–10–51, issued May 3, 1984, which contained this amendment.

Issued in Fort Worth, Texas, on March 22, 1985.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85–9507 Filed 4–18–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–AWA–25]

Realignment of VOR Federal Airway V–162; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: Due to recomputation of the DUMMR Intersection located between Harrisburg, PA, and East Texas, PA, on Federal Airway V–162, an error was found in the radials that form the intersection. This action amends the description of V–162 to correct the airway description as currently charted.

EFFECTIVE DATE: 0901 G.M.T. June 6, 1985.

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, D.C. 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

The Amendment

During a revalidation period to confirm the accuracy of airway/jet route segments in the National Airspace System, VOR Federal Airway V–162 segment between Harrisburg, PA, VORTAC and East Texas, PA, VORTAC did not intersect at DUMMR Intersection via the radials charted. This action corrects these radials as recommended by National Ocean Survey.

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

List of Subjects in 14 CFR Part 71

VOR Federal airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, VOR Federal Airway V–162 as published in Compilation of Regulations, 7400.6A, dated January 2, 1985, is corrected as follows:

V–162 [Amended]

By removing the words "via Harrisburg; East Texas, PA;" and substituting the words "Harrisburg 080° and East Texas, PA, 260° radials; East Texas;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on April 15, 1985.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85–9439 Filed 4–18–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–ANM–18]

Alteration of VOR Federal Airways; Denver, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters several federal airways located in the vicinity of Denver, CO, by deleting some alternate airway segments and renumbering other airway segments. This action supports an agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System.

EFFECTIVE DATE: 0901 G.M.T., June 6, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On December 20, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the descriptions of several airways by deleting all alternate route designations, renumbering some airway segments and revoking airway segments that are not required (49 FR 49481).

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 deletion of the reference to the Eureka High MOA and editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the descriptions of several airways by deleting alternate route designations, renumbering some airway segments and revoking airway segments not required. This action supports our agreement with ICAO to eliminate all alternate route designations from the National Airspace System, and contributes to the efficiency of the federal airway system by eliminating unnecessary segments.

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

List of Subjects in 14 CFR Part 71

VOR Federal Airways.

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

V-210 [Amended]

By removing the words "Alamosa, CO, including a south alternate via INT Farmington 086° and Alamosa 232° radials;" and substituting the words "Alamosa, CO;"

V-368 [New]

From Alamosa, CO; INT Farmington, NM, 086° and Alamosa 232° radials; to Farmington, NM.

V-8 [Amended]

By removing the words "Bryce Canyon, UT, Hanksville, UT, including a south alternate; Grand Junction, CO, including a south alternate via INT of Hanksville 087° and Grand Junction 232° radials and also a north alternate from Bryce Canyon to Grand Junction via INT Bryce Canyon 048° and Grand Junction 259° radials; 33 miles, 130 MSL, Kremmling, CO, including a south alternate from Grand Junction, 33 miles, 21 miles, 127 MSL, 120 MSL, INT Grand Junction 075° and Kremmling 228° radials, 28 miles 120 MSL, 130 MSL to Kremmling;" and substituting the words "Bryce Canyon, UT, Hanksville, UT, Grand Junction, CO, Kremmling, CO;"

V-382 [New]

From Bryce Canyon, UT; INT Bryce Canyon 048° and Grand Junction, CO, 259° radials; to Grand Junction, CO.

V-4 [Amended]

By removing the words "Denver; including a north alternate from Laramie to Denver via Gill, CO;" and substituting the word "Denver;"

V-575 [New]

From Laramie, WY; via Gill, CO; to Denver, CO.

V-136 [Amended]

By removing the words "Medicine Bow; Cheyenne, WY, including a N alternate via INT Medicine Bow 106° and Cheyenne 330° radials;" and substituting the words "Medicine Bow; Cheyenne, WY;"

V-132 [Amended]

By removing the words "From Cheyenne, WY;" and substituting the words "From Medicine Bow, WY; INT Medicine Bow 106° and Cheyenne, WY, 330° radials; Cheyenne;" and also by removing the words "The airspace at and above 6,000 feet MSL from 9 NM to 34 NM northwest of Chanute VOR is excluded during the time that the Eureka High MOA is activated."

V-19 [Amended]

By removing the words "Cheyenne, WY; Casper, WY, including an E alternate from Cheyenne to Casper via INT Cheyenne 002° and Douglas, WY, 152° radials and Douglas;" and substituting the words "Cheyenne, WY; Casper, WY;"

V-547 [New]

From Cheyenne, WY; INT Cheyenne 002° and Douglas 152° radials; Douglas, WY; to Casper, WY.

V-85 [Amended]

By removing the words "Medicine Bow; Casper, WY, including a west alternate via INT Medicine Bow 336° and Casper 216° radials;" and substituting the words "Medicine Bow; Casper, WY."

V-491 [New]

From Medicine Bow, WY; INT Medicine Bow 336° and Casper 216° radials; to Casper, WY.

V-465 [Amended]

By removing the words "Miles City, MT, Williston, ND, including an E alternate" and substituting the words "Miles City, MT, Williston, ND."

V-545 [New]

From Miles City, MT; INT Miles City 053° and Williston, ND, 204° radials; to Williston, ND.

V-187 [Amended]

By removing the words "including a west alternate from Farmington, Cortez, CO; Dove Creek, CO, 17 miles, 28 miles 115 MSL, to Grand Junction, excluding the airspace between the main and west alternate;"

V-391 [Amended]

By removing the words "From Dove Creek, CO, via Grand Junction, CO," and substituting the words "From Farmington, NM; via Cortez, CO; via Dove Creek, CO; via Grand Junction, CO;"

V-207 [Amended]

By removing the words "Denver, CO, Gill, CO; including a W alternate via INT Denver 004° and Gill 234° radials;" and substituting the words "Denver, CO; Gill, CO;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on April 15, 1985.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-9447 Filed 4-18-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 84-ASO-22]

Alteration of Restricted Areas—Fort Campbell, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the descriptions of Restricted Areas R-3701 A and B R-3702 A and B, establish R-3702C and revoke R-3701C and R-3703 A, B and C located in the vicinity of Fort Campbell, KY. This action is a result of a determination by the Department of the Army that it can conduct required training and meet its operational requirements in less airspace.

EFFECTIVE DATE: 0901 G.M.T., June 6, 1985.

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, D.C. 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

History

On November 15, 1984, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to alter the descriptions of Restricted Areas R–3701 A and B and R–3702 A and B, to establish R–3702C and to revoke Restricted Areas R–3701C and R–3703 A, B and C (49 FR 45169). 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, these amendments are the same as those proposed in the notice. Sections 71.151 and 73.37 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations alter the descriptions of Restricted Areas R–3701 A and B and R–3702 A and B, establish R–3702C and revoke Restricted Areas R–3701C and R–3703 A, B and C. The Department of the Army has analyzed its overall training missions and operational requirements with respect to special use airspace. As a result, the Department of the Army has determined that its mission can be accomplished with less airspace. The airspace no longer required by the Army is being returned for public use.

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

List of Subjects in 14 CFR Parts 71 and 73

Continental control area, Restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, § 71.151 and § 73.37 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, as follows:

Section 71.151

R–3701C Fort Campbell, KY [Revoked]

R–3702C Fort Campbell, KY [New]

R–3703C Fort Campbell, KY [Revoked]

Section 73.37

R–3701A Fort Campbell, KY [Amended]

Boundaries. Beginning at lat. 36°39'01" N., long. 87°34'15" W.; to lat. 36°39'01" N., long. 87°32'27" W.; to lat. 36°39'05" N., long. 87°31'18" W.; to lat. 36°39'20" N., long. 87°30'35" W.; to lat. 36°39'06" N., long. 87°28'57" W.; to lat. 36°39'18" N., long. 87°28'41" W.; to lat. 36°37'54" N., long. 87°28'38" W.; to lat. 36°37'09" N., long. 87°28'57" W.; to lat. 36°37'18" N., long. 87°32'05" W.; to lat. 36°37'22" N., long. 87°34'15" W.; to the point of beginning.

R–3701B Fort Campbell, KY [Amended]

Boundaries. Beginning at lat. 36°39'01" N., long. 87°34'15" W.; to lat. 36°39'01" N., long. 87°32'27" W.; to lat. 36°39'05" N., long. 87°31'18" W.; to lat. 36°39'20" N., long. 87°30'35" W.; to lat. 36°39'06" N., long. 87°28'57" W.; to lat. 36°39'18" N., long. 87°28'41" W.; to lat. 36°37'54" N., long. 87°28'38" W.; to lat. 36°37'09" N., long. 87°28'57" W.; to lat. 36°37'18" N., long. 87°32'05" W.; to lat. 36°37'22" N., long. 87°34'15" W.; to the point of beginning.

R–3701C Fort Campbell, KY [Revoked]

R–3702A Fort Campbell, KY [Amended]

Boundaries. Beginning at lat. 36°32'00" N., long. 87°32'30" W.; to lat. 36°37'18" N., long. 87°32'05" W.; to lat. 36°37'22" N., long. 87°34'15" W.; to lat. 36°39'01" N., long. 87°34'15" W.; to lat. 36°39'00" N., long. 87°40'00" W.; to lat. 36°42'00" N., long. 87°40'30" W.; to lat. 36°43'30" N., long. 87°43'00" W.; to lat. 36°43'30" N., long. 87°48'15" W.; to lat. 36°37'30" N., long. 87°48'15" W.; to lat. 36°35'30" N., long. 87°45'00" W.; to lat. 36°33'30" N., long. 87°42'30" W.; to lat. 36°32'00" N., long. 87°35'00" W.; to the point of beginning.

Designated altitudes. Surface to and including 16,000 feet MSL.

R–3702B Fort Campbell, KY [Amended]

Boundaries. Beginning at lat. 36°32'00" N., long. 87°32'30" W.; to lat. 36°37'18" N., long. 87°32'05" W.; to lat. 36°37'22" N., long. 87°34'15" W.; to lat. 36°39'01" N., long. 87°34'15" W.; to lat. 36°39'00" N., long. 87°40'00" W.; to lat. 36°42'00" N., long. 87°40'30" W.; to lat. 36°43'30" N., long. 87°43'00" W.; to lat. 36°43'30" N., long. 87°48'15" W.; to lat. 36°37'30" N., long. 87°48'15" W.; to lat. 36°35'30" N., long. 87°45'00" W.; to lat. 36°33'30" N., long. 87°42'30" W.; to lat. 36°32'00" N., long. 87°35'00" W.; to the point of beginning.

Designated altitudes. 16,000 feet MSL to and including FL 220.

R–3702C Fort Campbell, KY [New]

Boundaries. Beginning at lat. 36°32'00" N., long. 87°32'30" W.; to lat. 36°37'18" N., long. 87°32'05" W.; to lat. 36°37'22" N., long. 87°34'15" W.; to lat. 36°39'01" N., long. 87°34'15" W.; to lat. 36°39'00" N., long. 87°40'00" W.; to lat. 36°42'00" N., long. 87°40'30" W.; to lat. 36°43'30" N., long. 87°43'00" W.; to lat. 36°43'30" N., long. 87°48'15" W.; to lat. 36°37'30" N., long. 87°48'15" W.; to lat. 36°35'30" N., long. 87°45'00" W.; to lat. 36°33'30" N., long. 87°42'30" W.; to lat. 36°32'00" N., long. 87°35'00" W.; to the point of beginning.

Designated altitudes. FL 220 to FL 270.

Time of designation. By NOTAM 24 hours in advance.

Controlling agency. FAA, Memphis ARTCC.

Using agency. Commanding General, Fort Campbell, KY.

R–3703A Fort Campbell, KY [Revoked]

R–3703B Fort Campbell, KY [Revoked]

R–3703C Fort Campbell, KY [Revoked]

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on April 11, 1985.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85–9440 Filed 4–18–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 85–ASO–4]

Alteration of Restricted Area R–2916–FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The using agency of Restricted Area R–2916 has been changed from the 20th Air Division at Tyndall Air Force Base, FL, to the 23rd Air Division, Tyndall Air Force Base, FL. This action alters the description of R–2916 to reflect that change.

DATES: Effective date-0901 G.M.T., June 6, 1985. Comments must be received on or before June 3, 1985.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 85–ASO–4, 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, D.C.

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, D.C. 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

This final rule was not preceded by notice and public procedure because it is not in the public interest to do so on such an editorial type change that leaves the effective aspects of the rule unchanged, nonetheless, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 73.29 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to change the using agency of Restricted Area R–2916, Cudjoe Key, FL, from USAF, 20th Air Division to USAF, 23rd Air Division so that the affected airspace description contains accurate and current information. Section 73.29 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

Under the circumstances presented, the FAA concludes that there is an immediate used for a regulation to amend the using agency for R–2916 to USAF, 23rd Air Division. Since this action is editorial in nature only and the burden on the public remains unchanged, I find that notice or public procedure under 5 U.S.C. 553(b) is impracticable and unnecessary.

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

List of Subjects in 14 CFR Part 73

Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.29 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

R–2916 Cudjoe Key, FL [Amended]

By removing the words "USAF, 20th Air Division" and substituting the words "USAF, 23rd Air Division, S. E. Regional Operational Control Center (ROCC), Tyndall AFB, FL"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on April 11, 1985.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85–9446 Filed 4–18–85; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 312

Update of Organizational References; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended its regulations to update organizational references resulting from a reorganization within the agency (50 FR 8993; March 6, 1985). A change in one paragraph was inadvertently omitted. This document corrects that error.

EFFECTIVE DATE: March 6, 1985.

FOR FURTHER INFORMATION CONTACT: Richard L Arkin or Robert D. Bradley, Center for Drugs and Biologics (HFN–364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: In FR Doc. 85–5329, appearing on page 8993 in the **Federal Register** of Wednesday, March 6, 1985, the following correction is made: On page 8996, in the middle column in § 312.1 *Conditions for exemption of new drugs for investigational use,* amendment 14, the phrase "(j) (2), and (3)" is corrected to read "(j) (2), (3), and (4)."

Dated: April 15, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–9452 Filed 4–18–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 1020

[Docket No. 76N–0308]

Diagnostic X-Ray Systems and Their Major Components; Amendments To Performance Standard; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the performance standard for diagnostic x-ray systems and their major components by revising and adding requirements concerning computed tomography x-ray (CT) systems (49 FR 34698; August 31, 1984). An amendment to 21 CFR 1020.30(q)(2) was not stated properly. This document corrects that oversight.

EFFECTIVE DATE: April 19, 1985.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Division of Regulations Policy (HFC–221), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In FR Doc. 84–23154, appearing on page 34698 in the **Federal Register** of Friday, August 31, 1984, on page 34711 in the second

column, the amendatory language of amendment 1 is corrected to read:

"1. In § 1020.30, the introductory text of paragraph (b), paragraph (c), paragraphs (d)(2), (d)(2)(vi), (d)(3)(ii), introductory text of paragraph (e), paragraph (g), paragraphs (h)(1), (h)(1)(ii), and (p)(6), the words 'this section and §§ 1020.31 and 1020.32' wherever they appear are changed to read 'this section and §§ 1020.31, 1020.32, and 1020.33'; in paragraphs (d), (d)(1)(vii), and (d)(2)(viii), the words 'by § 1020.31 or § 1020.32' are changed to read 'by § 1020.31, § 1020.32, or § 1020.33'; in paragraph (q)(2), the phrase '§ 1020.31 or § 1020.32' wherever it appears is changed to read '§ 1020.31, § 1020.32, or § 1020.33'; by revising paragraph (a), by revising the introductory text of paragraph (b)(36), redesignating paragraph (b)(36)(iii) as (b)(36)(v), adding new paragraph (b)(36)(iii) and (iv); by adding new paragraph (b) (58), (59), (60), (61), and (62); by revising paragraph (h)(3) (vi) and (vii) and adding new paragraph (h)(3)(viii); and by revising the first sentence of paragraph (n), to read as follows:"

Dated: April 15, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-9450 Filed 4-18-85; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[Docket No. AM706PA; A-3-FRL-2819-9]

Standards of Performance for New Stationary Sources Delegation of Authority to the City of Philadelphia, Department of Public Health

AGENCY: Environmental Protection Agency.

ACTION: Rule-related notice.

SUMMARY: Section 111(c) of the Clean Air Act permits EPA to delegate to the States the authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS).

On December 28, 1984, the City of Philadelphia Department of Public Health (Department) requested EPA to delegate to it the authority for additional NSPS categories. EPA granted the request on January 25, 1985. The Department now has the authority to implement and enforce NSPS regulations for Equipment Leaks of Volatile Organic Compounds in Petroleum Refineries (Subpart GGG) and Flexible Vinyl and Urethane Coating and Printing (Subpart FFF).

Applications and reports required under the NSPS for which EPA has delegated authority to the Department to implement and enforce should be sent to the Department in addition to EPA Region III.

EFFECTIVE DATE: January 25, 1985.

ADDRESSES: Applications and reports required under all NSPS source categories now being delegated to the Department should be addressed to the Philadelphia Department of Public Health, Air Management Services, 500 S. Broad Street, Philadelphia, PA 19146, in addition to U.S. EPA Region III, 841 Chestnut Street, Philadelphia, PA 19107, Attn: Thomas Maslany (3AM20).

Copies of the Notice and accompanying documents are available for inspection during normal business hours at the Philadelphia AMS address given above or at the following offices:

U.S. Environmental Protection Agency, Region III, 841 Chestnut Street, Philadelphia, Pennsylvania 19107, ATTN: Michael Giuranna (3AM11), Telephone: (215) 597-9189.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Michael Giuranna of EPA Region III's Air Programs Branch, telephone (215) 597-9189.

SUPPLEMENTARY INFORMATION: On December 28, 1984, the Department requested that EPA delegate to it the authority to implement and enforce additional NSPS source categories. The Department requested these delegations to supplement the delegations for other source categories which Philadelphia had already received and which EPA published in the **Federal Register** at 42 FR 6886 on February 4, 1977.

In response to the Department's request of December 28, 1984, delegation of authority was granted by the following letter of January 25, 1985:

Dr. Stuart H. Shapiro,
Health Commissioner, City of Philadelphia, Municipal Services Building, Room 540, Philadelphia, Pennsylvania 19107

Dear Dr. Shapiro: This is in response to your letter of December 28, 1984 requesting delegation of authority for the Philadelphia Air Management Services to enforce New Source Performance Standards for Flexible Vinyl and Urethane Coating and Printing (Subpart FFF) and Equipment Leaks of VOC in Petroleum Refineries (Subpart GGG).

We have reviewed the pertinent laws, rules and regulations of the City of Philadelphia and have determined that they continue to provide an adequate and effective procedure for implementing and enforcing the NSPS. Therefore, we hereby delegate the authority for the implementation and enforcement of the NSPS regulations to the City of Philadelphia as follows:

Authority for all sources located or to be located in the City of Philadelphia subject to the New Source Performance Standards for Flexible Vinyl and Urethane Coating and Printing (FFF) and Equipment Leaks of VOC in Petroleum Refineries (GGG).

This delegation is based upon the conditions given in our June 30, 1983 letter to you which delegated seven (7) additional NSPS source categories to the City of Philadelphia.

We would also like to make you aware of the possibility of the Philadelphia Air Management Services requesting automatic delegation of NSPS and NESHAPs. An agency which has automatic delegation would receive authority for the implementation and enforcement of all NSPS and NESHAPs regulations immediately upon publication in the **Federal Register.** Also, automatic delegation would reduce the unnecessary administrative burden upon both our agenices to prepare, process and review subsequent delegation request. If you request, and in order to be granted automatic delegation, you may have to amend your regulations to provide for the necessary authority. I have attached a **Federal Register** Notice which granted automatic delegation of NSPS and NESHAPs to several States for your information.

If you need any further information, feel free to contact W. Ray Cunningham at (215) 597-9390 or myself.

Sincerely,

Thomas P. Eichler,
Regional Administrator.

For all sources located or to be located in the City of Philadelphia, effective immediately, all applications, reports, and other correspondence required under the NSPS requirements in 40 CFR Part 60 for Equipment Leaks of VOC in Petroleum Refineries (GGG) and Flexible Vinyl and Urethane Coating and Printing (FFF), should be sent to the City of Philadelphia, Department of Public Health (address above) in addition to the EPA Region III Office in Philadelphia.

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

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment

and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglas insulation, Synthetic fibers.

(Sec. 111(c), Clean Air Act (42 U.S.C. 7411(c))

Dated: April 4, 1985.

Stanley Laskowski,

Acting Regional Administrator.

[FR Doc. 85-9341 Filed 4-18-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[Docket No. AM707PA; A-3-FRL-2820-1]

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority of the Commonwealth of Pennsylvania, Department of Environmental Resources

AGENCY: Environmental Protection Agency.

ACTION: Rule related notice.

SUMMARY: Section 111(c) and 112(d) of the Clean Air Act permit EPA to delegate to the States the authority to implement and enforce the standards set out in 40 CFR Part 60 and Part 61, Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP), respectively. On December 11, 1984, the Commonwealth of Pennsylvania, Department of Environmental Resources requested EPA to delegate to it the authority for additional NSPS and NESHPA source categories. EPA granted the request on January 7, 1985. The Commonwealth now has authority to implement and enforce NSPS regulations for Equipment Leaks of Volatile Organic Compounds (VOC) in Petroleum Refineries (Subpart GGG) and Flexible Vinyl and Urethane Coating and Printing (Subpart FFF), and NESHAP regulations for Equipment Leaks (Fugitive Emission Sources) of Benzene (Subpart J) and Equipment Leaks (Fugitive Emission Sources) (Subpart V).

EFFECTIVE DATE: January 7, 1985.

ADDRESSES: Applications and reports required under all NSPS and NESHAP source categories now being delegated to the Pennsylvania Department of Environmental Resources should be addressed to the Commonwealth of Pennsylvania, Department of Environmental Resources, P.O. Box 2063, Harrisburg, PA 17120, in addition to U.S. EPA, Region III, 841 Chestnut Street, Philadelphia, PA 19107, Attn: Thomas Maslany (3AM20).

Copies of the Notice and accompanying documents are available for inspection during normal business hours at the Pennsylvania DER address given above or at the following offices:

U.S. Environmental Protection Agency, Region III, 841 Chestnut Street, Philadelphia, Pennsylvania 19107, ATTN: Michael Giuranna (3AM11), Telephone: (215) 597-9189

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Michael Giuranna of EPA Region III's Air Programs Branch, telephone (215) 597-9189.

SUPPLEMENTARY INFORMATION: The NESHAP program was delegaed to the Department on February 4, 1977 with the stipulation that Authority to enforce subsequent standards would be delegated only if specifically requested. The NSPS program was delegated to the Department on January 16, 1980, with the same stipulation.

On December 11, 1984, the Department requested EPA to delegate to it authority to implement and enforce additional NSPS and NESHAP Standards.

Delegation of the additional standards was made by the following letter on January 7, 1985.

Honorable Nicholas DeBenedictis,
Secretary, Department of Environmental Resources,
P.O. Box 2063,
Harrisburg, Pennsylvania 17120

Dear Mr. DeBenedictis: This is in response to your letter of December 11, 1984, requesting delegation of authority for the Pennsylvania Department of Environmental Resources to enforce New Source Performance Standards (NSPS) for VOC Equipment Leaks in Petroleum Refineries and the Synthetic Organic Chemical Manufacturing Industry (Subpart GGG) and Flexible Vinyl and Urethane Coating and Printing (Subpart FFF), and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Benzene Equipment Leaks (Fugitive Emission Sources) of Volatile Hazardous Air Pollutants (Subpart V).

We have reviewed the pertinent laws, rules and regulations of the Commonwealth of Pennsylvania and have determined that they continue to provide an adequate and effective procedure for implementing and enforcing the NSPS and NESHAP. Therefore, were hereby delegate the authority for the implementation and enforcement of the NSPS and NESHAP regulations to the Commonwealth of Pennsylvania as follows:

Authority for all sources located or to be located in the Commonwealth of Pennsylvania subject to the Standards of Performance for New Stationary Sources for VOC Equipment Leaks in Petroleum Refineries and the Synthetic Organic Chemical Manufacturing Industry (GGG) and Flexible Vinyl and Urethane Coating and Printing (FFF) and National Emission Standards for Hazardous Air Pollutants for Equipment Leaks (Fugitive Emission Sources) of Benzene (J) and Equipment Leaks (Fugitive Emission Sources) of Volatile Hazardous Air Pollutants (V).

This delegation is based upon the conditions given in our June 30, 1983 letter to you which delegated 7 additional NSPS source categories to the Commonwealth of Pennsylvania.

Also, thank you for your request for automatic delegation of NSPS and NESHAP. We are presently reviewing the Commonwealth's rules and regulations to determine if they are adequate. Once our determination is made, we will notify you. If you have any questions, please contact Glenn Hanson, Chief, PA/WV Section at (215) 597-8486.

Sincerely,

Thomas P. Eichler,
Regional Administrator.

Effective immediately, all applications, reports, and other correspondence required under the NSPS for VOC Equipment Leaks in Petroleum Refineries (GGG) and Flexible Vinyl and Urethane Coating and Printing (FFF) and under the NESHAP for Equipment Leaks (Fugitive Emission Sources) of Benzene (J) and Equipment Leaks (Fugitive Emission Sources) (V), should be sent to the Pennsylvania Department of Environmental Resources (address above) in addition to the EPA Region III Office in Philadelphia.

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

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

40 CFR Part 61

Air pollution control.

(Sec. 111(c), and 112(d) Clean Air Act (42 U.S.C.) 7411(c) and 7412(d))

Dated: April 4, 1985.

Stanley Laskowski,

Acting Regional Administrator.

[FR Doc. 85-9342 Filed 4-18-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2650

[Circular No. 2562]

Alaska Native Selections; Amendment Changing the Chargeability of Submerged Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will amend the provisions of the Alaska Native Selection regulations to change the procedures used for excluding meanderable water bodies from acreage charged against the entitlements of Alaska Native Corporations. This amendment will implement a policy decision of the Secretary of the Interior.

EFFECTIVE DATE: May 20, 1985.

ADDRESS: Any suggestions or inquiries should be sent to: Director (311), Bureau of Land Management, 1800 C Street, NW., Washingotn, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

B. LaVelle Black, (202) 343-6511

or

Robert C. Bruce, (202) 343-8735.

SUPPLEMENTARY INFORMATION: A proposed rulemaking was published in the **Federal Register** on August 7, 1984 (49 FR 31475). The proposed rulemaking invited public comments for 60 days ending on October 9, 1984, with a notice of extension providing for an additional 45 days for public comment being published in the **Federal Register** on October 22, 1984 (49 FR 41266). During the comment period, comments were received from seven sources, two from Native corporations, one from a Native organization, one from a State government, one from a private individual, one from a public interest group and one from a Federal agency. The comments have been carefully reviewed and the action taken on them is discussed below.

Generally, the comments favored the establishment of the new procedures for chargeability of submerged lands provided in the proposed rulemaking. One comment suggested that the proposed rulemaking was defective and invalid because it provided insufficient factual background and explanation. Without adequate information, the public cannot make appropriate comment on the purpose of the proposed rulemaking. This comment went on to suggest that the proposed rulemaking was contrary to public policy and violated specific provisions of the Alaska Native Claims Settlement Act because no environmental impact statement was prepared and the requirements of section 810 of the Alaska National Interest Lands Conservation Act were not followed. After careful review, the comment was not accepted and the final rulemaking adopted the provisions of the proposed rulemaking with only one significant change, the removal of the provision on underselection. The proposed rulemaking stated that it was being issued to implement a change in policy announced by the Secretary of the Interior with the policy statement being explained in the **Federal Register** on December 5, 1983 (48 FR 54483). That policy statement dealt with the issue of submerged lands and their chargeability, an issue that has been the subject of discussion for many years, including policy papers prepared by the Federal-State Land Use Planning Commission. The issue is one that is clearly understood by those that would be affected by its implementation. Further, section 910 of the Alaska National Interest Lands Conservation Act excludes actions, including issuance of regulations, leading to the issuance of conveyances to Alaska Natives or Native Corporations under provisions of the Alaska Native Claims Settlement Act from the preparation or submission of an environmental impact statement. Finally, the provisions of section 810 of the Alaska National Interest Lands Conservation Act are not applicable to conveyances made under the Alaska Native Claims Settlement Act.

One comment suggested that § 2650.5-1(b)(3) of the proposed rulemaking be deleted from the final rulemaking because it was seen as requiring a navigability determination on rivers and lakes smaller than the criterion used in determining whether title passed to the State of Alaska at statehood. This comment was not adopted because the elimination of § 2650.5-1(b)(3) would eliminate all navigability determinations. In addition, the State of Alaska has expressed its support for this provision of the proposed rulemaking, while retaining the right to challenge a decision to convey submerged lands beneath lakes less than 50 acres in size or a river or stream less than 3 chains in width. The elimination of all navigability determinations would eliminate the ability to make navigability determinations in those instances where the State of Alaska challenges a conveyance of submerged lands. The final rulemaking retains § 2650.5-1(b)(3).

Another comment on § 2650.5-(b)(3) interpreted it to permit the conveyance of submerged lands beneath navigable water to a Native Corporation. This section applies only to lands retained in Federal ownership at the time of Statehood and does not pertain to any submerged lands granted to the State in the Submerged Lands Act (67 Stat. 29). Rather than retain Federal ownership to these submerged lands which are primarily sloughs and potholes subject to tidal influence within the boundaries of Native conveyances, the Department of the Interior will excerise its authority under the Alaska Native Claims Settlement Act and convey the lands to the adjoining upland owners.

Two comments recommended changing §§ 2651.4(i) (1) and (2) to allow the withdrawal of lands within the conservation system units for villages that may be underselected. After carefully reviewing the issues raised by the comments and the impact of the provisions of the proposed rulemaking on the question of selection and withdrawal of lands for the Native Corporations, the Department of the Interior has decided to remove the changes made by the proposed rulemaking to §§ 2651.4(i) (1), (2), (3) and (4) in their entirety. This will provide additional time for the Department to thoroughly review and make a decision on the question of what lands should be made available for those corporations that would be underselected as a result of the change in policy on the chargeability of submerged lands and what changes in the selection regulations, if any, will be made.

Two comments recommend for various reasons that the final rulemaking delete § 2651.4(i)(4) of the proposed rulemaking. For the reason cited above, § 2651.4(i)(4) has been deleted by the final rulemaking.

One comment suggested that the final rulemaking remove the reference to section 12(b) of the Alaska Native Claims Settlement Act that appears in § 2651.4(i)(1) of the proposed rulemaking. The comment argued that the reference is not needed because section 14(a) of the Act is the authority for conveying selections made under both 12(a) and (b) of the Act. The final rulemaking has not adopted this suggestion because the final rulemaking

has removed § 2461.4(i)(1) and the comment is no longer applicable.

One comment suggested that the final rulemaking should make mention of the fact that the Natives in the Koniag region are not entitled to additional withdrawals because of the language in section 1427(n) of the Alaska National Interest Lands Conservation Act. This suggestion was not adopted because the final rulemaking is not deemed to need a reference to Koniag, Inc.; the language of the Alaska National Interest Lands Conservation Act is sufficient.

A final comment recommended that the final rulemaking contain language that no newly withdrawn lands could be conveyed until all validly selected lands have been conveyed. The preamble to the proposed rulemaking clearly stated that a village corporation will be required to take patent to all previously validly selected lands. This clear statement of Department of Interior policy makes it unnecessary to add this requirement as a specific provisions of the final rulemaking and the suggestion has not been adopted.

Editorial and grammatical corrections as needed have been made.

The principal author of this final rulemaking is B. LaVelle Black, Alaska Programs Staff, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

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

The change in procedure made by this final rulemaking will allow Alaska Native Corporations to receive larger amounts of upland acreage because it changes the procedures used to exclude water bodies from their selection entitlement. The change will benefit many of the Alaska Native Corporations; however, the change should not have a major economic effect on any of the corporations.

The proposed rulemaking contains no information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 43 CFR Part 2650

Administrative practice and procedure, Airports, Alaska, Cemeteries, Historic places, Indians—claims, Indians—lands, National forest, National Wildlife Refuge System, Public lands—grants, Public lands—mineral resources.

Under the authority of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 et seq.), Part 2650, Group 2600, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Leona A. Power,

Acting Assistant Secretary of the Interior.

April 10, 1985.

PART 2650—[AMENDED]

1. Section 2650.0–5 is amended by adding a new paragraph (v) to read:

§ 2650.0–5 Definitions.

* * * * *

(v) "Native corporation" means any Regional Corporation, any Village Corporation, Urban Corporation and any Native Group.

2. Section 2650.5–1 is amended by revising paragraph (b) to read:

§ 2650.5–1 General.

* * * * *

(b) The following procedures shall be used to determine what acreage is not to be charged against Native entitlement:

(1) For any approved plat of survey where meanderable water bodies were not segregated from the survey but were included in the calculation of acreage to be charged against the Native corporation's land entitlement, the chargeable acreage shall, at no cost to the Native corporation, be recalculated to conform to the principles contained in the Bureau of Land Management's *Manual of Surveying Instructions*, 1973, except as modified by this part. Pursuant to such principles, the acreage of meanderable water bodies, as modified by this part, shall not be included in the acreage charged against the Native corporation's land entitlement.

(2) For any plat of survey approved after December 5, 1983, water bodies shall be meandered and segregated from the survey in accordance with the principles contained in the Bureau of Land Management's *Manual of Surveying Instructions*, 1973, as modified by this part, as the basis for determining acreage chargeability.

(3) If title to lands beneath navigable waters, as defined in the Submerged Lands Act, of a lake less than 50 acres in size or a river or stream less than 3 chains in width did not vest in the State on the date of Statehood, such lake, river or stream shall not be meandered and shall be charged against the Native corporation's entitlement.

(4) Any determinations of meanders which may be made pursuant to this subparagraph shall not require monumentation on the ground unless specifically required by law or for good cause in the public interest.

3. Section 2651.4(b) is amended by removing from the second sentence thereof the phrase "or a section in which a body of water comprises more than one-half of the total acreage of a section."

[FR Doc. 85–9560 Filed 4–18–85; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[FCC Docket No. 78–72; Phase III; FCC 85–98]

MTS and WATS Market Structure Policies and Requirements; Report and Order

AGENCY: Federal Communications Commission.

ACTION: Report and Order establishing policies and requirements.

SUMMARY: The Order addresses these issues, which were set forth for comment in our Notice of Proposed Rulemaking in the MTS and WATS Market Structure proceeding, published in the **Federal Register** on January 9, 1983, 48 FR 26632: (a) whether independent telephone companies should implement equal access interconnection projects according to a phased timetable; (b) the appropriate institutional arrangements for the joint planning of interexchange and local distribution networks and national security and emergency preparedness (NSEP) communications; and (c) whether the access tariffs of local exchange carriers should be modified to incorporate details pertaining to technical and operational details of interconnection, and interconnection with non-carriers. This action is taken in recognition of the arguments cited by the parties in this proceeding.

EFFECTIVE DATE: April 19, 1985.

FOR FURTHER INFORMATION CONTACT: Raymond Dujack, (202) 632–9342.

SUPPLEMENTARY INFORMATION:

Report and Order

In the matter of MTS and WATS Market Structure Phase III; Establishment of Physical Connections and Through Routes among Carriers; Establishment of Physical Connections by Carriers with Non-Carrier Communications Facilities; Planning among Carriers for Provision of Interconnected Services, and in Connection with National Defense and Emergency Communications

Services; and Regulations for and in Connection with the Foregoing, CC Docket No. 78-72, Phase III; FCC 85-98.

Adopted: March 1, 1985.
Released: March 19, 1985.

By the Commission.

I. Introduction

1. In this Order, we address the issues raised in our notice of proposed rulemaking in this phase of this docket.[1] In that *Notice*, we observed that our *Access Charge Order* in Phase I of this docket,[2] and the *Modification of Final Judgment* (MFJ), entered on August 24, 1982, by the United States District Court for the District of Columbia,[3] did not address several issues that emanate, in part, from these actions or are otherwise related to the optimal provision of interstate communications services in a competitive environment.

2. These issues are (a) whether the independent telephone companies (ITCs) should be required to implement equal access for interexchange carriers (IXCs) according to a phased approach analogous to that specified for the Bell Operating Companies (BOCs) in the MFJ; (b) what institutional arrangements should replace the role formerly held by the American Telephone and Telegraph Company (AT&T) in the centralized technical and construction planning for (i) interexchange and local distribution networks, and (ii) national security and emergency communications facilities; and (c) whether exchange carriers (BOCs and ITCs) should be required to incorporate into their tariffs the physical, technical, and operational details of interconnection with the facilities of both carriers and non-carriers.

3. With regard to the equal access implementation issues, we find in this Order that the ITCs should be required to implement equal access under certain circumstances and under certain schedules that differ from those set forth in the MFJ. We have defined these in recognition of the differences between the BOC and ITC sectors with respect to (a) the types of markets served; (b) end office switching technologies employed; and (c) the financial resources available to undertake equal access conversions.

4. With regard to the planning issues, we find that (a) general peacetime interconnection planning functions should be implemented through participation of interested parties in the activities of the T-1 Committee, which is sponsored by the Exchange Carriers Standards Association (ECSA) and accredited by the American National Standards Institute (ANSI); and (b) national defense network planning functions should be implemented through the mechanism of the plan proposed by the National Security Telecommunications Advisory Committee.

5. With regard to the tariff issues, we note that, since the release of our *Notice*, the exchange carriers (ECs) have voluntarily implemented the proposals we had set forth concerning the inclusion of interconnection information in their access tariffs, and we adopt those proposals for future tariff filings.

II. Background

A. Implementation of Equal Access by Independents

1. The Commission Proposal and the MFJ

6. In the *Notice*, we proposed "to extend, pursuant to our regulatory authority under the Act, to non-Bell (Independent) telephone carriers interconnection obligations patterned after those which will govern the BOCs under the MFJ * * *"[4] The MFJ establishes the following equal access implementation schedule:

1¾ years (9/1/85): "equal access shall be offered through end offices of each BOC serving at least one-third of that BOC's exchange acccess lines."[5]

2¾ years (9/1/86): "upon bona fide request, *every* end office shall offer such [equal] access by Sept. 1, 1986."[6]

7. The MFJ also incorporates a waiver mechanism that allows the BOCs to refuse equal access in cases where such construction may be economically infeasible:

> With respect to access provided through an end office employing switches technologically antecedent to electronic, stored program control switches [*i.e.*, electromechanical switches] or those offices served by switches that characteristically serve fewer than 10,000 access lines, a BOC may not be required to provide equal access through a switch if, upon complaint being made to the Court, the BOC carries the burden of showing that . . . such access is not physically feasible except at costs that clearly outweigh benefits to users of telecommunications services.[7]

This waiver is, apparently, not intended to be permanent. The decree continues: "Any such denial of access under the preceding sentence shall be for the minimum divergence in access necessary, and for the minimum time necessary, to achieve feasibility."[8]

8. In our *Notice*, we recognized that equal access obligations similar to those in the MFJ may not be workable when applied to the ITCs, because of the preponderance of less sophisticated equipment in the ITC sector. We noted, however, that "access to interstate services is required to be offered [by the ITCs] pursuant to access tariffs which are subject to our regulatory review and jurisdiction" and proposed to "utilize such tariffs as an appropriate adminstrative mechanism for addressing unequal interconnection offerings by Independents . . ."[9] We proposed the following timetable:

2-years: For central offices to be equipped with new stored program-controlled (SPC) equipment, access will be provided with capabilities identical to those described below for existing stored-program-controlled central offices.

3-years: For central offices already equipped with SPC, access will be provided "which is equal in all respects, except that the minimum number of digits necessary to reach other than a carrier pre-selected by the subscriber may be utilized until such time as the nationwide numbering plan is changed."[10]

No timetable: For electromechanical central offices: (a) capabilities pertaining to features such as the number of dialing digits must be offered to the extent feasible; (b) where features such as automatic numbering identification (ANI) can be made available to more than one carrier, they should be provided at the same level of capability as specified in the MFJ; and (c) transmission channel quality should be no worse than that provided to the traditional interexchange carrier. Although we did not state that electromechanical exchanges need to be replaced, we did require that "[t]o the extent feasible, such offices shall be modified to offer the capabilities [associated with electronic exchanges]."[11]

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[1] CC Docket No. 78-72, Phase III, Notice of Proposed Rulemaking, 94 FCC 2d 282 (1983) (*Notice*).

[2] *MTS and WATS Market Structure*, CC Docket No. 78-72, Phase I, 93 FCC 2d 241 (1983) (*Access Charge Order*), *modified on reconsideration*, 97 FCC 2d 682 (1983) *further modified on reconsideration*, 97 FCC 2d 834 (1984) *aff'd in part, remanded in part, Nat'l Assn. of Regulatory Comm'rs* v. *FCC*, 737 F.2d 1095 (D.C. Cir. 1984), *petition for cert. denied* 53 U.S.L.W. 3563, 3595 (U.S. February 19, 1985) (No. 84-95) (*Nanc v. FCC*).

[3] *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom., Maryland* v. *United States*, 460 U.S. 1001 (1983).

[4] *Notice*, 94 FCC 2d at 304. We further stated that "we believe it most appropriate, in view of our statutory mandate to promote the development of efficient and broadly available service on a nationwide basis, to ensure the establishment of a 'blueprint' [similar to that of the MFJ] for interconnection to the Independents' facilities."

[5] MFJ, App. B, at para. A.1.

[6] *Id.* (emphasis supplied).

[7] *Id.* at paras. A.3.

[8] *Id.*

[9] *Notice*, 94 FCC 2d at 306.

[10] *Id.* at 307.

[11] *Id.*

2. *GTE Consent Decree*

9. On May 4, 1983, the GTE Corporation and the Department of Justice (DOJ) filed a Proposed Final Judgment (PFJ), with the United States District Court for the District of Columbia, to resolve an antitrust action brought by DOJ challenging the acquisition by GTE of the IXC, Sprint, which was a subsidiary of the Southern Pacific Corporation. A major feature of the PFJ was a plan for the provision of non-discriminatory equal access to interstate communications facilities by the subscribers of the GTE Operating Companies (GTOCs). In an Opinion issued on December 13, 1984,[12] the Court found the PFJ to be in the public interest and stated that the PFJ would be approved provided that the parties agreed to certain modifications relating to the specific criteria that would be observed if enforcement of the decree were being sought by the Department of Justice. The parties concurred, and a Consent Decree (CD) was entered on December 21, 1984. The CD sets forth the following phased-in equal access implementation timetable, which is closely modeled after the approach of the MFJ, but is adjusted for the specific characteristics of the GTOC end offices and exchange areas.[13]

1½ years (1/1/85): End offices containing 1–ESS and stored program controlled switches other than those specified below (*i.e.*, GTD–5, 1–EAX, and 2–EAX).

3½ years (1/1/87): End offices equipped with GTD–5 switches.

4 years (9/1/87): End offices equipped with 1–EAX and 2–EAX. In addition, two-thirds of all GTOC subscriber lines must be provided with equal access. (This proportion may be decreased to the extent that unforeseen circumstances, including the performance failure of non-affiliated providers of hardware and software, prevent this conversion from taking place.)

7½ years (12/31/90): All offices with greater than 10,000 access lines (except where changing circumstances make implementation economically infeasible).

10. In addition to the waivers cited in the timetable, the CD addresses the unique problems of electromechanical switches, which comprise a considerably larger percentage of end office switching equipment of the GTOC system than in the BOC end offices. No step-by-step offices need provide equal access, provided that a trunk-side connection for IXCs is offered at *all* GTOC offices, including those equipped with step-by-step equipment, "unless such access is not physically possible except at costs that clearly outweigh potential benefits to users of telecommunications services. . . ."[14]

B. Joint Planning

1. The Commission Proposal

11. We tentatively concluded in the *Notice* that the scope of any joint planning should be limited to the specification of technical parameters and compatibility criteria at the point of interconnection between an exchange carrier and IXCs, customer premises equipment, or private communications facilities. We proposed that such planning be carried out by the Exchange Carriers Association (ECA) and that the membership criteria be those set forth in our *Access Charge Order* for the ECA. IXCs as well as this Commission would, therefore, be excluded. We noted that:

> it is our tentative belief that this Commission should be assigned responsibilities and functions regarding the joint planning activities of the association (ECA) which are designed to ensure that the association does not operate in a manner which frustrates the goals and policies which we are establishing. This result can be achieved without requiring that this Commission be given membership on the association.[15]

We than asked for comments on our proposals as well as upon alternative suggestions regarding scope of planning, institutional arrangements, and the composition of the membership of any joint planning body.

2. Formation of Exchange Carriers Standards Association

12. On May 24, 1983, a pre-organizational meeting of exchange carriers (ECs) was held in Atlanta, Georgia, under the auspices of the Washington Legislative Council of Telecommunications (an *ad hoc* group formed by the carriers to deal with post-divestiture problems). At this meeting, a substantial portion of the spectrum of exchange carriers was represented by attendees from the United States Independent Telephone Association (now the United States Telephone Association or "USTA", the seven Bell regional holding companies, GTE, United Telecom, and various independent telephone holding companies and operating companies. As a result of this and subsequent meetings, the Exchange Carriers Standards Association (ECSA) was created, and incorporated in September 1983, in the State of New York, as a not-for-profit corporation. ECSA then became a party in this proceeding and filed, in its comments, an alternative to our proposal for the implementation of the joint planning function.

C. Tariff Issues

13. We proposed that the interstate access tariffs of the ECs formally reflect the responsibilities of these carriers to provide equal access and interconnect their facilities with IXCs and other access customers. We specifically proposed that tariffs filed by ECA and the individual ECs should include language providing for (a) interconnection with non-carriers (private networks and CPE); (b) interconnection with resellers; (c) the incorporation of the provisions of Part 68 of the Commission's Rules (CPE interconnection standards); and (d) certain technical and operational details of the ECs' offerings.

III. Implementation of Equal Access by Independents

A. Positions of Parties

14. Twenty-four parties filed comments or reply comments (or both) on the various issues associated with equal access implementation requirements for the ITC sector. Pleadings were filed on behalf of IXCs (nine parties);[16] ITCs (seven parties); [17] equipment manufacturers (two parties);[18] user groups (two parties);[19] and state and federal government agencies (four parties).[20]

15. In general, the OCCs argue for an implementation of equal access that is as immediate and as comprehensive as possible in order that they may compete more effectively with AT&T. Business user groups and equipment manufacturers also seek expeditious implementation of equal access. The former, as large consumers of

[12] *United States v. GTE Corp.*, Civ. Action No. 83–1298 (D.D.C., December 13, 1984) (*GTE Opinion*).

[13] CD, App. B at para. A.(1). A starting date of May 4, 1983 (the proposed date of entry) was used in calculating the elapsed time to the specific completion dates (in parentheses) set forth in the CD. The results are rounded to the nearest half-year. At the time the PFJ was filed, GTE committed itself to following the schedule set forth therein even though approval of the Court had not yet been issued. If a bona fide request for equal access interconnection is received from an IXC, the GTOC must implement interconnection within no more than 12 months. Otherwise the time limits in the schedule must be observed.

[14] CD, *Id.*, App. B at para. A.4.

[15] *Notice*, 94 FCC 2d at 317–18.

[16] AT&T, GTE-Sprint, ITT-COINS, MCI, SBS, Western Union, Allnet, General Communications Inc., and U.S. Telephone. IXCs other than AT&T are referred to in this Order as "other common carriers" (OCCs).

[17] Centel, GTE Service Co., Rochester Telephone Co., Rural Telephone Coalition, Southern New England Telephone Co., USTA, and United Telephone System.

[18] CCIA and ITEC Inc.

[19] ICA and American Petroleum Institute.

[20] DOJ, Kentucky Public Service Commission, Public Service Commission of Wisconsin, and the Rural Electrification Administration.

interexchange telecommunication services, seek to minimize their communications costs. The latter seek to compete more effectively in markets for customer premises equipment and equipment related to switching and transmission applications.

16. The ITCs generally support the proposal that they be required to implement equal access. They tend, however, to support temporizing measures such as (a) the imposition of such a requirement only if there has been a demand for equal access services from an IXC; and (b) the opportunity to deviate, when indicated, from the timetable proposed on our *Notice*. Some ITCs propose that exchanges serving less than 10,000 access lines should be granted a waiver of equal access conversion requirements as outlined in the GTE CD. *See* para. 9, *supra*.

1. Proposed Timetable

17. Eighteen parties have commented upon the proposed timetable. Three parties find that the timetable is reasonable [21] and four argue that the timetable is too long.[22] The latter take the position that existing technology will permit acceleration of our proposed schedule. Two, Public Service Commission of Wisconsin (Wisconsin) and Kentucky Public Service Commission (Kentucky), essentially argue that there should be no timetable at all. AT&T and Centel claim that the timetable is too short and propose a five-year implementation deadline. AT&T further proposes (a) that the Commission take steps to facilitate the processing of waiver requests; and (b) that there be an exemption for end offices serving less than 10,000 lines. Centel states that there may be central office conversion problems due to the diversity of suppliers, some of whom may be no longer in business. Similar arguments are extended to the case of end offices using electromechanical equipment.

18. Six parties from the ITC sector,[23] and the Rural Electrification Administration (REA), suggest that timetables should be flexible, stating, generally, that since there is a considerable variability among existing SPC exchanges, the three-year implementation schedule might not be universally appropriate and implementation might be better scheduled on a less formal basis. REA claims that the equipment necessary to accomplish equal interconnection at end offices of small rural companies (which typically contain electromechanical switches) is not readily available and urges that this Commission postpone the requirement that local carriers prepare for equal interconnection at such offices until the necessary technology becomes available or, alternatively, consider requiring equal access interconnection at an access tandem only.

19. With regard to the conversion of existing SPC offices, USTA states that ITCs are unable to obtain definitive information from their equipment manufacturers regarding their ability to upgrade a given piece of SPC equipment. USTA claims that this inability stems, in part, from a lack of defined technical specifications regarding the exact nature of equal access. Further, USTA states, not all SPC switches are convertible to equal access because of their design. Under these circumstances, it might be necessary to retire such switches prematurely, which, from USTA's viewpoint, would be an unreasonable disturbance of an orderly and economically efficient process for deriving maximum benefit from existing equipment. USTA also recommends that the Commission modify its proposal that all new SPC switches ordered after the effective date of any Commission order in this proceeding have the capability of offering equal access to one requiring that actual conversion need not occur unless and until an IXC requests equal access and agrees to the resulting tariff changes. Rochester Telephone Company (Rochester) concurs with USTA and other parties in claiming that not all SPC switches may be convertible.

20. Six parties cite potential problems with the conversion of electromechanical offices.[24] The Rural Telephone Coalition (RTC) urges that ITCs be given the option of refusing to implement equal access at such offices, and in any event, that such equipment not be prematurely retired absent a demand for equal access interconnection.

21. GTE Service Corp. compares our implementation proposals to those of the CD in which it had participated, stating that the equal access upgrading requirements of our *Notice* are more burdensome than those set forth in the CD.[25] GTE Service Corp. urges that the principles of the CD be adopted by the Commission and notes that together the MFJ and CD apply to the provision of equal access to 90 percent of the total, nationwide access lines.

2. Implementation on Demand only

22. The *Notice* did not condition an ITC's obligation to convert to equal access in accordance with our timetables on there being a demand for such interconnection from an IXC. Ten parties have suggested that equal access conversions not be required until a demand from an IXC has been received. The sectors represented are ITCs (six parties);[26] IXC (one party);[27] equipment manufacturing (one party);[28] and state and federal agencies (two parties).[29]

23. The ITCs cite the possibility that if they are required to implement equal access, even in the absence of an IXC demand for such services, they may be required to carry a larger cost burden without a sufficient offset in additional revenues from toll service. REA claims that most REA-financed systems will never receive an interconnection request, but these systems could, nevertheless, incur a conservatively estimated total of $367 million in equal access implementation costs if the conversion of all Class 5 offices were required. As an alternative, REA suggests equal access interconnection only be required at higher level offices until Class 5 implementation becomes more feasible.[30]

3. Exemptions for End Offices Serving Less than 10,000 Lines

24. Establishing exemptions for end offices serving less than 10,000 access lines, although not proposed in the *Notice*, is embodied, with variations, in both the MFJ and CD.[31] Five parties support the concept,[32] arguing generally that (a) central office equipment in such exchanges is likely to be electromechanical; (b) demand for equal access interconnection to exchange facilities from OCCs is likely to be low; and (c) therefore, the costs of conversion would likely exceed any benefits derived from increased revenues. RTC proposes that rural exchange carriers be

[21] General Communications Inc., MCI, and International Communications Association.

[22] SBS, Western Union, U.S. Telephone Inc., and ITEC Inc.

[23] Rochester Telephone Co., GTE Service Co., Rural Telephone Coalition, Southern New England Telephone Co., United Telephone System, Inc., and USTA.

[24] AT&T, Centel, United Telephone System, Rural Telephone Coalition, DOJ, and REA.

[25] At the time that the GTE comments were filed, the PFJ had not been approved by the Court. Subsequent to that filing, the Court approved the PFJ (subject to some suggested additions), which contained those requirements to which GTE has referred. *See* para. 9, *supra*.

[26] USTA, Rural Telephone Coalition, GTE Service Co., SNETCO, United Telephone System and Centel.

[27] MCI.

[28] U.S. Telephone Inc.

[29] Kentucky PSC an REA.

[30] *See* also para. 42, *infra*.

[31] *See* paras. 7 and 10, *supra*.

[32] AT&T, USTA, GTE Service Co., RTCs, Western Union.

subjected to no greater obligations than those imposed upon GTE by the CD. It accordingly suggests a blanket exemption for end offices serving fewer than 10,000 lines. GTE implicitly supports a 10,000 line exemption in proposing that the terms of its CD be extended to other carriers. USTA, on the other hand, claims that the 10,000 lines threshold should be higher, but does not propose a specific level.

25. A blanket 10,000 lines exemption is opposed by some parties. The International Communications Association (ICA), a user group, prefers that individual justifications for an exemption be proposed by ITCs wishing an exemption. DOJ opposes a blanket exemption, preferring an implementation schedule that takes all factors into account, such as new techniques for remote digital switching.

B. Discussion

1. Summary of the Record

26. There is general agreement among all sectors that the implementation of equal access by the ITCs is desirable. With respect to the manner in which such access is to be achieved, however, there is a well delineated schism between two groups. The first group (ITCs, AT&T, state regulatory commissions, and REA) generally argues that our proposed timetables would be too stringent in many cases if they were applied uniformly to the entire ITC sector. A more liberal compliance policy, embodying certain deviations on a case-by-case basis, is suggested. Members of the second group (OCCs, user organizations, and equipment manufacturers) either agree with our timetable concept or think that it should be accelerated.

27. Those who find our proposals for ITCs too rigorous argue that we should relax those requirements by (a) adopting a liberal policy for waivers of the implementation timetable; (b) requiring the implementation of equal access only upon a bona fide demand by an IXC; (c) exempting end offices serving less than 10,000 lines; and (d) exempting end offices using electromechanical equipment.[33]

28. Those who approve our proposed schedule, or seek to accelerate it, and those who would discourage various waivers and exemptions, make the following claims: (a) technology is available that would allow reconfigurations of non-conforming offices to be implemented in accordance with our proposed timetable; (b) the implementation of equal access at BOC tandems or at those of the larger ITCs will permit our schedule to be met or accelerated; and (c) extensive deviations from our proposed schedule (including those resulting from the adoption of an implementation-on-demand policy) will constrain the economic activities of the IXCs,[34] equipment manufacturers, and users.

2. Differences between BOCs and ITCs

29. The parties seeking flexibility in our approach to implementing equal access by the ITC sector have argued that it is not as feasible to apply a uniform implementation timetable to the ITCs as it is to the BOCs. RTC points to a number of fundamental differences between the BOCs and ITCs. Prior to the AT&T reorganization, the implementation of exchange area communications, including the design of end offices, was performed on behalf of the BOCs by the AT&T General Departments, the Bell Laboratories, and Western Electric. Under this system, many important functions were performed on a centralized basis such as: system engineering, equipment design, equipment manufacturing, equipment procurement, accceptance testing, and installation planning.

30. As a consequence, the predominant proportion of BOC central office equipment is of Western Electric design, and its characteristics are well documented. Further, although there is a considerable range in the type of switching equipment in the various BOC end offices, from step-by-step electromechanical equipment to advanced SPC equipment, the preponderance of BOC service is offered in high or moderate population density areas, and the majority of its access lines are served by a relatively small number of SPC designs. Such uniformity, as characterized by markets served and equipment employed, is clearly not the case among the ITCs.

(a) *Markets Served by ITCs*

31. With regard to markets served, the ITC sector is characterized by an industry structure in which the operating companies of a few holding companies provide the vast preponderance of service. In seeking the appropriate policy for equal access implementation in this sector, it is useful to undertake a quantitative assessment of the ITC industry in order to evaluate its place in the overall telecommunications environment in the United States. Figure 1 provides a comparison of the BOCs and the ITCs in terms of the number of access lines served.

32. As of December 31, 1983, there were 111.3 million access lines in the United States. Of these, 89 million (80 percent) were served by the 22 BOCs. The ITC sector, consisting of 1431 operating companies, served the remaining 22.3 million lines (or 20 percent). Of these independent lines, however, the vast majority are served by but a small proportion of these 1431 operating companies.

33. As shown in Fig. 1, the 18 GTOCs serve 44 percent of the ITC access lines, and that these companies, in combination with the 22 BOCs, serve 89 percent of the total U.S. access lines. Furthermore, the largest eleven ITCs (including GTE) serve, in combination with the BOCs, approximately 99 percent of the U.S. telephone access lines.[35]

FIGURE 1.—ACCESS LINES SERVED BY BOCS AND LARGER INDEPENDENTS[1]

	Number of OC's	Number of lines (millions)	Pct U.S. lines (cum)	Pct independent lines (cum)
BOC's	22	89	80.0	
Independents:				
GTE	18	9.9	88.8	44
United Tel	20	3.0	91.5	58
Continentel Tel	39	2.1	93.4	67
SNETCO	1	1.6	94.9	74
CENTEL	14	1.2	96.0	80
AllTel	1	.85	96.7	84
Cincinnati Bell	1	.69	97.3	87
PRTC	1	.50	97.8	89
Rochester Tel	1	.44	98.2	91
Lincoln Tel	1	.20	98.4	92
Century Tel	35	.20	98.6	93
Total (BOC's)	22	89.0		
Total (ITC's)	132	[2]20.7		
Total (BOC + ITC)	154	109.7		

[1] Sources: USTA, *PhoneFacts, 84*. USITA, *Holding Company Report*, May 1983.

[2] Includes only the access lines of the 132 operating companies of the first 11 ITCs (ranked by annual revenues) listed in *PhoneFacts, 84*. The remaining approximately 1,300 ITCs service approximately 1.6 million lines or approximately 1% of the nationwide total.

[33] Rochester has suggested that the forced conversion of such offices would lead, in many cases, to premature equipment retirements and argues that this Commission should preempt state regulation over the depreciation practices of connecting carriers to ensure that investment in existing equipment is fully depreciated upon its replacement. This issue is not properly before us in this proceeding; consequently, we will not address it further in this Order.

[34] Some IXCs have claimed that if equal access were implemented in a given area absent a demand for such service, an IXC might be more likely to seek to provide service there than if it were required to go through a formal procedure of filing requests for equal access conversion with the EC.

[35] As shown in Fig. 1, these eleven entities comprise five holding companies, which control 126 operating companies, and six individually owned companies. Thus, a total of 148 operating companies (22 BOCs and 126 ITC operating companies) serve 99 percent of the U.S. access lines.

34. The remaining ITCs, 1309 operating companies, serve only one percent of the total access lines in the U.S., although the comprise 91 percent of the ITCs. Thus, the average number of lines served by each of these 1309 companies is approximately 1,300. Approximately 1,200 of these companies serve less than 10,000 lines.[36]

35. It thus becomes apparent that it may be feasible to adopt a policy of prescribing a set of relatively uniform equal access implementation procedures, applicable to only a small segment of the ITC industry, that would result in the provision of equal access to the overwhelming majority of the ITC subscribers.

(b) *Switching Equipment of the ITCs*

36. Several parties associated with the ITC sector have argued that our proposed implementation plan, insofar as it applies to SPC switches, should not be uniformly applied because of the wide variety of SPC equipment that is now in place and that is available for future installation by the ITCs. They have also argued that it would be inappropriate to prescribe either the conversion of existing electromechanical equipment or its retirement.

37. USTA claims that the following problems arise from the diversity of SPC equipment: (a) not all manufacturers may be willing to upgrade their equipment even if it is upgradeable; (b) not all switches are equally upgradeable; and (c) some switches may not be upgradeable at all. With regard to electromechanical switches, and SPC switches that are not feasibly convertible, USTA proposes that we consider equal terminating access as a less costly alternative.

38. Rochester suggests that not all existing SPC installations may be convertible within the 3-year period proposed in the *Notice*. Rochester points out that it has SPC equipment manufactured by Northern Telecom, Automatic Electric, Nippon Electric, and Western Electric. It claims that it does not know whether any of the manufacturers "would supply necessary software modifications within three years, or whether they intend to offer these modifications at all." [37]

39. RTC claims that it cannot comment exhaustively upon our proposal because no comprehensive tabulation of the central office equipment of rural telephone companies has been made. RTC points out that existing analog SPC equipment is memory-limited and is no longer being manufactured.[38]

40. With regard to digital SPC equipment, RTC states that 10 to 15 percent of REA central offices are so equipped, but that some of the manufacturers are no longer in business. RTC claims that in any event *generic* specifications for the conversion of digital equipment can be completed in three years, but that specific conversion may take longer. RTC therefore proposes that manufacturers be given three years in which to develop generic specifications and that actual implementation times be negotiated on a case-by-case basis.

41. RTC notes that the conversion of electromechanical equipment can present considerable problems to the REA companies. RTC states that approximately 80 to 85 percent of REA equipment is step-by-step and that another 5 percent is crossbar. Further, RTC states that 90 to 95 percent of the step-by-step equipment, which was manufactured by Stromberg, is no longer being produced by that company.

42. REA also addresses the problem of conversion of its predominantly electromechanical offices. It states that no manufacturer has produced equipment that could effect such a conversion, but acknowledges that "[o]ne manufacturer, ITEC, has equipment on the drawing boards which could accomplish equal interconnection at the Class 5 step office." [39] REA cautions, however, that conversion estimates would be in the $60,000 to $75,000 range per end office. Finally, REA provides an estimate of $367.5 million as the cost of equal access implementation for all REA-financed systems. This estimate is based on the assumption that 5,000 step end offices would be converted, at $70,000 per office, and that 700 digital offices would be converted at $25,000 per office.

3. *Equal Access Implementation Plan* [40]

(a) *General Considerations*

43. It is evident from the record that the ITC sector evidences a degree of diversity that we do not observe among the BOCs. The BOCs comprise 22 operating companies, which, because of their common ownership and management for many years, have virtually identical categories of end office switching technology. Further, the BOCs serve 80 percent of the total access lines in the United States from this relatively homogeneous configuration.The ITC sector is clearly different. Some 1431 operating companies serve 20 percent of the nation's access lines. Among these companies, the GTE system of 18 operating companies accounts for 44 percent of the ITC access line—or 9 percent of the nation's access lines. A mere 132 of the 1431 ITCs serve over 90 percent of the ITC access lines.

44. With regard to switching equipment, the relatively small proportion of SPC equipment in ITC end offices is provided by a multiplicity of manufacturers, not all of whom have continued to manufacture or service the products they have sold. The preponderance of ITC switching equipment is of the electromechanical type, and apparently, the successful conversion of such switches by off-the-shelf equipment has not yet been demonstrated. Given these factors, it is likely that an implementation timetable similar to that of the MFJ would be inappropriate if imposed on the ITCs.

45. We must also take into account that GTE has committed itself to following the schedule set forth in the CD and that, consequently, the commitments already undertaken by the BOCs and the GTOCs will pace the implementation of equal access for approximately 89 percent of the nation's access lines. We need, therefore, only adopt a policy applicable to, and appropriate for, the remaining 1413 ITCs, which serve the remaining 11 percent of access lines.

46. We could consider the CD as a paradigm for application to the non-GTE ITCs. The timetable in the CD for the conversion of existing SPC end offices embodies, however, references to the specific types of equipment of specific manufacturers that are known to be installed in GTE end offices. But based on the record in this proceeding, it appears that many different types of equipment (in addition to those specified in the CD) are deployed in the non-GTE ITC end offices. Furthermore, GTE is a substantially larger company than most other ITCs with greater access to the necessary capital to implement an equal access conversion schedule. Finally, there is no reason to assume that the timetable GTE agreed to

[36] *See PhoneFacts' 84.*

[37] Rochester Comments at 5.

[38] Analog SPC as discussed by RTC apparently consists of SPC common control equipment coupled with an analog switching matrix. A digital SPC switch would use time division multiplex techniques to perform the switching function.

[39] REA Comments at 5.

[40] We set out in the *Notice* the basis of our jurisdiction to establish an equal access implementation plan for ITCs. *See, Notice* 94 FCC 2d at 300-304. No party has challenged our authority in this regard.

in the CD to settle an antitrust challenge to its acquisition of Sprint is necessarily appropriate for other ITCs.

47. We shall, therefore, establish an implementation schedule that recognizes the following characteristics of the non-GTE sector, which distinguish it from both GTE and the BOCs: (a) the variability in installed SPC equipment types; (b) the predominance of electromechanical equipment; (c) the existence of more severe constraints on capital spending; and (d) the likelihood that demand for equal access service, by customers and OCCs alike, will be less.[41] In so doing, we shall impose time limits in those cases where the end office is equipped with SPC switching and a reasonable request for equal access services exists. Finally, we shall recognize the existence of problems that may be imposed by capital constraints, and the non-standardization of installed SPC equipment, by adopting an exception mechanism.

(b) *Specific Requirements*

48. *End Offices Equipped with SPC Switches:* End offices equipped with SPC switches must be converted to offer exchange access services that are equal in type and quality to that offered to AT&T, within three years of the receipt of a reasonable request [42] for equal access services from any OCC. Absent such a request, end offices should be converted as soon as practicable, according to a schedule and a degree of implementation that reflect the capital constraints of the operating company and the market and other business conditions in the area served by the end office.

49. *End Offices Equipped with Electromechanical Switches:* Whether or not a reasonable request for equal access is presented, end offices equipped with electromechanical switches will not be required to be converted to equal access according to a specified timetable. Rather, these end offices should be converted as soon as practicable according to the guidelines we have set forth in para. 60, *infra*.

50. *Exception Mechanisms:* An ITC receiving a reasonable request for equal access interconnection at an SPC-equipped end office may apply to this Commission for a waiver of the three-year timetable, or of the requirement for the provision of certain specific equal access features, if it can demonstrate that such a timetable, or the provision of such access features, is not feasible except at costs that clearly outweigh potential benefits to users of telecommunications services.

(c) *Equal Access Features*

51. In para. 48, *supra*, we require that SPC-equipped end offices, upon receiving a reasonable request from an OCC, "be converted to offer access service that is equal in type and quality to that offered to AT&T. . . ." In order to give more explicit guidance to those ITCs affected by this requirement, we shall attempt to describe further the concepts "exchange access services" and "equal in type and quality."

52. The MFJ defines "exchange access" as "the provision of exchange services for the purpose of originating or terminating interexchange telecommunications." [43] It then defines "exchange access services" to include, but not be limited to, the following activities or functions of an EC in the provision of exchange access: "the provision of network control signalling, answer supervision, automatic calling number identification, carrier access codes, directory services, testing and maintenance of facilities and the provision of information necessary to bill customers."[44]

53. Potential operational inequalities in subscriber signalling (due to technological limitations, and to constraints imposed by the existing interstate numbering plan) are also addressed. The following requirements are imposed: (a) the option of preselecting an IXC, through which originating traffic may be routed without the use of an access code, shall be offered.[45] (b) access signalling to reach carriers that are not so preselected must be provided with the minimum number of digits; and (c) upon revision of the nationwide numbering plan to require additional signalling digits, all IXCs shall be accessed with the same number of digits.[46]

54. The MFJ also sets forth a non-quantitative definition of equality as it pertains to certain technical parameters of the EC network. "Such [equal access] connections, at the option of the interchange carrier, shall deliver traffic with signal quality and characteristics equal to that provided similar traffic of AT&T, including equal probability of blocking, based on reasonable traffic estimates supplied by each interexchange carrier." [47]

55. In subsequent Motions for Partial Reconsideration, and Reconsideration and Clarification (of the MFJ), the BOCs indicated their concern with an appropriate definition of "equality." In addressing this issue, the Court summarized the BOCs claims that exact duplication is infeasible:

> The [BOCs] assert that technical deviations will be so slight as to be imperceptible to all customers, whether of voice or data [and that they] had urged the Court to accept a definition of 'equal access' as access whose 'overall quality in a particular area is equal within a reasonable range which is applicable to all carriers' and to reject a more stringent definition which would demand access that yields identical technical quality (*i.e.*, identical values for loss, noise, and echo, and identical possibility of blocking). . . . *The Court accepts the Operating Companies' definition and will not insist on absolute technical equality.*[48]

56. The GTE CD also uses "equal in type and quality" as the criterion for measuring the efficacy of equal access implementation. As in the MFJ, the CD sets forth a partial list of features identical to those in the MFJ, and avoids a quantitative definition of "equal in type and quality." [49] Further, in the *GTE Opinion*, the Court lists the features of

[41] We have noted in paras. 33–34, *supra*, that 1309 (or 91 percent) of the ITCs serve less than one percent of nationwide access lines and that the average number of lines served by these ITCs is approximately 1,300. The typical non-GTE ITC is, therefore, a relative small company serving a rather small market, usually in a rural area. As a consequence, the factors (c) and (d) cited in this paragraph are likely to obtain for the majority of non-GTE ITCs.

[42] Sec. 201(a) of the Communications Act of 1934, as amended, states, "it shall be the duty of every common carrier engaged in interstate or foreign communications . . . to furnish such communications service upon reasonable request therefor . . .," but does not attempt to further define "reasonable." Neither shall we, in this Order, prescribe the elements of a "reasonable request" for equal access services from unconverted ITC end offices, but shall leave these arrangements to be developed in the tariff process. Tariff provisions the ITCs already have on file concerning ordering of access services and facilities may prove adequate for establishing the elements of such a request. To the extent that ITCs do not view these provisions as adequate for this purpose, they are free to make tariff filings setting out particular terms and conditions that will apply to such requests. We note that both the MFJ and the CD condition the obligation of an EC to convert certain end offices to equal access on there being a "bona fide request" to do so, but neither decree attempts to define such a request. Furthermore, prior to full conversion, the features set forth in para. 60, *infra*, should be offered to the extent feasible.

[43] MFJ at Sec. IV. F.

[44] *Id.*

[45] ITCs who will offer equal access should be aware that the FCC is examining the reasonableness of the routing by some local exchange carriers) of the default interLATA traffic of non-preselecting subscribers to AT&T. *See*, Memorandum Opinion and Order on Reconsideration, CC Docket No. 85–89, paras. 17–23 (February 25, 1985).

[46] *Id.* at Appendix B.2.

[47] *Id.*

[48] U.S. v. Western Electric Co., 569 F. Supp. at 1062, 1063 (1983) (MFJ Reconsideration) (emphasis added).

[49] *See* MFJ, Appendix B, and CD, Appendix B.

equal access that, GTE had stated, would be applicable to the GTOCs:

> The features of full equal access are: (1) dialing parity; (2) rotary dial access; (3) network control signalling; (4) answer supervision; (5) automatic calling number identification; (6) carrier access code; (7) directory services; (8) testing and maintenance of facilities; (9) provision of information necessary to bill customers; and (10) presubscription. * * * [50]

57. We see no reason to attempt to refine the concepts "exchange access services" and "equal in type and quality" to an extent exceeding that delineated in the MFJ and CD. With regard to the features of equal access service described in those decrees, we recognize that there will be considerable variation from end office to end office in the ITC sector in the types of exchange access services that are currently being offered to AT&T. We only require that such services be offered to OCCs to the extent that they are made available to AT&T, and consider the lists of features quoted above to be illustrative of the types of services that will generally have to be provided on an equal access basis once an end office is converted. By so doing, we anticipate that any new construction requirements will be in the realm of technological feasibility for any given ITC, since the required features are already being provided AT&T.

58. With regard to the definition of "equal in type and quality," we recognize that a definition of equality that is overly quantitative and microscopic in detail is impractical. Even AT&T's connections to ITC facilities vary in technical quality (with regard to impulse noise, error rates, distortions, and blocking probabilities) from end office to end office, and even within an end office. We concur with the District Court in its *MFJ Reconsideration* opinion that technical standards based upon the perceptions of customers are appropriate and that "absolute technical equality" need not be achieved.[51]

59. Therefore, subject to the caveats just discussed, we endorse the features of equal access services that have been set forth in the MFJ and CD as being equally valid in their application to the services we are requiring the ITCs to implement in this Order.[52] For further clarification, we reiterate the following requirements set out in the *Notice* for the conversion of existing SPC-controlled end offices, which were generally patterned after the MFJ:

> Programming of existing stored program controlled central offices shall be modified, during a three-year period * * *, to support access to the services of all interexchange carriers which is equal in all respects, except that the minimum number of digits necessary to reach other than a carrier pre-selected by the subscriber may be utilized until such time as the nationwide numbering plan is changed. At such time as the central office modification is completed, existing subscribers shall be given an option to pre-select a specific interexchange carrier which is interconnected with the exchange, and no additional digits shall be required for the subscriber to reach the services of that carrier. Thereafter, new subscribers shall be given this choice at the time when service is initially arranged. In both cases, the selection may subsequently be changed by the subscriber at his or her option.[53]

60. With regard to electromechanically-equipped end offices, we also proposed, and now adopt, the following, less stringent criteria for the provision of access:

> To the extent feasible, such offices shall be modified to offer the capabilities identified * * * [with regard to the conversion of SPC-equipped exchanges] utilizing techniques such as interconnection on a tandem basis where common equipment is capable of supporting such operation. If ANI (automatic number identification) capabilities or subscriber billing capabilities are capable of being made available to more than one interexchange carrier, to the extent the same is requested by such carriers they shall be made available in the same manner as is specified in the MFJ. If preselection of a particular carrier that might be accessed without dialing additional digits is not possible because of inflexibility of the electromechanical switching facilities, at minimum the exchange carrier must make available seven digit local telephone number access, with facilities and capabilities no worse than those provided in connection with PBX trunk service by the carrier. The carrier must make available transmission capabilities * * * which are no worse than those provided the traditional interexchange service provider accessing its office, and it shall provide access, to the extent possible, that uses the minimum number of accessing digits, and that makes possible access from rotary dial equipment to the services of each interexchange carrier.[54]

(d) *Rationale for Conclusions*

61. We have decided to impose these specific equal access implementation requirements in recognition of the differences between (a) the non-GTE independents and (b) GTE and the BOCs, which we have discussed above.[55] These differences reside primarily in the types of switching equipment used, the markets served, and the financial resources available to most non-GTE ITCs.

62. Accordingy, we have retained the recommendation (as set forth in the *Notice*) regarding the exemption of end offices equipped with electromechanical switches. We have not imposed a timetable upon such end offices (whether or not a request for service is presented) in consideration of the financial burdens they would be likely to encounter.[56] Our new requirements differ from those set forth in the *Notice* in two respects: (a) conversion of end offices equipped with SPC switches need not be implemented absent the presentation of a reasonable request (in which case the three-year deadline proposed in the *Notice* will apply); and (b) the two year deadline for the conversion of end offices to be equipped with new SPC, which was proposed in the *Notice*, will no longer be applicable.

63. We have concluded that the unconditional timetables proposed in the *Notice* for SPC end offices would not be in the public interest. Given the heterogeneity of the SPC equipment now installed in ITC end offices, an unconditional requirement for conversion to equal access could prove excessively expensive in those cases where the demand for conversion is nonexistent, or small. And, in light of the types of markets served by most ITCs, it is not necessarily the case that OCCs will be anxious to serve ITC exchange areas with equal access services. Accordingly, we shall require conversion only upon presentation of a reasonable request for service.

64. In retaining a three-year deadline for the conversion of SPC-equipped end offices, we have balanced the claims of those parties who state that three years or more could be required to convert a specific type of equipment or configuration, with the recognition that some of the larger non-GTE ITCs may have relatively sophisticated equipment that can be converted in less than three

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[50] *GTE Opinion, supra* note 12, at 30 N. 55.

[51] *See* para. 55, *supra*.

[52] Nothing in this Order prejudges any issue now pending before this Commission arising from the type of equal access provided by the BOCs or GTOCs, or limits the ability of any person to seek relief from the Commission predicated upon an alleged failure of a BOC or GTOC to provide other interexchange carriers with access equal to that provided AT&T.

[53] Notice, 94 FCC 2d at 306.

[54] Id.

[55] *See* paras. 29–47, *Supra*.

[56] Some of the parties have urged that 10,000 lines per end office be used as a threshold criterion for determining whether an end office should be exempted. Since SPC equipment that is feasibly convertible to equal access applications can be used in end offices serving fewer than 10,000 lines, we find that exemption on the basis of switch technology, rather than the number of lines served, is a more useful criterion. In any event, it is likely that most end offices serving fewer than 10,000 lines use electromechnical, and not SPC, switching equipment, and thus would not be subject to the conversion timetable specified in this Order.

years. The CD acknowledges that such differences exist within the GTE sector and does, indeed, impose different timetables, which comport with the relative degrees of sophistication of the SPC switches that are known to exist among the GTOCs.[57]

65. Since the distribution of specific SPC switch types among the non-CTE ITCs is not known with any degree of precision, we cannot make equipment-based distinctions in an implementation timetable for these companies. In those cases where the three-year timetable would impose a serious hardship upon an ITC, the exception mechanism we have set forth in para. 50, *supra*, will be available. Conversely, there may be instances (such as end offices equipped with switching equipment for which the generic software and other equal access conversion facilities are available off the shelf) where the three-year deadline is unnecessarily long. In particular, the availability of generic software for equal access will be quite likely in those instances where newer SPC equipment is being voluntarily installed as a replacement for electromechanical equipment.[58] In such cases, the ITC should endeavor to make the necessary conversions earlier than three years following a reasonable request.[59]

IV. Carrier Planning for Interconnected Services and NSEP Communications Services

A. Positions of Parties

66. Thirty-six (36) parties have filed comments or reply comments (or both) on the proposed range of questions set out for discussion in the **NOTICE** on joint planning. Pleadings were filed on behalf of IXCs (eleven parties);[60] ITCs (eight parties);[61] equipment manufacturers (seven parties);[62] user groups (three parties);[63] and state and federal agencies and public associations (eight parties).[64]

67. The general consensus of commenters is to favor an institutional arrangement for technical planning that is based on voluntary participation and a broad membership spectrum, in order to minimize potential antitrust concerns. AT&T argues, for example, that "by not committing to adopt the standards they develop, standards-makers lessen the possibility that they will stumble into a contract or a conspiracy in restraint of trade." [65] MCI, IBM, and Centel support this view. DOJ, while emphasizing that Commission sponsorship of joint planning does not create any antitrust law immunity; states that "properly structured and narrowly focused joint ventures for dealing with matters such as interconnection standards are usually consistent with the antitrust laws." [66]

68. Most parties (including DOJ) take the position that a planning mechanism built around the Exchange Carriers Association (ECA), which was proposed in our *Notice*, is too narrow in its membership responsibilities and focus. Instead, they support the proposal of the Exchange Carrier Standards Association (ECSA) wherein joint planning (limited to the specification of the technical and physical characteristics of the interface between EC and IXC facilities) would be implemented through the voluntary participation of interested parties in the activities of the ECSA-sponsored T–1 Committee, which has been accredited by the American National Standards Institute (ANSI).[67] Most parties also oppose a requirement of Commission membership or oversight with regard to the activities of the T–1 Committee.

69. Those parties responding to the issues of national security and emergency planning (NSEP), [68] favor maximum use of the existing National Coordinating Mechanism (NCM), adopted by the industry under the authority of the President and the Secretary of Defense in response to Executive Order No. 12382 (dated Sept. 13, 1982).

B. Discussion

1. Authority of Commission To Require Limited Joint Planning

70. We concluded in the *Notice* that we have ample authority under the Communications Act to impose joint planning requirements to the extent we find necessary to carry out the purposes of the Act and our communications policy goals.[69] Most parties fully support this conclusion, and none mounts any substantial challenge to it. We therefore reiterate our conclusion that limited joint planning, as described below, for ensuring the just and reasonable administration of interconnection arrangement is well within our authority to require.

2. Standards for Limited Joint Planning

71. In the *Notice* we proposed that joint technical planning among carriers be limited to establishing performance and physical parameters at the EC/IXC interface only, under a mechanism built about the ECA. We further stated that:

> It is our tentative belief that this Commission should be assigned responsibilities and functions regarding the joint planning activities of the association which are designed to ensure that the association does not operate in a manner which frustrates the goals and policies which we are establishing. This result can be achieved without requiring that this Commission be given membership on the association.[70]

We cited previous examples of successful joint planning, stating:

> Forms of joint action by carriers, in some cases under this Commission's sponsorship, and in many cases by the carriers themselves, have historically proved necessary in telecommunications to achieve important objectives: developing of industry-wide technical standards, operating principles, administrative procedures, and maintenance procedures; informal resolution of service and maintenance disputes which may arise where there is divided responsibility for elements of a joint through service; development of standby procedures and facilities to support extraordinary communications requirements (*e.g.*, NSEP communications); and development of appropriate forecasting and circuit requirements amalgamation procedures to facilitate planning for construction of new facilities with relatively long "lead" times.[71]

72. We recognized in the *Notice* that limited joint planning poses potential risks related to the diminution of

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[57] *See* para. 9, *Supra*.

[58] Even where no OCC has requested interconnection services, the replacement of electromechanical equipment with an SPC digital switch can be economically advantageous where significant savings in maintenance and other operating expenses are achieved.

[59] For such end offices, we see no reason why the District Court's admonition in the CD should not also govern the actions of ITCs: "Since the decree requires [the GTOCs] to offer equal access 'as promptly as possible' * * *, they are required to advance the implementation of equal access if the necessary software and hardware become available sooner than anticipated." *GTE Opinion*, supra note 12, at 34 n. 61.

[60] AT&T; GTE Sprint; ITT-Coins; MCI; SBS; Western Union; Allnet; U.S. Telephone; American Satellite Company; TRT-Telecom; RCA-Americom.

[61] Centel; Rochester; Southern New England (SNETCO); USTA; United Telephone System; Mid-Rivers Telephone Coop and North Pittsburgh Telco; GTE Sprint.

[62] U.S. Telecom Suppliers Association; IDCMA; IBM; Northern Telecom; Telephone and Data System Inc.; Ericsson, Inc.

[63] ICA; American Petroleum Institute; Ad Hoc Telecom User Committee.

[64] DOJ; PSC of Wisconsin; ANSI; Anchorage Telephone Utility; ECSA; Secretary of Defense; DCA; U.S. Activities Board & Standards; IEEE.

[65] AT&T Comments at 31.

[66] DOJ Comments at 31.

[67] Accreditation of the T–1 Committee by ANSI became effective on Sept. 20, 1984.

[68] The parties commenting on NSEP include AT&T, ECSA, Mid-Rivers Telephone Coop and North Pittsburgh Telco., Secretary of Defense, DCA, Telephone and Data Systems Inc., USTA, PSC of Wisconsin.

[69] *See Notice*, 94 FCC 2d at 314–16.

[70] *Id.* at 317.

[71] Id. at 311.

innovation and competition, and that the decision to adopt such a policy necessarily entails a balancing of these risks and the advantages of joint planning cited in para. 71, *supra*. The comments and replies of the parties are largely in agreement that the structural mechanisms for limited joint planning proposed by ECSA would significantly reduce the risks of such planning, while substantially preserving its advantages.[72] Thus, we find no reason to alter our tentative conclusion in the *Notice* that "the advantages to be gained from joint planning, as well as the short-term dangers posed by disruptions in this planning, outweigh the potential risks involved and point toward the conclusion that joint planning under the aegis of this Commission will serve the public interest."[73]

73. With regard to NSEP functions, some new forms of planning among carriers will be required. AT&T, in the past, had taken a leading role in planning the participation of the telephone industry in NSEP communications. Implementation of the MFJ now requires the creation of new institutional arrangements for developing administrative mechanisms and maintaining emergency communications capabilities.

74. In this Order, we approve two joint planning mechanisms: (a) the ECSA-sponsored and ANSI-accredited T–1 Committee, and (b) the NCM to accomplish the technical planning associated with provision of NSEP communications.[74] We intend to minimize the imposition of additional regulatory rules or standards. While recognizing that experience may require future responses from the Commission, we accept today both the T–1 and NCM planning entities as responsive to our statutory responsibilities.

3. Structure for Limited Joint Planning for EC/IXC Interconnection

75. The record in this proceeding indicates that the parties are uniformly supportive of replacing our proposed joint planning mechanism with that proposed by ECSA. The voluntary membership of the T–1 Committee would, according to the parties, specifically address the concerns raised in our *Notice* by providing a forum in which the interests of all entities concerned with the development of technical standards would be heard and addressed.

76. In addressing the ECSA proposals, the parties provide sufficient arguments to demonstrate that a planning mechanism based upon the T–1 Committee structure (with its broad membership base) would minimize the potential for anticompetitive abuses resident in the ECA-based structure, which had been proposed in the *Notice*. The T–1 Committee includes and encourages the fullest industry representation of equipment manufacturers, IXCs, and other users of exchange access service as participants.[75]

77. The agendas of the T–1 Committee will be developed by its members and, therefore, should be responsive to their needs for administration of interconnection procedures, technical standards for provision of interconnection, design and operational standards relating to interconnection equipment and systems, and related administrative and maintenance procedures. The primary purposes of this limited joint planning coordination should be to make adjustments to interconnection processes on an ongoing basis in order to achieve operational efficiency, to promote nationwide compatibility, and to anticipate future needs and problems so that adjustments can be planned.

78. Based on our review of the structure, membership, functions, and procedures of the ESCA-sponsored and ANSI-accredited T–1 Committee, we find that is an appropriate organization for developing voluntary technical interconnection standards.[76] As described by ESCA, the T–1 Committee will have the following characteristics: (1) it will focus on developing "standards at the point of interconnection for 'external' interface with interexchange carriers, customer premises equipment, and information vendors";[77] (2) it will "examine physical, electrical, mechanical, and functional characteristics of external interface standards and will establish the minimum standards to ensure proper interconnectivity and interoperability of services and equipment";[78] (3) its membership "will be open to all parties with a direct and material interest in the formulation of interconnection standards, without dominance by any single interest."[79] The Commission will not participate as a member of the T–1 Committee. The proposed T–1 Committee mechanism, with its open and voluntary membership requirements, appears to satisfy our concerns regarding the full participation in joint planning by affected parties and the exposure of joint planning operations to public scrutiny. We shall, however, monitor the industry standard setting process and, if necessary, provide regulatory review.

79. Furthermore, we have concluded that the interconnection coordination activities and the organizational structure for limited technical planning that we approve in this Order are consistent with the antitrust laws. The parties discuss limited joint planning in terms of providing an association or procedural mechanism that would safeguard against the possibility of anticompetitive abuses by eliminating or reducing opportunities for restraint of trade, price-fixing, market allocation and other exclusionary practices. They generally suggest that an appropriate joint planning association would require broad representation to minimize antitrust concerns and refer to the structural and procedural safeguards of the T–1 Committee, which, they emphasize, are in accord with antitrust policies, and are responsive to the Commission's antitrust concerns.[80] Additionally, IBM, GTE (Sprint), ITT (COINS) and Western Union, encourage the Commission to participate and maintain regulatory oversight responsibilities. ANSI points to *Revised*

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[72] ECSA summarizes its structural philosophy as follows: "Limited joint planning under the auspices of the ECSA-sponsored and ANSI-accredited T–1 Committee, which has the responsibility for interconnection standards formulation, is open to all parties with a direct and material interest in that process and activity, without dominance by any single interest." ECSA Comments at 11. The T–1 Committee membership will be voluntary and will be open to all who may be concerned. *See* notes 75, 79, *infra*.

[73] *Notice*, 94 FCC 2d at 314.

[74] *See Id.* at 299.

[75] The composition of the T–1 Committee membership, as of Oct. 9, 1984, was: ECs (88); IXCs and resellers (19); manufacturers and vendors (17); users and general (37); interests from U.S. and Canada (15). Source: *Fiscal Year 1984, Report of Directors, ECSA*, Oct. 9, 1984.

[76] ESCA Comments, Appendix II, Exhibit A, (Procedures for the T–1 Committee of the Exchange Carrier Standards Association) at 1.

[77] ESCA Comments at 13

[78] *Id.* at 14.

[79] *Id.* at 11. Exhibit A of the ESCA By-Laws cites the following entities as having direct and material interests: "(i) exchange carriers; (ii) interexchange carriers; (iii) relevant equipment manufacturers; (iv) vendors of relevant products; (v) state and federal regulatory agencies; (vi) the United States Department of Defense; (vii) user groups; (viii) professional technical organizations; and (ix) other groups that have a general interest in the exchange carrier industry." Exhibit A at 1.

[80] *See* Comments of Rural Telephone Coalition, SNETCO, Rochester Telephone Co., USTA, American Satellite Co., TDS, Centel, United Telephone System, ECSA, IEEE, USAB, ANSI, MCI, USTA, Northern Telecom Inc., U.S. Telephone Inc., Utilities Telecommunications Council, TRT, API, Association of Data Communications Users, and IBM.

Circular A–119, October 27, 1982, which directs government agencies to adopt voluntary standards that are consistent with statutory obligations and goals. Mid-Rivers Telephone Cooperative, Inc., North Pittsburgh Tel. Co., and the PSC of Wisconsin submit that direct Commission regulatory involvement in the interconnection process is unnecessary and that an ESCA/ANSI accredited organization is fully consistent with antitrust principles and policies. DOJ asserts that:

> properly structured and narrowly focused joint ventures for dealing with matters such as interconnection standards are usually consistent with the antitrust laws. Care must be taken, however, that the joint venture does not overflow into areas where innovation and diversity should continue unabated. . . . The various exchange carriers should be able to experiment with new interconnection arrangements and to adopt particular system designs that best meet the demands of their customers (the interexchange carriers) and of their subscribers within the overall framework of a compatible and efficient network. . . . [S]o long as compliance is voluntary, the exchange carriers will be free to act on their own incentive to subscribe only to those standards which actually enhance the efficiency of their networks.[81]

80. It has been our intent in fashioning the structure necessary to achieve limited joint planning to assign to the association, functions which are important for the provision of efficient planning but which will not create a basis for anticompetitive conduct. It also should be noted that, although it is true that competition is an important factor which should be given weight in the administration of the Act, this Commission also is required by the public interest standards of the Act to consider factors other than competition, such as the efficiency of the communications network, the provision of reliable service to the public, and the future needs of carriers and users. In sum, we believe that our endorsement of the joint planning procedures outlined in this Order is consistent with our responsibility under the Act, and that use of such procedures will not raise antitrust issues. Accordingly, we approve the T–1 Committee as the instrument for implementing the limited joint planning approach proposed in the Notice and endorsed by the industry.

4. Joint Planning for NSEP Communications Capabilities

81. A number of parties have addressed the concerns we have raised regarding the proper coordinating mechanism to ensure continuity of emergency communications bearing upon national defense and emergency preparedness. The Commission recognizes the need for planning among carriers to create administrative mechanisms and standby capabilities to support such communications. We concur with the parties that we should adopt the industry's response to Executive Order No. 12382 (dated Sept. 13, 1982), which directs the National Communications System, headed by the Secretary of Defense, to develop a post-divestiture NSEP plan.[82]

82. The general agreement among parties to form the NCM, composed of government and industry representatives who will jointly provide communications capabilities and ensure continuity of national facilities during emergency conditions, also resolves the issues raised in the Notice [83] regarding antitrust concerns. The DOJ has accepted the NCM plan.[84] The carriers and the government agencies assigned responsibility for NSEP have acted to plan and implement NSEP communications mechanisms that will meet national requirements. As in the case of the T–1 Committee activities, described in paras. 75–78, *supra,* we will continue to monitor the NSEP planning process and, as necessary, provide regulatory review and approval of whatever executive coordinating actions are taken in response to Executive Order 12382.[85]

V. Tariff Requirements

A. Positions of Parties

83. In the *Notice* we requested that parties consider what level of information on interconnection should be included in ECs' access tariffs. The consensus of the commenters is that the Commission should limit its tariff filing requirements to the provision of basic technical interconnection information and reject unnecessarily rigid rules that would only necessitate frequent waiver requests, especially in the case of small and rural companies. AT&T gives examples of "practical" tariff inclusions, such as identifying whether an interconnection is a trunk-side or line-side arrangement, what signalling methods are available, and whether seven digits or fewer are required of the customer.[86] Many parties state that complex, technical details of multi-featured services in tariffs would be unnecessary and burdensome. This material, commenters suggest, would be of marginal usefulness, and especially since there are other sources or references for such data.[87] MCI suggests that to avoid confusion either a general or specific reference to Part 68 in the tariffs should be required.[88] SNETCO states that tariffs should only reference physical, technical, and operational aspects of interconnection.[89]

B. Discussion

84. In the *Notice,* we noted that a variety of federal tariff-related interconnection policies governing ECs have traditionally been manifested in AT&T's interstate tariffs, to which all ECs concurred for the joint provision of interstate service. However, as competition for interstate service continues to evolve, such a pattern of concurrence may no longer be common. To prevent confusion to the public, we proposed that the ECs' interconnection practices be reflected in their interstate exchange access tariffs, noting that such a requirement would impose minimal (if any) burden on such carriers, as they were obliged to file (or to concur in) access tariffs in any event.

85. Our proposals in this area were necessary because it was unclear whether any EC tariffs (or tariffs in which ECs would concur) for interstate service would continue to manifest these carriers' interconnection practices pursuant to our long-standing interconnection orders. Since that time, however, the ECs have implemented our proposals and have included (or referenced) in their interstate exchange access tariffs language comparable to the interconnection-related language in AT&T's pre-divestiture interstate tariffs. Thus, this is not a controversial matter. But, to ensure that there is no confusion in the future, we shall make final our tentative conclusion in the *Notice* that ECs' interconnection practices, as prescribed by this Commission, must be reflected in their interstate exchange access tariffs.[90]

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[81] DOJ Comments at 31, 34, 35.

[82] AT&T, ECSA, Mid-Rivers Telephone Corp., North Pittsburgh Telco, Telephone and Data Systems, Inc. DOJ, USTA, ICA. PSC of Wisconsin, Secretary of Defense.

[83] See *Notice,* 94 FCC 2d at 321–322.

[84] Letter from Assistant Attorney General, Antitrust Division, U.S. Department of Justice, to Manager, National Communications System, dated June 1, 1983.

[85] While we today provide a framework for NSEP planning, we are not now specifying in detail the types of planning that will be required, nor the voluntary and regulatory administrative and other mechanisms that may prove necessary to carry out such planning. We will leave the development of resolution of such issues, in the first instance, to the NCM planning group we approve in this Order. *See Notice,* 94 FCC 2d at 299.

[86] AT&T Comments at 58.

[87] PSC of Wisconsin, Southern New England Telephone Co. (SNETCO), AT&T, Rural Telephone Coalition.

[88] MCI Comments at 19.

[89] SNETCO Comments at 7.

[90] *See* also, Access and Divestiture Related Tariffs, 97 FCC 2d at 1111 (1984).

86. A related issue raised in the *Notice*, namely, whether we should require that the BOCs treat resellers no differently from facilities-based IXCs with respect to access number coding, has subsequently become moot. At that time, it was contemplated that 10XX coding, which is capable of supporting access to no more than 100 IXCs, would be used for access to the services of non-predesignated carriers. Since there are more than 100 resellers, the supply of available codes could have been rapidly exhausted. Since the BOCs have since revised their plans to utilize 40XXX coding and will make such codes available to resellers and facilities-based carriers alike, we do not anticipate exhaustion of access codes in the foreseeable future. Accordingly, in light of the implementation of this expanded code space, we need make no determination on this issue.

VI. Regulatory Flexibility Certification

87. In the *Notice*, we invited interested parties to comment upon our initial regulatory flexibility analysis. We stated our legal authority for taking action in this proceeding, and noted that "the policy objectives of the Regulatory Flexibility Act are also encompassed in Sections 2(b) and 203(a) of the Communications Act of 1934, the provisions of which are intended to relieve many small telephone companies from various reporting and other requirements established in the Communications Act."

88. We hereby certify that the Regulatory Flexibility Act is not applicable to small telephone companies, as defined, because they are monopolies in their own service areas. The Act incorporates the definition of a "small business" in Section 3 of the Small Business Act as the definition of a "small entity." The latter definition excludes any business that is dominant in its field of operation. ECs, even small ones, enjoy a dominant monopoly position in their local service area. Moreover, the actions we are taking in this proceeding with respect to (a) the implementation of equal access, and (b) the modification of tariffs to reflect equal access interconnection, are designed that the interests of small telephone companies are protected—by recognizing their unique financial status *vis a vis* that of the BOCs and the larger independent telephone holding companies.

VII. Ordering Clauses

89. Accordingly, it is ordered That, pursuant to Sections 4(i), 4(j), 201–205, 213, 218, 220, and 403 of the Communications Act of 1934, 47 U.S.C. § § 154(i), 154(j), 201–205, 213, 218, 220, and 403, the policies, rules, and requirements set forth herein are adopted.

90. It is further ordered, That the Secretary shall cause this Order to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85–9532 Filed 4–18–85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 67

Interpretation Letter Regarding Jurisdictional Separations

AGENCY: Federal Communications Commission.

ACTION: Interpretation Letter.

SUMMARY: Under delegated authority, the Common Carrier Bureau, in response to a request by New England Telephone has provided an interpretation of Part 67 of the FCC Rules and Regulations. The issue concerns the jurisdictional separation of state income taxes and the interpretation is intended to clarify the apportionment procedures in § 67.412 of the Rules.

FOR FURTHER INFORMATION CONTACT: Arthur S. Leahy, Common Carrier Bureau, (202) 634–1743.

William J. Tricarico,

Secretary, Federal Communications Commission.

April 9, 1985.

Mr. James E. Riley,

Division Manager, Depreciation and Separations, New England Telephone, 99 High Street, Room 1004, Boston, Massachusetts 02110

Dear Mr. Riley: This letter is in response to your letter of March 8, 1985 in which you requested clarification of section 67.412 of the *FCC Rules and Regulations*. Specifically, you requested information regarding the proper allocation of the state income tax (SIT).

Paragraph 67.412(d) of the *FCC Rules and Regulations* indicates that the net income tax attributable to all operations is to be apportioned among the operations on the basis of the approximate net taxable income applicable to each of the operations. As noted in your letter, New England Telephone has historically interpreted "operations" to mean Company rather than state specific operations, whereas the May 30, 1984, decision of the Maine Public Utility Commission interprets the word "operations" to mean Maine operations only.

The Maine PUC proposed method of allocating SIT to interstate would require that the New England Telephone Company continue to use company taxable income allocated to Maine as the basis for SIT, but apportion the tax to interstate on the basis of net taxable income applicable to each of the operations specific to Maine. We concur with the Maine PUC interpretation of section 67.412 of the Separations Manual. In section 67.412 the word "operations" is interpreted to mean state specific operations rather than company operations in order to be consistent with the method used in calculating SIT. Since the SIT is a directly assignable cost, it can be used for allocation in the separations process. In contrast, the method of allocating SIT that has been employed by New England Telephone fails to make use of the prior estimate of the Maine SIT cost. The attachment to this letter shows the jurisdictional allocation procedure for SIT proposed by the Maine PUC and with which we concur.

We do not anticipate any significant impact on telephone rates as a result of using the Maine PUC alternative method of allocating SIT to interstate. The New England Telephone submission indicates that the use of the alternative method would result in a $.4 million increase in interstate expense in the state of Maine based upon 1984 data. In addition, the proposed alternative method would result in a $1 million increase in interstate expense for the state of New Hampshire. These increases would be more than offset by the indicated $1.8 million decrease in interstate expense for the state of Massachusetts.

If you have any questions concerning this response, please contact Arthur Leahy on (202) 634–1743.

Sincerely,

Gerald P. Vaughan

Chief, Accounting and Audits Division.

Attachment.—Maine PUC Proposed Method of Allocating SIT to Interstate

Maine Interstate Taxable Income
  divided by
Maine Total Taxable Income
  equals
Interstate Allocation Ratio
  ×
SIT
  equals
SIT Allocated to Interstate

[FR Doc. 85–9527 Filed 4–18–85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

Implementation of BC Docket No. 80–90 To Increase the Availability of FM Broadcast Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action adds a new attribute under the comparative hearing criterion of securing the best practicable service which would enhance the "integration" proposal of daytime-only AM licensees that apply for FM

channels in the same community. This daytimer enhancement credit would be equal to the "merit" enhancement value given for local residence or minority ownership. Also in this action we announce a procedure for accepting applications for the recent 689 FM channel allotments and for opening up the FM Table of Allotments for new petitions.

EFFECTIVE DATE: May 20, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Branson, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Second Report and Order

In the Matter of Implementation of BC Docket No. 80–90 to Increase the Availability of FM Broadcast Assignments (MM Docket No. 84–231).

Adopted: March 14, 1985.
Released: April 12, 1985.

By the Commission: Chairman Fowler issuing a separate statement; Commissioner Rivera dissenting and issuing a statement at a later date.

I. Introduction

1. Before the Commission for consideration are three matters not addressed in the *First Report and Order*, 50 FR 3514, published January 25, 1985, in this proceeding. The *Notice of Proposed Rule Making ("Notice")*, 49 FR 11214, published March 26, 1984, solicited comments on several proposals designed to aid daytime-only AM licensees in obtaining FM broadcast stations in their principal community of license. In response to the Notice, the Commission received in excess of 150 comments on these proposals.[1] Also in this document, we set forth the system by which we will begin to accept applications for the 689 recently alloted channels. Finally, we announce herein that new FM petitions to amend the FM Table of Allotments can now be filed.

[1] A "Petition for Bifurcation and Expedited Action" was also filed on behalf of the Gene Sudduth Company, Inc. ("Sudduth"). Various parties filed in support and in opposition to this petition. Sudduth requsted that the Commission separate the question of a preference for daytime-only licensees from the proceeding implementing Docket 80–90 and consider it on an expedited basis. In addition, Sudduth argued that a preference should be granted to all daytime-only licensees and not solely to those in the omnibus proceeding. With respect to Sudduth's request that this matter be handled in an expedited manner, our action in this proceeding makes that portion of the petition moot. We have determined, however, that based on the comments filed, special consideration should be applied in all future FM comparative proceedings as noted in paragraph 20.

II. Background

2. The National Telecommunications and Information Administration ("NTIA") in a 1981 petition for rule making proposed that the Commission seek ways to aid daytime-only AM licensees. Subsequently, the Commission issued the *Notice of Inquiry and Notice of Proposed Rule Making* in BC Docket No. 82–538, 47 FR 38937, published September 3, 1982. The Commission, therein, considered a broad range of problems faced by the daytime-only AM licensee. Included in the *Notice of Inquiry* portion of that proceeding was the proposal to grant a comparative preference to these licensees. While the *Notice of Inquiry* portion was pending, the Commission began the first steps towards implementation of Docket 80–90. The Commission proposed that many of the new FM allotments be placed in communities presently served exclusively by daytime-only AM licensees.

3. In addition, because of our continuing concern for the limitations of daytime-only operations and our recognition that many daytime-only licensees have a long history of outstanding service to their community of license, we believed it appropriate to inquire in this proceeding as to whether some form of aid should be granted the daytime-only licensee applying for an FM channel in its community of license. In particular, we requested specific comments on the type of aid that could be provided to the daytime-only licensee in the comparative process.[2]

III. Comments

4. The majority of the parties filed comments in support of granting some form of aid to daytime-only broadcasters. Although two forms of possible assistance were suggested, the majority of the comments focused on the desirability of granting a preference to daytime-only AM licensees.[3] The parties disagreed, however, as to the nature and the limitations which should be placed on such a preference.

5. In support of a preference for daytime-only AM licensees, commenters assert that often daytime-only licensees have been the only source of programming to serve the special needs of their respective communities. Specifically, they point out that residents of smaller communities must rely on their local daytime-only broadcaster for information about local weather conditions, school closings, government actions, and other items of local interest. Commenters argue that the daytime-only licensees have provided this information in spite of the service constraints associated with daytime-only operation. Citing imposed restrictions on hours and broadcast conditions, commenters assert that daytime-only licensees often cannot provide adequate service to their communities of license. Moreover, commenters point out that these same restrictions cut into station revenues by precluding stations from offering service during prime portions of the broadcast day, such as drive times.

6. Commenters argue that if the Commission does not grant a comparative preference to daytime-only licensees, this will have the unintended effect of eliminating the experienced broadcaster in favor of the untested new applicant. These commenters assert that with the introduction of a superior, full-time, FM facility the daytime-only station could be forced out of business. In this connection, commenters note that many of the smaller markets could be expected to have difficulty supporting additional broadcast outlets. Similarly, other commenters contend that the daytime-only licensee might be forced to choose between going out of business and selling his facilities to the new FM licensee, leaving the community with only one voice. Such a result, it is alleged, would be inequitable in light of the daytime-only licensee's history of service to the community and accompanying financial sacrifice. Consequently, it is asserted that there would be no net increase in diversity in the affected community if the new broadcaster wins in the comparative hearing.

7. While the majority of the parties suggested that the Commission grant a substantial preference, most have differing opinions as to its nature and limits. One group proposed that the value of the preference be similar to that which is given in the comparative hearing for 100% ownership integration. Other parties contend that it should be akin to the "renewal expectancy" granted incumbents in comparative renewal proceedings. Under this plan the daytime-only licensee would have to demonstrate that it had provided "substantial" service to its community of license in order to receive a preference.

8. Some commenters express their concerns that, if daytime-only licensees receive some form of preference, it could

[2] *See Policy Statement on Comparative Hearings*, 1 FCC 2d 393 (1965).

[3] Although some parties proposed that the preference also be awarded to full-time AM licensees, we do not believe that the same policy justifications would support such a preference.

undercut the Commission's policy of increasing the number of minority broadcasters. These parties allege that grant of too great a preference could foreclose opportunities for minority broadcasters to obtain these new FM allotments in their communities. Specifically, the National Association of Black Owned Broadcasters, Inc. ("NABOB"), while generally supportive of a preference, suggests that the preference be weighted such that non-minority daytime-only licensees would not be preferred over minority applicants. Similarly, the National Black Media Coalition ("NBMC") contends that daytime-only licensees should not be granted preferred status for the new FM allotments which would otherwise have been granted to minorities.

9. Although the *Notice* stated that the proposed preference would only be available in the community of license, many commenters nonetheless suggested alternatives. These commenters suggested that a preference should be granted to daytime-only licensees even if the new FM allotment is not precisely in the same community as the daytime-only station. Specifically, the National Association of Broadcasters ("NAB"), Marion Broadcasting Company ("Marion") and Wilson-Howard-Broyles Broadcasting ("WHB") propose that the Commission grant a preference to daytime-only licensees whenever the 1 mV/m contour of the existing daytime-only station and the proposed new FM station would overlap. Likewise, the Daytime Broadcasters Association ("DBA") contends that whenever the FM station would substantially overlap the service area of the existing daytime-only facility, the daytime-only licensee should be awarded a preference.

10. Those parties supporting a preference are also divided as to whether divestiture should be a prerequisite. Commenters opposed to a divestiture requirement argue that the public interest could best be served through allowance of the AM–FM combinations. NAB asserts that the Commission has in the past acknowledged the benefits to be derived from such combinations. Other commenters note that the Commission has recently determined that existing licensees might acquire new facilities in their community of license without a divestiture requirement.[4] DBA points out that the Commission has declined to consider a proposal that AM–FM combinations be broken-up. Accordingly, these parties assert that requiring divestiture in this proceeding would be inconsistent with the Commission's prior pronouncements and discriminatory to daytime-only licensees.

11. Opponents of a divestiture requirement further contend that many smaller markets can support only one broadcast facility. In such markets, commenters argue that the introduction of a superior full-time FM station could soon lead to the financial demise of the daytime-only station. When the daytime-only licensee attempts to sell the station in a community with a superior FM station, commenters contend that the daytime-only licensee could be forced into a "distress sale" posture. Instead of requiring divestiture and eventually losing an experienced daytime-only licensee, these commenters suggest that the Commission consider the benefits to be derived from joint ownership. In those communities that are too small to support two facilities, commenters indicate that an AM–FM combination could share certain resources, such as studio facilities and staff. Commenters point out that this in turn would result in the availability of additional resources which could be devoted to programming to serve the needs of their communities. Moreover, commenters contend that in the smaller communities the revenues generated from the existing daytime-only station could be used to cover the start-up costs of the new FM station and to support the FM facility during its initial operating period.

12. The commenters supporting a divestiture requirement point out that, under existing Commission policy, a daytime-only licensee can avoid a diversity demerit in the comparative hearing by pledging to divest its AM daytime-only facility.[5] Because divestiture of the daytime-only facility would not represent a significant change in Commission policy, these commenters are not opposed to such a prerequisite. Moreover, these parties suggest that divestiture would assure that the Commission's policy towards media diversity would be thwarted by having the same licensee owning both an AM and FM facility.

IV. Discussion

A. Comparative Merit for Daytimers

13. After careful consideration of the record in this proceeding, we conclude that it is in the public interest to afford some form of special consideration to daytime-only licensees when they apply for FM allotments in their community of license. This conclusion is based on several factors. First, daytimers represent a unique class of broadcast licensees. They alone are restricted to operate essentially from sunrise to sunset. Thus, daytimers and their respective communities do not receive the benefit of nighttime operations from daytime-only stations. In addition, daytime-only stations cannot take advantage of potential nighttime revenue to support their operations. Further, although the Commission has a strong policy to improve the ability of these licensees to obtain expanded service, the requirements of other types of AM stations, *e.g.* Class I and III stations, place a technical limit on the amount of relief that can be provided. We believe that the operation of daytime-only stations in the public interest by licensees, despite the above limitations, provides a strong indication that they will operate an FM station in the same community in a manner that will further the public interest. Moreover, positive recognition of the efforts of these licensees in operating limited facilities encourages all licensees to maximize the provision of service to the public, notwithstanding the nature of any obstacles attendant to such operations.

14. As many commenters noted, it was often daytime-only licensees who pioneered radio broadcast service in their communities. However, these licensees have always been subject to the limitation that they cannot operate at night. In a number of communities this limitation has deprived the community of any local nighttime service. It also follows that because daytime-only stations essentially are restricted to daytime hours of operation, the facilities must be supported without the aid of a nighttime revenue base. No other type of AM station is limited in this manner. Furthermore, many daytime-only stations are still unable to reap the full economic benefits that could be derived from operating during peak broadcast hours of high listenership, *e.g.* evening "drive-time" (4:00 to 6:00 p.m.) during the months of December and January when Christmas and New Year's advertising revenue is critical. Some of these licensees are required to sign-off as early as 4:15 or 4:30 p.m. during these months, while others are limited to post-sunset operation with powers significantly less than their authorized daytime power levels.

15. In recognition of the above problems, the Commission initiated a rule making proceeding in September of

[4] *Citing Multiple Ownership of AM and FM Stations*, 51 RR 2d 449 (1982).

[5] *See Alexander S. Klein, Jr.*, 49 RR 2d 606 (1981).

1982 to explore various alternatives for expanding the capability of daytime-only stations to operate beyond their present limitations.[6] A *Report and Order* was issued in September of 1983 permitting greater pre-sunrise flexibility and authorizing, for the first time, post-sunset operations.[7] In April of 1984, we released a *Memorandum Opinion and Order*,[8] on reconsideration, which, *inter alia*, gave further post-sunset relief to daytime-only stations operating on foreign clear channels. Finally, in December of 1984, we resolved the issue of affording additional post-sunset relief to daytime-only stations operating on regional channels.[9] These actions reflect our high degree of sensitivity to the predicament faced by daytime-only licensees in attempting to expand service to their communities.[10] However, at best, our actions afforded only moderate assistance to these licensees. In this regard, it was apparent that additional technical relief could be provided only at the risk of creating significant interference to the service requirements of other types of AM stations, such as Class I and III stations.

16. In view of all of the foregoing, it appears that the most viable option for addressing our concerns in this area is to grant special consideration to daytime-only licensees when they apply for new FM stations in their community of license. The comparative hearing process is the desirable vehicle for accomplishing this objective. Before discussing the methodology for applying any special comparative consideration to the subject licensees, we will briefly review the existing comparative hearing standards.

17. The Commission's 1965 *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393 (1965), sets forth the criteria for choosing among qualified new applicants for the same broadcast facility. These criteria include: (1) Diversification of control of the media of mass communications; (2) full-time participation in station operation by owners (also characterized as securing the best practicable service); (3) proposed program service; (4) past broadcast record; (5) efficient use of the frequency; (6) other factors.[11] *Id.* at 394–399. The two primary criteria in comparative hearings are diversification and securing the best practicable service. *Id.* at 394.

18. Diversification is a comparative factor which involves a consideration of common control and less than controlling interests in other broadcast stations. Diversification is considered to be of primary significance and can lead to a predominant comparative preference or demerit. The ultimate weight given to this factor depends on the degree of ownership interest in other stations or media and the proximity of other stations or media to the community of the proposed station. *Id.* at 394–395.

19. The second comparative criterion, securing the best practicable service, is a factor of substantial importance and can lead to a significant preference depending on the extent to which there is full-time participation in station operations by owners. Moreover, the value of a preference for integration of ownership and management can be enhanced by attributes of the participating owners such as local residence, past participation in civic affairs, previous broadcast experience and minority ownership.[12] The rationale for allowing these attributes to enhance an integration proposal is that they increase the likelihood of securing the best practicable service. For example, "participation in station affairs . . . by a local resident indicates a likelihood of continuing knowledge of changing local interests and needs." *Id.* at 396.

20. We believe that affording comparative credit to daytime-only licensees who apply for new FM channels in their community of license also increases the likelihood of securing the best practicable service. As indicated previously, daytimers have operated their facilities in the public interest in an environment with serious limitations (see paragraphs 14–15 above). Thus, we believe there is an especially strong likelihood that they will operate a full-time FM facility in the same community in a manner which furthers the public interest. Moreover, awarding special comparative consideration to daytimers serves as an incentive to licensees in general that operation of facilities in the public interest, notwithstanding the difficulties encountered, can lead to certain added benefits. In view of the foregoing, we have decided to consider prior daytime ownership/management experience in an upgraded manner under the general comparative criterion of securing the best practicable service. Specifically, where the broadcast experience of an applicant is based on previous substantial participation in management of a daytime-only station owned by the applicant in the same community as the proposed FM station, we shall upgrade the value of broadcast experience as an integration enhancement so that it will be equal to the enhancement value of local residence or minority ownership. Where the applicant's broadcast experience does not meet these requirements, the comparative weight to be given broadcast experience will be less than local residence or minority ownership as indicated in note 12, *supra*. This new policy shall apply to all future comparative proceedings involving new FM applications filed, but not yet designated for hearing, as of the effective date of this order.[13]

21. However, to receive any such additional credit, the daytime-only licensee/applicant must have owned the daytime-only station for three continuous years prior to designation of the FM application for hearing. The applicant also must propose to be integrated in the operation of the FM station.[14] In addition, the application must be for an FM channel in the same community as the daytime-only station's community of license. These conditions are designed to assure that the benefits relied on in giving special consideration to daytime-only licensees are realized.

22. Having determined that daytime-only ownership/broadcast experience should be entitled to comparative enhancement, we next address whether divestiture of the daytime-only station in the same community as the proposed

[6] *Notice of Proposed Rule Making and Notice of Inquiry*, 47 FR 30037 (1982).

[7] 48 FR 42944 (1983).

[8] 49 FR 17942 (1984).

[9] 49 FR 48046 (1984).

[10] It is also noted that a number of recent Congressional initiatives have focused on this matter. *See for example*, S.880, 99th Cong., 1st Sess. (1983); S. Rep. No. 98–165, 98th Cong., 1st Sess. (1983); H.R. 1580, 98th Cong., 1st Sess. (1983); H.R. 2385, 98th Cong., 1st Sess. (1983); H.R. 6129, 97th Cong., 2nd Sess. (1982); and H.R. 6306, 97th Cong. 2nd Sess. (1982).

[11] "Other factors" can include examination of additional relevant and substantial matters. *Id.* at 399.

[12] Equal weight is given to local residence and minority ownership. Past participation in civic affairs and broadcast experience are accorded less weight than either local residence or minority ownership. *See Radio Jonesboro, Inc.*, FCC 85305, ——FCC 2d ——.

[13] We believe that this represents an appropriate cut-off point. Applicants participating in a hearing, or post-hearing process, as of the effective date of this order, have expended significant time and funds in reliance on the existing comparative standards. Moreover, reopening these hearing proceedings would impose significant administrative costs on the Commission and delay service to the public. Therefore, in this particular circumstance, we will exercise our broad discretionary powers and limit application of the new policy as indicated above.

[14] As is the case with all current integration enhancement credits, the extent to which an applicant must be integrated before receiving upgraded broadcast experience credit will be determined by existing integration standards as enunciated in the *Comparative Policy Statement*, 1 FCC 2d at 395–396, and pertinent cases subsequent thereto.

FM station should be required. Based on our review of the record, Commission policy, case precedent and our continuing concern in the area of media diversity, we are persuaded that daytimers, who choose to take advantage of the upgraded comparative credit for daytime-only ownership/broadcast experience, should be required to divest themselves of the daytime-only station. Absent a divestiture requirement, daytimers would receive a double benefit and the public would be deprived of an opportunity to add another diverse voice to the community. We do not believe that such a result would best further the public interest.[15]

23. Given the above, a daytimer seeking additional comparative credit must pledge to divest itself of the daytime-only station within three years from the commencement date of program test authorization for the new FM station. This divestiture pledge must be made by the daytimer within 30 days after designation of its FM application for hearing.[16] If an applicant fails to make the required divestiture pledge, it will receive no special credit [17] for broadcast experience obtained while owning a daytime-only station.[18]

B. Application Process

24. In the *Notice of Proposed Rule Making,* we proposed to "phase-in" new FM stations by "staggering" the effective dates of the new channel allotments. Therein, we stated "[t]he order of availability could be based on any of several factors including: (1) Geographic region, by states; (2) alphabetical, by communities; (3) largest communities, by population; (4) channel number (221–300)."

25. Comments received in response to the "staggered" approach were varied. A majority expressed a preference for any of number of random procedures for accepting applications. Fewer than half recommended that we employ a system of priorities based on the community's need for new or additional service.

26. In determining a reasonable process by which applications will be accepted for the new channels, we considered two overriding factors. First, the procedure ultimately must provide an equitable and orderly method for the filing of applications by interested parties. Second, the procedure must provide an orderly method for the processing of applications by the Commission staff. We are satisfied that a process of accepting applications by random selection of channel number will accomplish these ends. Such a scheme will ensure that all communities, states, and geographic regions of the country in which new channels have been allocated will receive fair and equal treatment. Such a procedure will also allow the Commission staff to manage the flow of applications as the new channels become available for filing.

27. In a separate action today, we are adopting new rules regarding filing procedures. *See Report and Order,* MM Docket 84–750. By this action, we will apply those rules to the allotments made in the *First Report and Order, supra* in this proceeding. The Commission will *randomly* assign to each of the 80 commercial FM channels (221–300) a corresponding number (1–80) representing the order in which applications for each channel will be accepted for filing. These channels will not become effective and applications for them will not be accepted prior to the applicable pre-announced "window" period for each channel. In the near future, the Commission will issue a public notice announcing the date on which we will conduct a random selection to determine the order in which applications for each channel will be accepted for filing. Subsequently, we will issue a public notice identifying the specific order in which we will accept such applications.

28. We may, during the course of implementing the allotments made available in the *First Report and Order,* Docket 84–231, further amend § 73.202(b) of the Commission's Rules, the FM Table of Allotments, to add additional channels through appropriate rule making proceedings. Such new allotments will become available for application as they are made, also utilizing the "window" procedure.

29. Mutually exclusive applications will be designated for a comparative hearing. If, at a later date, we decide to revise the nature of the hearing due to changed circumstances, appropriate notice will accompany announcements of filing "windows" indicating to applicants when they file the nature of the selection process to which they will be subjected. However, when it is announced that applications for a particular community are to be received and processed through a comparative process we will not alter that procedure for that community in "mid-stream."

C. Multiple Applications

30. The law firm of Haley, Bader & Potts filed a request to clarify the terms under which applicants will be permitted to file multiple applications for new FM facilities. The law firm of Lukas, O'Brien & Raiser, Chartered, filed supporting comments. The issue arises from the provision of § 73.3555(d) of the Commission's Rules which generally restricts a party from holding a cognizable interest in more than twelve FM stations.[19]

31. Section 73.3518 of the Commission's Rules proscribes the filing of inconsistent or conflicting applications by, or on behalf of, or for the benefit of the same applicant. We have heretofore stated that "Section 73.3518 was promulgated because of concern that processing and hearing applications which cannot all be granted because of the limits of the multiple ownership rules may waste the Commission's resources, unfairly prejudice other applicants, and delay service to the public." *William H. Hernstadt,* 56 RR 2d 948, 949 (1984). We believe the policy underlying § 73.3518, as applied in *Storer Broadcasting Co.,* 43 FCC 1254 (1953), and *D.H. Overmyer Communications Co.,* 45 FCC 2272 (1965), is sound. That is, applicants should not be permitted to "flood the Commission's processing line and hearing docket with multiple

[15] We recognize the position of some of the commenting parties that divestiture appears to be inconsistent with our recent action which declined to proscribe AM/FM combinations. *Multiple Ownership of AM/FM Stations,* 51 RR 2d 449 (1982). Yet, in that proceeding, we clearly indicated that a non-licensee who filed a mutually-exclusive application for an FM station against an existing AM licensee would have an advantage under the diversification criterion of the standard comparative issue, *Id.* at 551. Our action herein requiring divestiture is thus fully consistent with our 1982 AM/FM decision.

[16] Any daytimer who makes such a pledge will not be assessed a diversification demerit for owning the daytime-only station.

[17] Failure to pledge divestiture will thus mean that the applicant's broadcast experience will be less in weight than the local residence or minority ownership comparative factors.

[18] If a daytimer fails to qualify for upgraded broadcast experience credit because it does not meet the criteria in paragraphs 20–23, above, it still can pledge to divest itself of the daytime-only station and avoid a diversification demerit for that station. In fact, Commission policy permitted such actions prior to initiation of this proceeding. However, in those situations, divestiture was required to be made prior to the grant of program test authority for the new station. Henceforth, *all* daytimers, who pledge, or have already pledged, to divest a daytime-only station, will have three years from the grant of program test authority to carry out such divestiture.

[19] *See Report and Order* in Gen. Docket No. 83–1009, FCC 84–350 (released August 3, 1984), *appeal docketed sub nom. Black Citizens for a Fair Media v. FCC,* No. 84–1503 (D.C. Cir. filed Oct. 9, 1984). In the *Memorandum Opinion and Order* in Gen. Docket No. 83–1009, FCC 84–638 (released February 1, 1985), the Commission on reconsideration determined that group owners could own up to a maximum of fourteen FM stations provided, however, that no more than twelve stations are controlled by persons which are not members of a minority group.

applications many of which could not be granted under our multiple ownership rules. Such multiple applications, if entitled to consideration, would delay the processing of applications which would otherwise be granted." *Storer Broadcasting Co. supra,* at 1256.

32. Accordingly, we shall regard §73.3555(d) as establishing the maximum number of applications acceptable for filing by an applicant. Any application tendered in excess of this limit shall be considered inconsistent with §73.3518 and returned as unacceptable for filing. In this regard, we note that stations in which the applicant currently holds a cognizable ownership interest would be taken into account in determining the maximum number of acceptable applications. Our decision in this regard "is essential from the point of view of the just administration of broadcast applications and fairness to all other applicants seeking the establishment of broadcast services. * * *" *Id.*

33. Finally, the Commission anticipates the possibility that a large number of applications may be filed in response to this omnibus rule making. Thus, in order to expedite the processing of applications, the Commission strongly encourages applicants who are required to file FAA Form 7460–1 [20] with the Federal Aviation Administration to do so at the earliest available time.

D. Acceptance of New FM Petitions

34. The Commission announced by Public Notice of December 9, 1983 that it would not accept petitions for new FM channel allotments during the pendency of this proceeding. With this *Second Report and Order* we shall open up the FM Table of Allotments for amendment. New petitions shall have no restriction as to a category of need or other such limitation as had been applied in this docket. As previously required, the petition must contain a technical study demonstrating compliance with the minimum spacing requirements.[21] *See* § 1.401 et seq. of the Commission's Rules for other filing requirements.

35. It is ordered, that the Secretary shall cause this *Report and Order* to be printed in the FCC Reports.

36. It is further ordered, that this action is effective May 20, 1985.

[20] Notice of Proposed Construction or Alteration.

[21] The technical study should be based on the rule amendments made in Docket 80–90 as to distance separations including a 16 kilometer buffer for Class C stations below minimum facilities which is in effect until March 1, 1987.

37. Authority for this action is contained in Sections 4(i), 303(g) and (r) of the Communications Act of 1934, as amended.

38. For further information call Robert E. Branson (Legal Branch) (202) 632–7792 on the matter of daytime stations or Gary Schonman (FM Branch) (202) 632–8755 on the filing of applications.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission.

William J. Tricarico,

Secretary.

March 14, 1985.

Statement of Chairman Mark S. Fowler

RE: Implementation of Docket 80–90

Today we are taking a major step forward in providing more choice for the American public—making this country more "radio active", in the best sense of those words. When this proceeding began, there were some who felt that the FCC could not arrive at a sound way to engineer in these additional stations.

Once the process for adding stations to the table of allocations was made, we faced the difficult task of deciding what criteria to apply in the comparative process. The choices that confront policy makers in 1985 differ considerably from those before the agency in 1935 or even 1965. Today's decision is our best effort to accommodate the criteria that seem to us most important and relevant in the licensing of stations.

I believe that when all the comparative hearings are over, we will see a leap in the number of minority owned FM facilities. And we have allowed AM daytimers to compete and upgrade their positions in their markets—a sort of "Make My Daytimers" weighting process. Minorities and daytimers are both significant groups to consider in the licensing process, and I think we have sensibly blended these interests in developing the criteria for the comparative process.

But the real purpose of today's order is not to benefit any class of potential licensees or to discourage anyone from applying. The business at hand is the public's interest in program choice and diversity. And on that measure, Docket 80–90 gets a score of 100.

[FR Doc. 85–9521 Filed 4–18–85; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 95

Amendment of the Technical Regulations for the Personal Radio Services To Clarify the Conditions Under Which Certain Emissions Are Permissible

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document clarifies the technical regulations for the Personal Radio Services by stating the limitations on certain emission types. This action is necessary to remove an ambiguity which exists in the present rule. The effect of this amendment is to make clear that tone signaling in the General Mobile Radio Service and the Citizen Band Radio Service may be used only to establish or continue voice communications.

EFFECTIVE DATE: May 1, 1985.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 95

Communications equipment, Radio.

Order

In the matter of Amendment of § 95.627 of the Personal Radio Services Rules.

Adopted: April 8, 1985
Released: April 11, 1985

1. Section 95.627 (a) and (c) of Subpart E, Technical Regulations, Personal Radio Services, specifies the emission types that General Mobile Radio Service and Citizen Band transmitters may employ. In order to make clear that those transmitters may only use tone signaling to establish or continue voice communications, it is desirable to specifically state that limitation in the technical regulations.

2. Because this amendment which clarifies our rules is non-substantive, the notice and comment provisions as well as the effective date requirements of the Administrative Procedure Act are inapplicable.

3. Authority for this action is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and Section 0.231(d) of the Commission's Rules.

4. Accordingly, it is ordered, That § 95.627 of the Commission's Rules is amended as set forth in the Appendix.

5. The effective date of this rule amendment is May 1, 1985.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

PART 95—[AMENDED]

Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

Section 95.627 (a) and (c) is revised to read, as follows:

§ 95.627 Emission types.

(a) A GMRS transmitter may employ only the following type emissions:

A1D, H1D, R1D, J1D,, G1D, F1D (See § 95.181 (g) and (h) of this chapter which limits selective calling tones and tone-operated squelch to establishing or continuing voice communications.) A3E, H3E, R3E, J3E, G3E, F3E

* * * * *

(c) A CB transmitter may employ only the following type emissions:

A1D, H1D, R1D, J1D (See § 95.412 (b) and (c) of this chapter which limits selective calling tones and tone-operated squelch to establishing or continuing voice communications.) A3E, H3E, R3E, J3E

(d) * * *

[FR Doc. 85-9526 Filed 4-18-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Determine Goetzea elegans (Beautiful Goetzea) as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines a plant, *Goetzea elegans* (beautiful goetzea, matabuey, manzanilla) to be an endangered species. This plant is only found in the semi-evergreen seasonal forests that occur on limestone in northern Puerto Rico. Fewer than 50 plants are known to exist, some on land managed by the Government of the Commonwealth of Puerto Rico and the others on privately owned land. The continued existence of this species is endangered by possible road straightening and widening, periodic trimming of roadside vegetation, potential limestone mining, cattle management practices, and a proposed amusement park complex. This final rule will implement the protection provided by the Endangered Species Act of 1973, as amended, for *Goetzea elegans*.

DATE: The effective date of this rule is May 20, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Banco de Ponce Building, Dr. Basora and Méndez Vigo Streets, P.O. Box 3005—Marina Station, Mayagüez, Puerto Rico 00709, and at the Service's Regional Office, Richard B. Russell Federal Building, Room 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Mr. Robert T. Pace at the above Mayagüez address (809/833-5760) or Mr. Richard P. Ingram at the above Atlanta Regional Office address (404/221-3583 or FTS 242-3583).

SUPPLEMENTARY INFORMATION:

Background

The genus *Goetzea*, usually referred to the family Solanaceae (which includes nightshade, white potato, and tomato), also has been segregated with four other small genera into a distinct family of its own, the Goetzeaceae (Willis, 1973). The only other representative of the genus, *G. ekmanii* from the island of Hispaniola, is thought to be no longer extant in the Dominican Republic (Vivaldi *et al.*, 1981).

Goetzea elegans was first collected in Puerto Rico in 1827 by Heinrich Wydler; it was found growing along a hedge composed mostly of a large bromeliad species. Wydler (1830) did not give the exact locality when he described the species and named the genus to honor the German theologian J.E. Goetze, but the type locality is believed to have been Quebradillas. Quebradillas was noted as the source of specimens collected by Bello in 1881, along a hedge composed, in part, of *Bromelia pinguin*. Three other historic populations are now considered extirpated. These included one in the northern foothills of the Luquillo Mountains, recovered by Eggers in 1883 and by Holdridge and Gerhart in 1936; one south of Canóvanas, recorded by Vélez and Marrero between 1939 and 1950; and one in the Cambalache State Forest, recorded by Woodbury in 1975 (Vivaldi *et al.*, 1981). Two of the three known sites now occupied by *Goetzea elegans* are separated by about ¼ mile (0.4 km), and occur along the edge of a semi-evergreen seasonal forest on limestone at elevations below 656 feet (200 m) in the Guajataca Gorge area in the Municipality of Isabela (Vivaldi *et al.*, 1981). A third, recently discovered site is located 3.5 miles (5.6 km) east of the other two in a ravine in the Municipality of Quebradillas. This site contains about 30 plants, including the only plant known to have produced flowers and fruit since 1936 (J.L. Vivaldi, pers. comm.)

Goetzea elegans is an evergreen shrub or small tree up to 30 feet (9 m) tall and with stems up to 5 inches (13 cm) thick. The leaves are simple, alternate, and range up to 4 inches (10 cm) long and up to 2 inches (5 cm) wide; the upper surface is dark shiny green, and the lower surface is pale green. *Goetzea elegans* has been observed with flowers and fruits in the months of May to August. Usually a single orange flower is borne on a curved stalk in the leaf axil, and there may be several terminal flowers. The flowers are symmetrical and funnel-shaped. The fruit is one-seeded, orange, subglobose, and about ¾ inches (2 cm) in diameter.

Goetzea elegans was recommended for Federal listing by the Smithsonian Institution (Ayensu and Defillips, 1978). In August 1979, the Service contracted with Dr. José L. Vivaldi, a resident botanist of Puerto Rico, to conduct a status survey of some plants thought to be candidates for listing as endangered or threatened in Puerto Rico and the Virgin Islands. Reports and documentation resulting from this survey indicated that *Goetzea elegans* should be proposed for listing as an endangered species. On December 15, 1980, the Service published a notice in the **Federal Register** (45 FR 82479) naming those plant taxa being considered for listing as endangered or threatened species; *Goetzea elegans* was included.

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service subsequently found that listing *Goetzea elegans* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of the finding was published in the January 20, 1984, **Federal Register** (49 FR 2485). An additional petition finding required in accordance with section 4(b)(3)(B)(ii) of the Act was incorporated in the proposed rule for this species. The Service proposed to list *Goetzea elegans* as an endangered species in the June 18, 1984, **Federal Register** (49 FR 24903).

Summary of Comments and Recommendations

In the June 18, 1984, proposed rule (49 FR 24903) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate Commonwealth of Puerto Rico agencies, municipal governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in *The San Juan Star* on July 8, 1984. Two comments were received and are discussed below. No public hearing was requested, and therefore none was held.

Mr. Clifford Pelton of the Federal Highway Administration on July 12, 1984, requested more specific information about the location of the plants to help the agency determine if any future activities might occur in the species' present habitat. The Service responded on July 17, 1984, by providing details of the species' current range.

Dr. José Vivaldi, Director of the Terrestrial Ecology Section of the Puerto Rico Department of Natural Resources in a letter dated August 6, 1984, questioned the Service's decision not to designate critical habitat as "ill-advised." The Service still considers that it is not prudent to designate critical habitat, because publication of the exact location of the plants could lead to taking or vandalism. Dr. Vivaldi also provided updated information on the numbers and locations of additional plants discovered since his status survey of 1981, upon which the proposed rule was based. This final rule has incorporated this new information.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Goetzea elegans* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424, October 1, 1984, 49 FR 38900) were followed. A species may be determined to be an endangered or a threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Goetzea elegans* Wydler, beautiful goetzea or matabuey, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Two of the three existing sites occupied by *Goetzea elegans* are located in the Guajataca Gorge area, Municipality of Isabela. One site managed by the Commonwealth Department of Transportation and Public Works and one privately owned site are periodically cleaned and cleared of vegetation near the roadside. This results in serious habitat disturbance, which has adversely affected *Goetzea elegans* and its associated plant communities (see also factor "E" below). The roadside site now supports only one or two adult plants and about three root suckers. The privately owned site now contains only 6 plants, although in 1955 it contained over 30 adult plants. The third site in Quebradillas is a privately owned remnant of undisturbed forest surrounded by lands cleared for pasture. Any additional clear cutting to expand grazing areas could eliminate these plants.

A possible threat to these sites is road construction. In recent years, many roads have been resurfaced or widened in Puerto Rico. Some of the roads in the Guajataca area are now being repaired, straightened, or widened, including Highway Number 2. Any future projects, unless done with consideration and care, could either destroy or substantially modify habitat upon which individuals of *Goetzea elegans* depend.

A newly proposed project that may threaten the species is a recreational complex to be located nearby. The complex reportedly would include the largest amusement park in the Caribbean, with an associated resort. This project and the secondary development that would accompany it could destroy or adversely modify the species' habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking has not been a documented factor in the decline of this species, but could easily become so in the future. The species occurs along a road near habitations and has potential as an ornamental plant. Professional cultivation from cuttings and tissue culture is being attempted.

C. *Disease or predation.* Grazing could become a threat in the future at two of the privately owned sites, since adjacent lands are already being used as cattle pasture.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico does not have specific legislation or rules to protect endangered or threatened plant species, although a list of vulnerable species exists. Sand extraction is regulated by Law 144, June 3, 1976, "Extracción de materiales de la corteza terrestre." However, whether this prohibition affects taking of such vulnerable species has not been tested in Commonwealth courts' interpretation; there is no established precedent.

E. *Other natural or manmade factors affecting its continued existence.* Periodic trimming of *Goetzea elegans* along the roadside during routine vegetation management for road maintenance is the most serious immediate threat to the species. Sometimes the plants are cut back to the ground. This practice has resulted in stunted growth and is probably responsible for the lack of observed flowers and fruits in recent years, as well as the lack of seedlings.

Goetzea elegans is found in three small, compact, isolated groups probably composing one population. The total number of individual plants known is less than 50. At one of the two Guajataca Gorge sites, 30 plants were counted in 1955; they have now been reduced to only 6 plants. Loss of genetic variation in the species is therefore probable. It has a very narrow ecological niche and is restricted to ravines and ledges in semi-evergreen seasonal forests on limestone. These factors make *Goetzea elegans* even more vulnerable to the threats described above.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Goetzea elegans* as an endangered species. With so few individuals known and the risk of damage to the plants and/or their habitat so high, endangered rather than threatened status seems an accurate assessment of the species' condition. It is not prudent to propose critical habitat because doing so would increase the risk for the species, as detailed below.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat for *Goetzea elegans* is not prudent for this species at this time.

As discussed under threat factor 'B" above, *Goetzea elegans* is potentially threatened by collecting, an activity regulated by the Endangered Species Act with respect to plants only on lands under Federal jurisdiction; such lands

are not involved in this proposal. Publication of critical habitat localities would increase the risk of taking or vandalism, particularly at the roadside sites. The extreme vulnerability of *Goetzea elegans* to any collecting would make it quite detrimental to the survival of the species. Thus, determination of critical habitat for *Goetzea elegans* would not be prudent at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by other Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required by Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. The only potential Federal involvement known at this time is that of the Federal Highway Administration. In the event that highways are widened or resurfaced in this area, a strong commitment will be needed to protect *Goetzea elegans*. Without the protection provided by the Act, the species could be brought to extinction or its habitat substantially modified. Road designers and work crews would need to be alerted so that the plants are taken into consideration in any plans for the reconstruction of nearby roads. Such work should be done with utmost care and would require that the habitat of *Goetzea elegans* be left undamaged. It is not known whether there will be any Federal involvement in the amusement park complex proposed. Any Federal authorization, funding, or participation in this project would be subject to the provisions of section 7 discussed above.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Goetzea elegans*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. International trade and interstate commercial trade in *Goetzea elegans* are not known to exist, and the plant is very rare in experimental cultivation. It is anticipated that few trade permits involving plants of wild origin will ever be requested.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas from Federal jurisdiction. The new prohibition now applies to *Goetzea elegans*. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulation are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. *Goetzea elegans* is not known to occur on any Federal lands at this time, so requests for taking permits are not anticipated. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

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Willis, J.C. 1973. A Dictionary of the Flowering Plants and Ferns. 8th Edition. Revised by H.K. Airy Shaw. Cambridge University Press, Cambridge, England. xxii+1311 pp.

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Author

The primary author of this final rule is Mr. Robert T. Pace, U.S. Fish and Wildlife Service, Mayagüez Field Station, P.O. Box 3005—Marina Station, Mayagüez, Puerto Rico 00709–3005 (809/833–5760). Status information and a preliminary listing package were provided by Dr. José L. Vivaldi, 1904 Cond. Parque de Las Fuentes, Hato Rey, Puerto Rico 00918. Dr. George Drewry of the Service's Washington Office of Endangered Species served as editor.

List of Subjects in 50 CFR Part 17

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

Regulation 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 reads 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. Amend § 17.12(h) by adding the following, in alphabetical order under Solanaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
• •	• •	•		•		•
Solanaceae—Nightshade family:						
Goetzea elegans	Beautiful goetzea, matabuey	U.S.A. (PR)	E	175	NA	NA
• •	• •	•		•		•

Dated: March 24, 1985.

J. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-9531 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 50, No. 76
Friday, April 19, 1985

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned Carrots and Canned Beets

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary U.S. Standards for Grades of Canned Carrots and U.S. Standards for Grades of Canned Beets. The proposed rule was developed by the United States Department of Agriculture (USDA) at the request of major segments of the food processing industry. This proposed rule would lower the recommended minimum drained weights for all styles of canned carrots and canned beets packed in the No. 10 can size. Its effect would be to update the standards to reflect current manufacturing practices and promote orderly and efficient marketing of canned carrots and canned beets.

EFFECTIVE DATE: Comments must be received on or before May 20, 1985.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2069, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Floyd M. Haugen, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447-6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The National Food Processors Association (NFPA), a trade association representing approximately 600 member companies that process fruits, vegetables, meats, fish, and specialty products has requested the USDA to revise the U.S. Standards for Grades of Canned Carrots and U.S. Standards for Grades of Canned Beets. The revision would include a reduction of the recommended minimum drained weights for all styles of these products packed in the No. 10 container size by two ounces, except julienne style which would be lowered by four ounces. The No. 10 container is a large container (approximately 6 lbs. 10 oz.) designed primarily for the institutional market.

Based on data submitted by NFPA, virtually all members packing canned carrots and canned beets have experienced difficulties meeting the recommendations for drained weights from the present grade standards. Even under optimum operating conditions, a significant portion of the pack (as much as 50 percent by some packers) is not meeting the recommendations.

Packers have stated that overfilling containers to achieve the recommended minimum drained weights has not been successful, and has actually contributed to more serious problems. This includes a higher incidence of defective seams caused by excessive product being trapped between the container flange and lid at the time of closing. When product inside the improperly sealed container spoils and subsequently leaks, the contents can spill over adjacent containers. Additional containers are likely to become damaged as a result.

Overfilling containers increases damage to the product which may be crushed as the lid is forced down on the container. Crushing lowers the quality and grade of the product, and thus is counterproductive to the intent of the voluntary grading program. Filling containers with the amount of product the containers are designed to contain will help eliminate waste and result in less spoilage, thereby providing a more economical product.

List of Subjects in 7 CFR Part 52

Fruits, Vegetables, Food grades and standards.

PART 52—[AMENDED]

§ 52.675 [Amended]

(1) Accordingly, § 52.675 of subpart—United States Standards for Grades of Canned Carrots (7 CFR 52.675) would be amended as follows:

§ 52.675 Recommended minimum drained weight.

* * * * *

In Table No. I—Recommended Minimum Drained Weights, In Ounces, Of Carrots, the last line would be revised to read as follows:

No. 10 ....67 66 67 66 70 68 64

§ 52.525 [Amended]

(2) Accordingly, 52.525 of subpart—United States Standards for Grades of Canned Beets (7 CFR 52.525) would be amended as follows:

* * * * *

In Table No. I—Recommended Minimum Drained Weights, In Ounces, Of Beets, the last line would be revised to read as follows:

No. 10 ....67 66 67 66 70 68 64

[Agricultural Marketing Act of 1946, Sec. 203 205, 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622, 1624)]

Done at Washington, D.C. on April 16, 1985

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-9472 Filed 4-18-85; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

7 CFR Part 800

Kinds of Official Services, Original Services, Official Reinspection Services and Review of Weighing Services, Appeal Inspection Services, and Official Certificates

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for periodic review, the Federal Grain Inspection Service (FGIS or Service) reviewed and proposes to revise the regulations under the United States Grain Standards Act (Act), as amended, concerning Kinds of Official Service, Original Services, Official Reinspection Services and Review of Weighing Services, Appeal Inspection Services, and Official Certificates to delete the requirements for prior-to-loading stowage examinations for intracompany domestic shipments; for showing certain information on application-for-service forms; for dismissing requests for service which appears elsewhere in the regulations; for not permitting the issuance of divided-lot certificates on shiplot grain commingled with grain of a different kind or quality; and for issuing certificates on shiplot grain when a portion is returned to the elevator or a portion is determined to be uniform on the basis of a reinspection or appeal inspection. The proposal would establish provisions for certain present scale testing services as official services listed in the regulations; for certificating reinspections, appeal inspections, and reviews of weighing services; and for obtaining reinspections and appeal inspections on carriers that have left the point of original inspection. In addition, miscellaneous proposed revisions would reorganize, condense, simplify certain language, and make corresponding changes to references in other sections. The proposed changes would clarify and simplify the regulations, conform certain provisions to present trading practices and facilitate the use of the regulations.

DATE: Comments must be submitted on or before June 18, 1985.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Management Branch (RM), FGIS, USDA, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr. (address above), telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Department Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities, and this action poses no new or additional duties or obligations to business entities.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504(h) of that Act, the previously approved information collection and recordkeeping requirements contained in the proposed rule have been submitted to OMB for review. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Department of Agriculture, Room 3201 NEOB, Washington, D.C. 20503.

Regulatory Review

The review of the regulations concerning Kinds of Official Service (7 CFR 800.75–800.78), Original Services (7 CFR 800.115–800.119), Official Reinspection Services and Review of Weighing Services (7 CFR 800.125–800.131), Appeal Inspection Services (7 CFR 800.135–800.140), and Official Certificates (7 CFR 800.160–800.166) included a determination of continued need for and consequences of the regulations. The objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and the regulations are consistent with FGIS policy and authority.

FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. FGIS, however, proposes to amend §§ 800.75–800.78, 800.115–800.119, 800.125–800.131, 800.135–800.140, and 800.160–800.166 by:

1. Clarifying, condensing, and deleting unnecessary language. These proposed changes are in addition to the proposed changes below. They are nonsubstantive changes which facilitate the use of the regulations. Some of the language that would be condensed or deleted appears generally in §§ 800.160–800.166 which relates to official certificates, their issuance and distribution, content requirements, their correction and the like. The substance of these sections would remain unchanged. For example, in § 800.161 certain official certificate requirements would be specified while others would be summarized. The specific color requirements would be deleted, but would continue to appear in the instructions as do all format requirements. Similarly, certain of the statements on official certificates, such as captions, which presently appear in the regulations, would be described, but not specified. The actual statements would appear in the instructions. Further in § 800.162(b), the required official factor information which appears on certificates of grade and which is specified for each kind of grain would be described as a certificate requirement only without stating the specified factors. The specified factors appear in each official grade standard and the present duplication would be eliminated. Since the provisions of the present § 800.131, Reporting results of review of weighing services, would be combined with § 800.130, Reporting results of official reinspection services, it is proposed that § 800.131 be deleted.

2. Reorganizing §§ 800.75–800.78, Kinds of Official Services, to combine and consolidate compatible sections. The proposed reorganization would combine the general text in § 800.75, the Kinds of official inspection services in § 800.76, the Kinds of weighing services in § 800.77 into a revised § 800.75 entitled Kinds of official services, and § 800.78, Prohibited services: restricted services, would be renumbered as § 800.76. Accordingly, §§ 800.77–800.78 would be deleted. The proposed revised § 800.75 contains the same regulatory requirements currently in §§ 800.75–800.77, except the mandatory prior-to-loading stowage examination requirements in the current § 800.76(f)(2)(ii) for intracompany shipments of outbound domestic grain

sampled during loading would be deleted. Stowage examinations are performed to inform the buyer that the grain was loaded into fit carriers. Since an intracompany shipment is a one party transaction, prior-to-loading stowage examinations may be unnecessary and should only be performed upon request. The proposal to delete the requirement for mandatory prior-to-loading stowage examinations on intracompany shipments in the current § 800.76(f)(2)(ii) would retain the mandatory requirements for prior-to-loading stowage examinations on export grain and intercompany shipments while allowing applicants to request prior-to-loading stowage examinations on intracompany shipments. Additionally, the proposed revised § 800.75 includes as § 800.75(k) Test weight reverification service, § 800.75(l) Railroad track scale testing services, and § 800.75(m) Hopper and truck scale testing services. The Service has tested or supervised the testing of all test weights and scales used for official purposes since 1976 under the authority of section 7B of the Act. This proposed action would merely incorporate presently available test weight and scale testing services offered by the Service into the list of services which appear in this section of the regulations.

3. Revising §§ 800.46(c)(1) and 800.48(a)(1) to make conforming changes to the reference cited in these sections. Currently, § 800.46(c)(1), Requirements for obtaining official services, and § 800.48(a)(1), Dismissal of requests for official services, reference §§ 800.115(b) and 800.78. If these proposed changes are adopted, the reference in § 800.46(c)(1) would be changed to § 800.115, and the reference in § 800.48(a)(1) to § 800.76.

4. Deleting the provision for requiring certain specified information on application forms for official services in § 800.116(b), § 800.126(b), and § 800.136(b). Also, by deleting the provisions for dismissal of requests for official services, official reinspection and review of weighing services, and appeal inspection services in §§ 800.117, 800.127, and 800.137. A final rule (49 FR 30911) was published on August 2, 1984, incorporating the regulatory requirements currently in these sections into §§ 800.46 and 800.48 as applicable. The proposed changes would delete §§ 800.117, 800.127 and 800.137 to avoid duplication of the language. Other sections would be renumbered accordingly.

5. Deleting the requirement in § 800.160(b) for issuing separate original inspection and weighing certificates before performing a reinspection, appeal inspection, or review of weighing service when the original services were shown together on a combination certificate. Currently, when original inspection or Class X weighing results are shown on a combination certificate and a reinspection, appeal inspection, or review of weighing service is requested, the combination certificate must be surrendered to official personnel and voided. Separate original inspection and Class X weighing certificates must then be prepared. These certificates contain the same information as the original combination certificate and supersede the combination certificate. After the requested service is performed, an appropriate certificate (reinspection, appeal inspection, or review of weighing) is issued. Under the proposed procedures, when a reinspection (or appeal inspection or review of weighing) is requested, the results of the service would be reported on a new combination certificate with the original results of the other service. The new combination certificate would supersede the original combination certificate and identify the types of services performed (e.g., reinspection and original Class X weighing). This proposal would permit the use of combination certificates when a reinspection, appeal, or review of weighing is requested and would streamline the certification process.

6. Adding provisions in §§ 800.126(b)(1) and 800.136(b) for obtaining reinspection and appeal inspection services upon written request by the applicant and interested parties on carriers that have left the specified service point. Currently, requests for reinspection and appeal inspection services must be filed before the carrier leaves the specified service point. On November 18, 1980, this requirement was first waived to provide more flexibility to both applicants and other interested parties. Since that time, the Administrator has granted such waivers on a case-by-case basis without impairing the objectives of the Act. The proposed revision reflects this policy.

7. Deleting the restrictions in § 800.163(c) that prohibit divided-lot certificates from being issued when shiplot grain is commingled in a stowage area with other grain of a different kind or quality. Currently, divided-lot certificates may be issued on the first lot loaded on a vessel upon request. If a second lot loaded on top of the first lot is not the same kind or quality, divided-lot certificates cannot be issued for the second lot. The proposed deletion of these restrictions for the second lot would make divided-lot certificates available to all applicants upon request. In addition, the proposal includes requiring a statement indicating that the grain was loaded on board with grain of another kind or quality would be shown on the divided-lot certificate. This statement informs all parties as to the kind, quality, and location of the lots.

8. Deleting the requirements in §§ 800.130(a), 800.140(a), and 800.160(a) for issuing official certificates on: (1) A portion of a shiplot that is returned to the elevator, or (2) a portion of a shiplot that was initially found to be nonuniform in quality and then found to be uniform based on the results of the reinspection or appeal inspection. Currently, when shiplot grain is offered for inspection as a single lot and a portion of the lot is returned, an official certificate is issued on the returned portion. In the past, these certificates were used for documenting inspections and for billing purposes. Presently, inspection results are documented on the ship loading log and improved methods are used for billing purposes. In the case of reinspections and appeal inspections, if the results of the reinspection or appeal inspection indicate that a nonuniform portion is uniform, these results replace the original results and are used in determining the final grade. Official certificates are being issued for the original and all subsequent inspections of the portion. These certificates are qualified to indicate they are invalid for trading purposes since the reinspection or appeal inspection results are averaged with the remaining original results to determine the final grade. With the elimination of this requirement, inspection results would continue to be reported on official work records, but official certificates would be issued only when requested by the applicant or deemed necessary by official personnel. This action would not have an adverse impact on the buyer but would reduce paperwork and provide regulatory relief and greater program flexibility for the Service, agencies, and the trade.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

PART 800—GENERAL REGULATIONS

Accordingly, it is proposed that 7 CFR Part 800 be amended as follows:

1. Section 800.46 be amended by revising paragraph (c)(1) as follows:

§ 800.46 Requirements for obtaining official services.

* * * * *

(c) *Special requirements for official Class X and Class Y weighing services.*—(1) *General.* Weighing services shall be provided only at weighing facilities which have met the conditions, duties, and responsibilities specified in section 8A(f) of the Act and this section of the regulations. Weighing services will be available only in accordance with the requirements of § 800.115. Facilities desiring weighing services should contact the Service in advance to allow the Service time to determine if the facility complies with the provisions of the Act and regulations.

* * * * *

2. Section 800.48 be amended by revising paragraph (a)(1) as follows:

§ 800.48 Dismissal of request for official services.

(a) *Conditions for dismissal.*—(1) *General.* An agency or the Service shall dismiss requests for official services when (i) § 800.76 prohibits the requested service; (ii) performing the requested service is not practicable; (iii) the agency or the Service lacks authority under the Act or regulations; or (iv) sufficient information is not available to make an accurate determination.

* * * * *

3. Section 800.75 be revised as follows:

Kinds of Official Services

§ 800.75 Kinds of official inspection and weighing services.

(a) *General.* Paragraphs (b) through (m) of this section describe the kinds of official service available. Each kind of service has several levels. Sections 800.115, 800.116, 800.117, and 800.118 explain Original Services, §§ 800.125, 800.126, 800.127, 800.128, and 800.129 explain Reinspection Services and Review of Weighing Services, and §§ 800.135, 800.136, 800.137, 800.138, and 800.139 explain Appeal Inspection Services. The results of each official service will be certificated according to § 800.160.

(b) *Official sample-lot inspection service.* This service consists of official personnel: (1) Sampling an identified lot of grain; and (2) analyzing the grain sample for grade, official factors, or official criteria, or any combination thereof, according to the regulations, Official U.S. Standards for Grain, instructions, and the request for inspection.

(c) *Warehouseman's sample-lot inspection service.* This service consists of a licensed warehouseman sampler: (1) Sampling an identified lot of grain using an approved diverter-type mechanical sampler and (2) sending the sample of Official personnel; and official personnel analyzing the grain sample for grade, official factors, official criteria, or any combination thereof, according to the regulations, Official U.S. Standards for Grain, instructions, and the request for inspection.

(d) *Submitted sample inspection service.* This service consists of an applicant or an applicant's agent submitting a grain sample to official personnel, and official personnel analyzing the grain sample for grade, official factors, official criteria, or any combination thereof, according to the regulations, Official U.S. Standards for Grain, instructions, and the requests for inspection.

(e) *Official sampling service.* This service consists of official personnel: (1) Sampling an identified lot of grain and (2) forwarding a representative portion(s) of the sample along with a copy of the certificate, as requested by the applicant.

(f) *Official stowage examination service.* (1) This service consists of official personnel visually determining if an identified carrier or container is clearn; dry; free of infestation, rodents, toxic substances, and foreign odor; and is suitable to store or carry grain.

(2) A stowage examination may be obtained as a separate service or with one or more other services. Approval of the stowage space is required for official sample-lot inspection services on all export lots of grain. Except as provided in subparagraph (3) of this section, approval of the stowage space is required for official sample-lot inspection services on outbound domestic lots of grain which will be sampled and inspected at the time of loading.

(3) Approval of the stowage space prior to loading is not required for official sample-lot inspection services or weighing services of intracompany shipments of outbound domestic lots of grain unless requested by the applicant. A statement shall be shown on the inspection and/or weighing certificate when stowage examinations are not requested or performed.

(g) *Class X weighing service.* This service consists of official personnel: (1) Completely supervising the loading or unloading of an identified lot of grain and (2) physically weighing or completely supervising approved weighers weighing the grain.

(h) *Class Y weighing service.* This service consists of: (1) Approved weighers physically weighing the grain; and (2) official personnel partially or completely supervising the loading or unloading of an identified lot of grain.

(i) *Checkweighing service (sacked grain).* This service consists of official personnel or approved weighers under the supervision of official personnel (1) physically weighing a selected number of sacks from a grain lot; and (2) determining the estimated total gross, tare, and net weights, or the estimated average gross or net weight per filled sack according to the regulations, instructions, and request by the applicant.

(j) *Checkloading service.* This service consists of official personnel: (1) Performing a stowage examination; (2) computing the number of filled grain containers loaded aboard a carrier; and (3) if practicable, sealing the carrier for security.

(k) *Test weight reverification service.* This service consists of official personnel: (1) Comparing weight of elevator test weights with known weights; (2) correcting the elevator test weights, when necessary; and (3) issuing a Report of Test.

(l) *Railroad track scale testing service.* This service consists of official personnel: (1) Testing railroad track scales with Service-controlled test cars and (2) issuing a Report of Test.

(m) *Hopper and truck scale testing service.* This service consists of official personnel: (1) Testing hopper and truck scales and (2) issuing a Report of Test.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580-0011)

4. Section 800.76 be revised as follows:

§ 800.76 Prohibited services; restricted services.

(a) *Prohibited services.* No agency shall perform any function or provide any service on the basis of unofficial standards, procedures, factors, or criteria if the agency is designated or authorized to perform the service or provide the service on an official basis under the Act.

(b) *Restricted services.*—(1) *Not standardized grain.* When an inspection or weighing service is requested on a sample or a lot of grain which does not meet the requirements for grain as set forth in the Official U.S. Standards for Grain, a certificate showing the words "Not Standardized Grain" shall be issued according to the instructions.

(2) *Grain screening.* The inspection or weighing of grain screenings may be obtained from an agency or field office according to the instructions.

§ 800.77 and 800.78 [Removed]

5. Sections 800.77 and 800.78 be removed.

6. Section 800.115 be revised as follows:

§ 800.115 Who may request original services.

(a) *General.* Any interested person may request original inpsection and weighing services. The kinds of inspection and weighing services are described in § 800.75.

(b) *Class Y weighing services.* A request for Class Y weighing services at an export elevator at an export port location must cover all lots shipped or received in a specific type of carrier. At all other elevators, the request must cover all lots shipped from or to a specific location in a specific type of carrier. Each request must be for a contract period of at least 3 months, but a facility may exempt specific unit trains from the request upon satisfactory notification.

(c) *Contract services.* Any interested person may enter into a contract with an agency or the Service whereby the agency or Service will provide original services for a specified period and the applicant will pay a specified fees.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0012)

7. Section 800.116 be revised as follows:

§ 800.116 How to request original services.

(a) *General.* Requests must be filed with the agency or field office responsible for the areas in which the original service is to be performed. All requests must include the information specified in § 800.46. Verbal requests must be confirmed in writing when requested by official personnel, as specified in § 800.46. Copies of request froms may be obtained from the agency or field office upon request. If at the time the request is filed, the information specified by § 800.46 is not available official personnel may at their discretion, withhold service pending receipt of the required information. An official certificate shall not be issued unless (1) the information as required by § 800.46 has been submitted, or (2) official personnel determine that sufficient information has been made available so as to perform the request. A record that sufficient information was made available must be included in the record of the official service.

(b) *Request requirements.* Requests for original services, other than submitted sample inspections, must be made with the agency or field office responsible for the area in which the service will be provided. Requests for submitted sample inspections may be made with any agency, or any field office that provides original inspection service. Requests for inspection or Class X weighing of grain during loading, unloading, or handling must be received in advance of loading so official personnel can be present. All requests will be considered filed with the request is received by official personnel. A record must be maintained for all requests. All requests for service that is to be performed outside normal business hours must be received by 2 p.m. the preceding day.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0012)

§ 800.117 [Removed]

§ 800.118 [Redesignated as § 800.117]

8. Section 800.117 be removed. Section 800.118 be redesignated as § 800.117 and revised as follows:

§ 800.117 Who shall perform.

Original services shall be performed by the agency or field office assigned the area in which the service will be provided.

§ 800.119 [Redesignated as §800.118]

9. Section 800.119 be redesignated as § 800.118 and revised as follows:

§ 800.118 Certification.

Official certificates shall be issued according to § 800.160. Upon request, a combination inspection and Class X weighing certificate may be issued when both services are performed in a reasonably continuous operation at the same location by the same agency or field office.

10. Section 800.125 be revised as follows:

§ 800.125 Who may request reinspection services or review of weighing services.

(a) *General.* Any interested person may request a reinspection or review of weighing service. Only one reinspection or review of weighing service may be performed on any original service. When more than one interested person requests a reinspection or review of weighing service, the first person to file is the applicant of record.

(b) *Kind and scope of request.* The kind and scope of a reinspection or review of weighing service will be limited to the kind and scope of the original service. If the request specifies a different kind or scope, the request will be dismissed. The request may be resubmitted as a request for original services. Official criteria are considered separately from official grade or official factors when determining the kind and scope.

When requested, a reinspection for official grade or official factors, and official criteria may be handled separately even though both sets of results are reported on the same certificate. Moreover, a reinspection or review of weighing may be requested on either the inspection or Class X weighing results when both results are reported on a combination inspection and Class X weight certificate. Reinspections for grade must include a review of all official factors that: (1) May determine the grade; or (2) are reported on the original certificate; and (3) are required to be shown.

11. Section 800.126 be revised as follows:

§ 800.126 How to request reinspection or review of weighing services.

(a) *General.* Requests must be made with the agency or field office that performed the original service. All requests must include the information specified in § 800.46. Verbal requests must be confirmed in writing when requested by official personnel. Copies of request forms may be obtained from the agency or field office. If at the time the request is filed the documentation required by § 800.46 is not available, official personnel may, at their discretion, withhold services pending the receipt of the required documentation. A reinspection certificate or the results of a review of weighing service will not be issued unless: (1) The documentation requested under § 800.46 has been submitted; or (2) official personnel determine sufficient information has been made available so as to perform the request. A record that sufficient information was made available must be included in the record of the official service.

(b) *Request requirements.* Requests will be considered filed on the date they are received by official personnel. A record must be maintained for all requests.

(1) *Reinspection services.* Requests must be received (i) before the grain has left the specified service point where the grain was located when the original inspection was performed; (ii) no later than the close of business on the second business day following the date of the original inspection; and (iii) before the identity of the grain has been lost. If a representative file sample, as prescribed in § 800.82, is available, official personnel may, under the conditions prescribed in this paragraph, waive the requirements of paragraphs (b)(1) (ii) and (iii) of this section. The requirements of paragraph (b)(1)(i) of this section may be waived only upon

written consent of the applicant and all interested persons. The requirements of paragraphs (b)(1)(ii) and (iii) of this section may be waived at the request of the applicant or other interested persons. The requirement of paragraph (b)(1) (ii) of this section may also be waived upon satisfactory showing by an interested person of evidence of fraud or that because of distance or other good cause, the time allowed for filing was not sufficient. A record of each waiver must be included in the record of the reinspection service.

(2) *Review of weighing services.* Requests must be received no later than 90 calendar days after the date of the original Class X or Class Y weighing service.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0012)

§ 800.127 [Removed]

§ 800.128 [Redesignated as § 800.127]

12. Section 800.127 be removed. Section 800.128 be redesignated as § 800.127 and revised as follows:

§ 800.127 Who shall perform reinspection or review of weighing services.

Reinspection or review of weighing services shall be performed by the agency or field office that performed the original service.

§ 800.129 [Redesignated as § 800.128]

13. Section 800.129 be redesignated as § 800.128 and revised as follows:

§ 800.128 Conflicts of interest.

Official personnel cannot perform or participate in performing or issue an official certificates for a reinspection or a review of weighing service if they participated in the original service unless there is only one qualified person available at the time and place of the reinspection or review of weighing.

§ 800.130 [Redesignated as § 800.129]

14. Section 800.130 be redesignated as § 800.129 and revised as follows:

§ 800.129 Certificating reinspection and review of weighing results.

(a) *General.* Except as provided in subparagraph (1) of this paragraph, official certificates shall be issued according to § 800.160 and the instructions. Except as provided in (b)(2), only the results of the reinspection service shall be reported.

(1) *Results of sublots.* When results of a reinspection on a sublot involved in a material portion are within the tolerances of a specified inspection plan, they shall replace the original inspection results. Certificates for the original inspection and reinspection services shall not be issued unless requested by the applicant or deemed necessary by official personnel. The results, however, must be recorded on the inspection log and used to determine the weighted/mathematical average of the lot.

(2) *Reporting review of weighing results.* When the review of weighing service results indicate that the original weighing results were correct, the applicant will be notified in writing. When the original weighing service results are incorrect, a corrected weight certificate or, if applicable, a corrected combination inspection and Class X weight certificate will be issued according to the provisions of § 800.165.

(b) *Required statements on reinspection certificates.* Each reinspection certificate shall show the statements required by this section, § 800.161, and applicable instructions.

(1) Each reinspection certificate must clearly show (i) the term "Reinspection;" and (ii) a statement identifying the superseded certificate. The superseded certificate will be considered null and void as of the date of the reinspection certificate.

(2) When official grade or official factors, Class X weighing results, and official criteria are reported on the same certificate, the reinspection certificate must show a statement indicating that the reinspection results are based on official grade, or official factors, or official criteria and that all other results are those of the original service.

(3) If the superseded certificate is in the custody of the agency or field office, the superseded certificate shall be marked "Void." If the superseded certificate is not in the custody of the agency or field office at the time the reinspection certificate is issued, a statement indicating that the superseded certificate has not been surrendered must be shown on the reinspection certificate.

(4) As of the date of issuance of the official certificate, the superseded certificate for the original service will be void and shall not be used to represent the grain.

(5) When certificates are issued under (a)(1), the reinspection certificate must show a statement indicating that the results replaced the original results and that the certificate is not valid for trading purposes.

§ 800.131 [Removed]

15. Section 800.131 be removed:

16. Section 800.135 be revised as follows:

§ 800.135 Who may request appeal inspection services.

(a) *General.* Any interested person may request appeal inspection or Board appeal inspection services. When more than one interested person requests an appeal inspection or Board appeal inspection service, the first person to file is the applicant of record. Only one appeal inspection may be obtained from any original inspection or reinspection service. Only one Board appeal inspection may be obtained from an appeal inspection. Board appeal inspections will be performed on the basis of the official file sample. Board appeal inspections are not available on stowage examination services.

(b) *Kind and scope of request.* The kind and scope of an appeal inspection service will be limited to the kind and scope of the original inspection, or reinspection, or, in the case of a Board appeal inspection service, the appeal inspection service. If the request specifies a different kind or scope, the request shall be dismissed. It may, however, be resubmitted as a request for original services. Official criteria is considered separately from official grade or official factors when determining kind and scope. When requested, an appeal inspection for grade, or official factors, and official criteria may be handled separately even though both results are reported on the same certificate. Moreover, an appeal inspection may be requested on the inspection results when both inspection and Class X weighing results are reported on a combination inspection and Class X weight certificate. An appeal inspection for grade must include a review of all official factors that: (1) May determine the grade; or (2) are reported on the original, reinspection, or in the case of a Board appeal inspection, the appeal inspection certificate; and (3) are required to be shown on a certificate of grade.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0012)

17. Section 800.136 be revised as follows:

§ 800.136 How to request appeal inspection services.

(a) *General.* Requests must be filed with the field office responsible for the area in which the original service was performed. Requests for Board appeal inspections may be filed with the Board of Appeals and Review or the field office that performed the appeal inspection. All requests must include the information specified in § 800.46. Verbal

requests must be confirmed in writing when requested by official personnel as specified in § 800.46. Copies of request forms may be obtained from the field office upon request. If at the time the request is filed the documentation required by § 800.46 is not available, official personnel may, at their discretion, withhold service pending the receipt of the required documentation. An appeal inspection certificate will not be issued unless: (1) Documentation requested under § 800.46 has been submitted, or (2) official personnel determine that sufficient information has been made available so as to perform the request. A record that sufficient information has been made available must be included in the record of the official service.

(b) *Filing requirements.* Requests will be considered filed on the date they are received by official personnel. A record must be maintained for all requests. Requests must be filed: (1) Before the grain has left the specified service point where the grain was located when the original inspection was performed; (2) no later than the close of business on the second business day following the date of the last inspection, and (3) before the identity of the grain has been lost. If a representative file sample as prescribed in § 800.82 is available, official personnel may, under the conditions prescribed in this paragraph, waive the requirements of paragraphs (b) (2) and (3) of this section. The requirements of paragraph (b)(1) of this section may be waived only upon written consent of the applicant and all interested persons. The requirements of paragraphs (b) (2) and (3) of this section may be waived at the request of the applicant or other interested persons. The requirement of paragraph (b)(2) of this section may also be waived upon satisfactory showing by an interested person of evidence of fraud or that because of distance or other good cause, the time allowed for filing was not sufficient. A record of each waiver must be included in the record of the appeal inspection service.

§ 800.137 [Removed]

§ 800.138 [Redesignated as § 800.137]

18. Section 800.137 be removed. Section 800.138 be redesignated as § 800.137 and revised as follows:

§ 800.137 Who shall perform appeal inspection services.

(a) *Appeal.* Appeal inspection services shall be performed by the field office responsible for the area in which the original inspection was performed.

(b) *Board appeal.* Board appeal inspection services shall be performed only by the Board of Appeals and Review. The field office that performed the appeal inspection service will act as a liaison between the Board of Appeals and Review and the applicant.

§ 800.139 [Redesignated as § 800.138]

19. Section 800.139 be redesignated as § 800.138 and revised as follows:

§ 800.138 Conflict of interest.

Official personnel cannot perform or participate in performing or issue an official certificate for an appeal inspection if they participated in the original inspection, reinspection, or, in the case of a Board appeal inspection, the appeal inspection service unless there is only one qualified person available at the time and place of the appeal inspection.

§ 800.140 [Redesignated as § 800.139]

20. Section 800.140 be redesignated as § 800.139 and revised as follows:

§ 800.139 Certificating Appeal inspections.

(a) *General.* Except as provided in paragraphs (b) of this section, official certificates shall be issued according to § 800.160 and the instructions. Except as provided in (c)(2), only the results of the appeal inspection service shall be reported on the appeal inspection certificate.

(b) *Results of sublots.* When the results of an appeal inspection on a sublot involved in a material portion are within the tolerance of a specified inspection plan, they will replace the original inspection, reinspection, or appeal inspection results. No certificate will be issued unless requested by the applicant or deemed necessary by inspection personnel. The results must be recorded on the inspection log and used to determine the weighted/mathematical average of the lot.

(c) *Required statements.* Each appeal certificate shall show the statements required by this section, § 800.161, and applicable instructions.

(1) Each appeal inspection certificate must clearly show (i) the term "Appeal" or "Board appeal;" and (ii) a statement identifying the superseded certificate. The superseded certificate will be considered null and void as of the date of the appeal inspection certificate.

(2) When official grade or official factors, Class X weighing results, and official criteria are reported on the same certificate, the appeal inspection certificate must show a statement indicating that appeal or Board appeal inspection results are based on official grade, official factors, or official criteria and that all other results are those of the original, reinspection, or, in the case of a Board appeal, the appeal inspection results.

(3) If the superseded certificate is in the custody of the Service, the superseded certificate shall be marked "Void." If the superseded certificate is not in the custody of the Service at the time the appeal certificate is issued, a statement indicating that the superseded certificate has not been surrendered must be shown on the appeal certificate.

(4) As of the date of issuance of the appeal or Board appeal certificate, the superseded certificate for the original, reinspection, or appeal inspection service will be void and shall not be used to represent the grain.

(5) When certificates are issued under (b), the appeal inspection certificate must show a statement indicating that the results replace the original inspection, reinspection, or, in the case or a Board appeal, the appeal inspection results and that the certificate is not valid for trading purposes.

(d) *Finality of Board appeal inspections.* A Board appeal inspection will be the final appeal inspection service.

21. Section 800.160 be revised as follows:

§ 800.160 Official certificates; issuance and distribution.

(a) *Required issuance.* An official certificate must be issued for each inspection service and each weighing service except as provided by §§ 800.130 and 800.140 and (b) of this section.

(b) *Distribution.*—(1) *General.*—(i) *Export.* The original and at least three copies of each certificate will be distributed to the applicant or applicant's order. One copy of each certificate must be retained by the agency, field office, or Board of Appeals and Review.

(ii) *Nonexport.* The original and at least one copy of each certificate will be distributed to the applicant or to the applicant's order. In the case of inbound trucklot grain, one copy shall be delivered by the applicant to the truck driver or the person who owned the grain at the time of delivery. One copy of each certificate must be retained by the agency, field office, or Board of Appeals and Review.

(iii) *Local movements of shiplot grain.* When shiplot grain is offered for inspection as a single lot and a portion of the lot is returned to the elevator, certificates representing the original inspection service shall not be issued unless (A) requested by the applicant; or

(B) deemed necessary by official personnel.

(2) *Reinspection and appeal inspection services.* In addition to the distribution requirements of paragraph (b), one copy of each reinspection or appeal inspection certificate shall be distributed to each interested person of record or the interested person's order and to the agency or field office that issued the superseded certificate.

(3) *Additional copies.* Additional copies of certificates will be furnished to the applicant or interested person upon request. Fees for extra copies may be assessed according to the fee schedules established by the agency or the Service.

(c) *Prompt issuance.* The results of the inspection or weighing service must be reported to the applicant on the date the inspection or weighing service is completed. Certificates must be issued as soon as possible, but no later that the close of business on the next business day.

(d) *Who may issue certificates.*—(1) *Authority.* Certificates for inspection or Class X weighing services may be issued only by official personnel who are specifically licensed or authorized to perform and certify the results reported on the certificate. Certificates for Class Y weighing services may be issued only by individuals who are licensed or authorized or are approved to perform and certify the results.

(22) *Exception.* The person in the best position to know whether the service was performed in an approved manner and that the determinations are accurate and true should issue the certificate. If the service is performed by one person, the certificate should be issued by that person. If the service is performed by two or more persons, the certificate should be issued by the person who made the majority of the determinations or the person who makes the final determination. Supervisory personnel may issue a certificate when the individual is licesned or authorized to perform the service being certificated.

(e) *Name requirement.* On export certificates, the type written name and signature of the individual issuing the certificate must appear on the original and all copies. On all other certificates, the name or signature of the individual issuing the certificate must appear on the original and all copies. Upon request by the applicant, the name and signature may be shown on all other certificates.

(f) *Authorization to affix names.*—(1) *Requirements.* The name or signature of official personnel may be affixed to official certificates which are prepared from work records signed or initialed by the person whose name will be shown. An agent affixing the name and signature must (i) be employed by the agency or Service; (ii) have been designated to affix names and signatures; and (iii) hold a power of attorney from the person whose name and signature will be affixed. The power of attorney must be on file with the agency or Service.

(2) *Initialing.* When a name or signature is affixed by an authorized agent, the initials of the agent shall appear directly below or following the signature of the person.

(g) *Advance information.* Upon request, the contents of an official certificate may be furnished in advance to the applicant and any other interested party, or to their order, and any additional expense shall be borne by the requesting party.

(h) *Certification after dismissal.* An official certificate cannot be issued for a service after the request has been withdrawn or dismissed.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580-0011)

22. Section 800.161 be revised as follows:

§ 800.161 Official certificate requirements.

(a) *General.* Official certificates must show the information and statements required by § 800.161 through § 800.166 and the instructions. The Administrator must approve any other information and statements reported. Information must be reported in a uniform, accurate, and concise manner, be in English, be typewritten or handwritten in ink, and be clearly legible.

(b) *Required format.* Official certificates must be uniform in size, shape, color, and format and conform to requirements prescribed in the instructions. Upon request and for good cause, the Service may approve special design certificates. All information and statements must be shown on the front of the certificate, except that on domestic grain certificates: (1) Approved abbreviations for official factors and official criteria, with their meanings, may be shown on the back; and (2) the identification of carriers or containers in a combined-lot inspection may be shown on the back if ample space is not available on the front. When information is recorded on the back of the certificate, the statement "See reverse side" must be shown on the front.

(c) *Required information.* Each official certificate must show the following information in accordance with the instructions: (1) For a delegated State or the Federal Grain Inspection Service "United States Department of Agriculture—Federal Grain Inspection Service;" (2) for a designated agency the name of the agency, as applicable; (3) captions identifying the kind of service; (4) a preprinted serial number and lettered prefix; (5) "original" or "copy," as applicable; (6) "divided lot," "duplicate," or "corrected," as applicable; (7) the identification of the carrier or container; (8) the date the service was performed; (9) the date and method of sampling; (10) the kind of movement and the level of service performed; (11) the grade and kind or "Not Standardized Grain," as applicable; (12) the results of the service performed; (13) the location of the issuing office; (14) the location of the grain when the service was performed; (15) a space for remarks; (16) that a reinspection or appeal inspection service was based in whole or in part on file samples when file samples are used; (17) a statement reflecting the results of a stowage examination, when applicable; (18) seal records, when applicable; and (19) the name of the person issuing the certificate.

(d) *Required statements.* Each official certificate must include the following statements according to the instructions: (1) A statement that the certificate is issued under the authority of the United States Grain Standards Act; (2) a nonnegotiability statement; (3) a warning statement; and (4) a statement referencing the certificate number and date. Each official certificate for an official sample-lot inspection service must include a caption "U.S. Grain Standards Act" and a USDA–FGIS shield ghosted across the front. Each official certificate for a warehouseman's sample-lot inspection, a submitted sample inspection, or Class Y weighing service must include a statement that the certificate does not meet the requirements of Section 5 of the Act and for warehouseman's sample-lot inspections, the word "QUALIFIED:" for submitted sample inspections, the words "Not Officially Sampled;" and for Class Y weighing, the words "Class Y Weighing" screened across the front.

(e) *Permissive information and statements.*—(1) *Certificates.* Information and statements requested by the applicant but not required by the regulations or instructions may be shown on the certificate if the information or statements have been approved in the instructions or on a case-by-case basis by the Administrator.

(2) *Letterhead.* Information and statements requested by the applicant but not required by the regulations or

instructions may be shown on letterhead stationary of the Service or an agency when: (i) Ample space is not available for reporting the information or statements on the certificate, (ii) letterhead, and stationary is determined to be more suitable than the official certificate, and (iii) the certificate is referenced on the letterhead stationary and distributed according to § 800.160. Letterhead stationary of the Service must be used for all export grain. (The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0011)

23. Section 800.162 be revised as follows:

§ 800.162 Certification of grade; special requirements.

(a) *General.* Each official certificate for grade shall show: (1) The grade and factor information required by the Official U.S. Standards for Grain; (2) the test weight of the grain; (3) the moisture content of the grain; (4) the results for each official factor for which a determination was made; (5) the result for each official factor that determined the grade when the grain is graded other than U.S. No. 1; (6) any other factor information considered necessary to describe the grain; and (7) any additional factor results requested by the applicant for official factors defined in the Official U.S. Standards for Grain.

(b) *Cargo shipments.* Each official certificate for grade representing a cargo shipment must show, in addition to the requirements of paragraph (a) of this section, the results of all official factors defined in the Official U.S. Standards for Grain for the type of grain being inspected.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0011)

24. Section 800.163 be revised as follows:

§ 800.163 Divided-lot certificates.

(a) *General.* When shiplot grain is offered for inspection or Class X weighing as a single lot and is certificated as a single lot, the applicant may exchange the official certificate for two or more divided-lot certificates. This applies to orginal inspection, reinspection, appeal inspection, Board appeal inspection, and Class X weighing services.

(b) *Application.* Requests for divided-lot certificates must be made: (1) In writing; (2) by the applicant who filed the initial request: (3) to the office that issued the outstanding certificate; (4) within 5 business days of the outstanding certificate date; and (5) before the identity of the grain has been lost.

(c) *Quantity restrictions.* Divided-lot certificates cannot show an aggregate quantity different than the total quantity shown on the superseded certificate.

(d) *Surrender of certificate.* The certificate that will be superseded must: (1) Be in the custody of the agency or the Service; (2) be marked "Void;" and (3) show the identification of the divided-lot certificates.

(e) *Certification requirements.* The same information and statements, including permissive statements, that were shown on the superseded certificate must be shown on each divided-lot certificate. Divided-lot certificates must show: (1) A statement indicating the grain was inspected or weighed as an undivided lot: (2) the terms " Divided Lot-Original," and the copies must show "Divided Lot-Copies," (3) the same serial number with numbered suffix (For example, 1764–1, 1764–2, 1764–3, etc.); and (4) the quantity specified by the request.

(f) *Issuance and distribution.* Divided-lot certificates shall be issued no later than the close of business on the next business day after the request and be distributed according to § 800.160.

(g) *Limitations.* No divided-lot certificate can be issued: (1) For grain in any shipment other than shiplot grain inspected or weighed as a single lot; or (2) for an export certificate which has been superseded by another export certificate. After divided-lot certificates have been issued, further dividing or combining is prohibited except with the approval of the Service.

(h) *Use of superseded certificate prohibited.* As of the date of the divided-lot certificate, the superseded certificate will be void and shall not be used to represent the grain.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0011)

25. Section 800.164 be revised as follows:

§ 800.164 Duplicate certificates.

Upon request, a duplicate certificate may be issued for a lost or destroyed official certificate.

(a) *Application.* Requests for duplicate certificates must be filed: (1) In writing; (2) by the applicant who requested the service covered by the lost or destroyed certificate; and (3) with the office that issued the initial certificate.

(b) *Certification requirements.* The same information and statements, including permissive statements, that were shown on the lost or destroyed certificate must be shown on the duplicate certificate. Duplicate certificates must show: (1) The terms "Duplicate-Original," and the copies must show "Duplicate-Copies;" and (2) a statement that the certificate was issued in lieu of a lost or destroyed certificate.

(c) *Issuance.* Duplicate certificates shall be issued as promptly as possible and distributed according to § 800.160.

(d) *Limitations.* Duplicate certificates will not be issued for certificates that have been superseded.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0011)

26. Section 800.165 be revised as follows:

§ 800.165 Corrected certificates.

(a) *General.* The accuracy of the statements and information shown on official certificates must be verified by the individual whose name or signature is shown on the certificate, or by the authorized agent who affixed the name or signature. Errors found during this process must be corrected according to this section.

(b) *Who may correct.* Only official personnel or their authorized agents may make correction, erasures, additions, or other changes to official certificates.

(c) *Corrections prior to issuance.*—(1) *Export certificates.* No corrections, erasures, additions, or other changes can be made to an export certificate. If any error is found prior to issuance, a new certificate must be prepared and issued and the incorrect certificate marked "Void."

(2) *Other than export certificates.* No corrections, erasures, additions, or other changes can be made to other than export certificates which involve identification, grade, gross tare, or net weight. If errors are found, a new certificate must be prepared and issued and the incorrect certificate marked "Void." Otherwise, errors may be corrected provided that: (i) The corrections are neat and legible, (ii) each correction is initialed by the individual who corrects the certificate, and (iii) the corrections and initials are shown on the original and all copies.

(d) *Corrections after issuance.*—(1) *General.* If errors are found on a certificate at any time up to a maximum of 1 year after issuance, the errors shall be corrected by obtaining the incorrect certificate and replacing it with a corrected certificate. When the incorrect certificate cannot be obtained, a

corrected certificate can be issued superseding the incorrect one.

(2) *Certification requirements.* The same statements and information, including permissive statements, that were shown on the incorrect certificate, along with the correct statement or information, must be shown on the corrected certificate. According to this section and the instructions, corrected certificates must show: (i) The terms "Corrected-Original" and "Corrected-Copy;" (ii) a statement identifying the superseded certificate and the corrections; (iii) a statement indicating the superseded certificate was not surrendered when the incorrect certificate was not submitted; and (iv) a new serial number. In addition, the incorrect certificate shall be marked "Void" when submitted.

(e) *Limitations.* Corrected certificates cannot be issued for a certificate that has been superseded by another certificate or on the basis of a subsequent analysis for quality.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0011)

(f) *Use of superseded certificate prohibited.* As of the date of issuance of the corrected certificate, the superseded certificate will be void and shall not be used to represent the grain.

27. Section 800.166 be revised as follows:

§ 800.166 Reproducing certificates.

Official certificates may be photo copies or similarly reproduced.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 0580–0011)

Authority: Pub. L. 94–582, 90 Stat., 2867, as amended (7 U.S.C. 71 *et. seq.*)

Dated: April 2, 1985.

Kenneth A. Gilles,

Administrator.

[FR Doc. 85–9309 Filed 4–18–85; 8:45 am]

BILLING CODE 3410–EN–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR–85–3]

Summary of Rulemaking Petition Received From Pilgrim Airlines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for rulemaking.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of a petition by Pilgrim Airlines seeking relief from the restriction of commuter slots at high density traffic airports to aircraft having a maximum passenger seating capacity of less than 56 seats. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before June 3, 1985.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB–10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

Petitioner requests that the requirements of the High Density Traffic Airport Rule, 14 CFR Part 93, Subpart K, be amended to permit the limited operation of "commuter" slots at high density airports with aircraft having a certificated maximum passenger seating capacity of 56 or more. The High Density Traffic Airport Rule currently limits the number of air carrier, commuter, and other operations at O'Hare International Airport in Chicago, LaGuardia and Kennedy International Airport in New York, and Washington National Airport in Washington, D.C. The existing rule limits the use of commuter slots at these airports to aircraft with a seating capacity of less than 56; air carrier slots may only be operated with aircraft having a maximum seating of 56 or more. The reason for the requested amendment is the increasing acquisition and use by commuter operators of aircraft with a passenger seating capacity of more than 56. Petitioner and other commuter operators interested in using larger aircraft have had difficulty in obtaining the necessary air carrier slots from the airline scheduling committee at each high density airport. Accordingly, the petitioner requests that commuter operators be allowed to conduct some operations with larger aircraft using commuter slots. The petitioner does not request that the distinction between air carrier slots and commuter slots be eliminated.

Petitioner specifically proposes the following:

(1) A commuter operator holding "commuter" slots at a high density airport would be able to operate up to fifty percent of its commuter slots with aircraft having a certificated passenger seating capacity of 56 seats or more.

(2) If a commuter operator obtains "air carrier" slots at a high density airport, it must reduce the number of its commuter slots being used for larger aircraft (56 seats or more) operation on a one-for-one basis. The slots affected would not be surrendered, but would be restricted to small aircraft operation. The petitioner does not suggest if or how commuter operators already holding s substantial number of air carrier slots would be accommodated.

(3) The recordkeeping necessary for the administration of the requested rule would be accomplished by the air carrier and commuter scheduling committees rather than the Federal Aviation Administration.

This notice is published pursuant to paragraphs (b) aand (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on April 15, 1985.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 85–9438 Filed 4–18–85; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 85–AMN–2]

Proposed Alteration of Glasgow, MT Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the control zone and transition area at Glasgow, Montana, to enlarge the control zone extensions and reduce the size of the 700' transition area. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before June 10, 1985.

ADDRESSES: Send comments on the proposal to: Manager, Airspace and Procedures Branch, ANM–530, Federal Aviation Administration—Docket No. 85–ANM–2, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel's office at the above address.

An informal docket may also be examined during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Kathy Paul, Airspace Technical Specialist, ANM–535. The telephone number is (206) 431–2535.

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 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. 85–ANM–2." 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 at the address listed above 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, Airspace and Procedures Branch, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to enlarge the control zone extensions and reduce the size of the 700' transition area at Glasgow, Montana. The control zone extensions are required due to recent amendments to instrument approach procedures at Glasgow International Airport. The reduction of the 700' transition area is permitted due to cancellation of instrument approach procedures at Valley Industrial Park Airport. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 2, 1985.

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

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Glasgow, Montana Control Zone (Revised)

"Within a 5-mile radius of the Glasgow International Airport (lat. 48°12'48" N, long. 106°37'06" W); within 3 miles each side of the Glasgow VOR/DMME327° radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VOR/DME; and within 3 miles each side of the Glasgow VOR/DME 127° radial, extending from the 5-mile radius zone to 8.5 miles southeast of the VOR/DME; and within 3 miles each side of the Milk River NDB 106° bearing, extending from the 5-mile radius Zone to 8.5 miles east of the NDB".

Glasgow, Montana, Transition Area (Revised)

"That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Glasgow VOR/DME; and that airspace extending upward from 1,200 feet above the surface starting at lat. 48°40'00" N, long. 106°00'00" W; to lat. 48°32'00" N, long. 105°50'00" W; to lat. 48°03'00" N, long. 105°50'00" W; to lat. 48°03'00" N, long. 106°10'00" W; to lat. 47°53'00" N, long. 106°22'30" W; to lat. 48°15'00" N, long. 107°07'00" W; to lat. 48°40'00" N, long. 107°07'00" W; thence to point of beginning, excluding that area designated as the Wolf Point, Montana, 1,200 foot transition area".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–9444 Filed 4–18–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 85–ASW–13]

Proposed Alteration of Transition Area and Control Zone: Killeen, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the transition area and control zone at Killeen, TX. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing new standard instrument approach procedures (SIAPs) to the Killeen Municipal Airport, Hood Army Air Field, and Robert Gray Army Air Field. This action is necessary since there are three new SIAPs being developed using the Gray Vortac (GRK). In addition, a review of this airspace revealed the necessity to reconfigure the control zone and transition areas. This action will reduce the amount of controlled airspace northwest of Robert Gray and Hood Army Air Fields and result in additional controlled airspace as necessary to protect the existing and three newly proposed SIAPs.

DATES: Comments must be received on or before June 3, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 85–ASW–13, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

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

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

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch, ASW-534, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone (817) 877-2463.

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. 85-ASW-13." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

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

The Proposal

The FAA is considering an amendment to §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to reconfigure both the control zone and transition area at Killeen, TX. This will provide the necessary controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity at Killeen Municipal, Hood, and Robert Gray Airports. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 71

Transition areas, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Section 71.171

Killeen, TX Revised

Within a 5-mile radius of the Killeen Municipal Airport (latitude 31°05'09" N., longitude 97°41'10" W.), and within a 5-mile radius of the Hood Army Air Field (latitude 31°08'13" N., longitude 97°42'49" W.), and within a 5-mile radius of the Robert Gray Army Air Field (latitude 31°04'04" N., longitude 97°49'45" W.), and within 1.5 miles each side of the north localizer course extending from the 5-mile radius area to 7 miles north of the Robert Gray Army Air Field, and within 2 miles each side of the 160-degree bearing from the Robert Gray Army Air Field extending from the 5-mile radius area to 11 miles south of the airport.

Section 71.181

Killeen, TX Revised

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hood Army Air Field (latitude 31°08'13" N., longitude 97°42'49" W.), and within 4.5 miles each side of the 217-degree bearing from the airport extending from the 5-mile radius area to 21 miles southwest of the airport, and within a 6.5-mile radius of the Killeen Municipal Airport (latitude 31°05'09" N., longitude 97°41'10" W.), and within 3 miles each side of the south localizer course extending from the 6.5-mile radius area to 15.5 miles south of the airport and within 4.5 miles each side of the 244-degree bearing from the airport extending from the 6.5-mile radius area to 20 miles southwest of the airport, and within a 6.5-mile radius of the Robert Gray Army Air Field (latitude 31°04'04" N., longitude 97°49'45" W.), and within 2.5 miles each side of the north localizer course extending from the 6.5-mile radius area to 7.5 miles north of the airport and within 4.5 miles each side of the 160-degree bearing from the airport extending from the 6.5-mile radius area to 14 miles south of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Fort Worth, TX, on April 5, 1985.

F.E. Whitfield,

Acting Director, Southwest Region.

BILLING CODE 4910-13-M

[FR Doc. 85-9445 Filed 4-18-85; 8:45 am]

14 CFR Part 71

[Airspace Docket No. 85-AAL-4]

Proposed Alteration of Colored Federal Airway R-39—AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Colored Federal Airway R-39 over the recently commissioned Ice Pool, AK Nondirectional Radio Beacon (NDB) which enhances efficiency and air navigation aid coverage in the affected area. The affected airway is currently aligned with Julius, AK, NDB, which is being decommissioned.

DATES: Comments must be received on or before June 4, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 85-AAL-4, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

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, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

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. 85-AAL-4." 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.

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, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The proposal

The FAA is considering an amendment to § 71.107 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign Federal Airway R-39. Due to the commissioning of the Ice Pool, AK, NDB (lat. 64°32'46" N., long. 149°04'28" W.), and the planned decommissioning of the Julius NDB, the FAA is proposing to route R-39 over the new Ice Pool NDB rather than the Julius NDB. This will reduce high maintenance costs associated with the Julius NDB, and have no negative effect on air navigation. Section 71.107 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

Colored Federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.107 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

R-39 [Amended]

By removing the words "Julius, AK, RBN." and substituting the words "Ice Pool, AK, NDB."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on April 15, 1985.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-9441 Filed 4-18-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AAL-5]

Proposed Revocation of Control Zones at Aniak, Nenana, Umiat and Fort Yukon, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking

SUMMARY: This notice proposes to revoke control zones at Aniak, Nenana, Umiat and Fort Yukon, AK. This action is proposed to allow more efficient use of the airspace, and to reduce the constraints and impact on the public in the affected airspace. The circumstance which creates the need to revoke the control zones is that weather reports at these airports are provided only on an hourly basis without special observations taken and disseminated when significant changes in weather occur. This creates an undue restriction on the users when: (1) The last report indicates the weather is below basic visual flight rules (VFR) minimums, (2) the weather is actually above basis VFR minimums, and (3) the next weather report will not be available until on the hour. This proposal will provide

airspace for VFR aircraft to depart and arrive at the above airports with 1 mile flight visibility and clear of clouds below 700 feet above the surface.

DATES: Comments must be received on or before May 31, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 85–AAL–5, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513–0087.

The official docket may be examined in the FAA Rules Docket, Office of the Regional Counsel, Third Floor, Module F, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Procedures and Airspace Specialist, (AAL–536), Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513–0087, telephone (907) 271–5902.

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 post card on with the following statement is made: "Comments to Airspace Docket No. 85–AAL–5." The post card 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 Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK, 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 NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Federal Aviation Administration, Manager, Operations, Procedures, and Airspace Branch, Air Traffic Division, Alaskan Region, 701 C Street, Box 14, Anchorage, AK 99513–0087, or by calling (907) 271–5902. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the control zones at Aniak, Nenana, Umiat and Fort Yukon, AK. Weather reports at the above locations are being taken once an hour and do not include specials. This can result in weather conditions which unduly restrict users. Transition areas are published to provide controlled airspace to protect the instrument approaches at the above locations. The revocation of the control zones will allow VFR aircraft to depart and arrive at the above airports with 1 mile flight visibility and clear of clouds below 700 feet above the surface. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984. 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 Polices 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

Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Aniak, Ak [Removed]

Within a 5-mile radius of the Aniak Airport (lat. 61°35'N., long. 159°32'W.); within 3 miles each side of the 114°T(094°M) bearing from Aniak NDB, extending from the 5-mile radius zone to 8 miles SE of the NDB, and within 2 miles each side of the Aniak localizer (lat.61°35'02"N., long. 159°33'01"W.) west course extending from the 5-mile radius zone to 6.5 miles west of the localizer. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Nenana, AK [Removed]

Within a 5-mile radius of the Nenana Airport (lat. 64°31'36" N., long. 149°04'24" W.), and within 4 miles each side of the 132° bearing from the Julius RBN extending from the 5-mile radius zone to 8.5 miles southeast of the RBN. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Umiat, AK [Removed]

Within a 5-mile radius of the Umiat Airport, (lat. 69°22'17" N., long. 152°08'00" W.), within 3 miles each side of the 079° bearing from the Umiat NDB extending from the 5-mile radius zone to 8 miles east of the NDB; and within 3 miles each side of the 259° bearing from the Umiat NDB extending from the 5-mile radius zone to 8 miles west of the NDB.

Fort Yukon, AK [Removed]

Within a 5-mile radius of Fort Yukon Municipal Airport (lat. 66°34'16" N., long. 145°14'59" W.), and within 5 miles south and 4.5 miles north of the Fort Yukon 076° radial extending from the 5-mile radius zone to 10.5 miles east of the Fort Yukon VORTAC and within 3 miles each side of the Fort Yukon VORTAC 214° radial extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC. This control zone is effective from 0800 to 1700 hours local time daily or during the specific days and times established in advance by a Notice to Airmen. The effective dates and time will thereafter be continuously published in the Flight Information Publication Alaska.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Issued in Anchorage, Alaska, on April 5, 1985.

Franklin L. Cunningham,

Director, Alaskan Region.

[FR Doc. 85-9448 Filed 4-18-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AAL-6]

Proposed Revision of Transition Area and Revocation of Control Zone at Valdez, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area and revoke the control zone at Valdez, AK. This action is proposed to allow more efficient use of the airspace, and to reduce the constraints and impact on the public in the affected airspace. The circumstance which creates the need to revoke the control zone is that weather reports at the airport are provided only on an hourly basis without special observations taken and disseminated when significant changes in weather occur. This creates an undue restriction on the users when: () The last report indicates the weather is below basic visual flight rules (VFR) minimums, (2) the weather is actually above basic VFR minimums, and (3) the next weather report will not be available until on the hour. The circumstance which created the need to revise the transition area is the revocation of the control zone. The revised transition area will provide controlled airspace below 1,200 feet down to 700 feet above the surface for the microwave landing system (MLS) approach to Valdez, AK, Airport. Revocation of the control zone will provide airspace for VFR aircraft to depart and arrive at the Valdez Airport with 1 mile flight visibility and clear of clouds below 700 feet above the surface.

DATES: Comments must be received on or before May 31, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 85-AAL-6, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513-0087.

The official docket may be examined in the FAA Rules Docket, Office of the Regional Counsel, Third Floor, Module F, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Procedures and Airspace Specialist (AAL-536), Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513-0087, telephone (907) 271-5902.

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 post card on which the following statement is made: "Comments to Airspace Docket No. 85-AAL-6." The post card 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 Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK, 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 NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Federal Aviation Administration, Manager, Operations, Procedures, and Airspace Branch, Air Traffic Division, Alaskan Region, 701 C Street, Box 14, Anchorage, AK 99513-0087, or by calling (907) 271-5902. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the base of controlled airspace at 700 feet above the surface within a 5-mile radius of the Valdez, AK, Airport and revoke the controlled airspace within a 3-mile radius of the Valdez, AK, Airport from the surface up to 700 feet above the surface. These airspace designations will allow VFR aircraft to depart and arrive at Valdez, AK, Airport with 1 mile flight visibility and clear of clouds below 700 feet above the surface and provide controlled airspace between 700 feet and 1,200 feet above the surface for the MLS approach. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulation were republished in Handbook 7400.6 dated January 3, 1984.

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

Transition areas; Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Valdez, AK § 71.171 [Removed]

Within a 3-mile radius of the Valdez Municipal Airport, (lat. 61°07'58"N, long. 146°14'24"W.). This control zone is effective from 0800 to 1600 local time daily from mid-October to mid-May, and from 0600 to 2200 local time daily from mid-May to mid-October or during specific dates and times established in advance by a Notice to Airmen. The effective date and time will

thereafter be continuously published in the U.S. Government Flight Information Publication Supplement Alaska.

Valdez, AK § 71.181 [Amended]

By removing the words "That airspace extending upward from" and substituting the words "That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Valdez Airport (lat. 61°07'58"N., long 146°14'24"W.); and from * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65.)

Issued in Anchorage, Alaska, on April 5, 1985.

Franklin L. Cunningham,

Director, Alaskan Region.

[FR Doc. 85-9449 Filed 4-18-85; 8:45 am]

BILLING CODE 4910-13-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 208

Debarment, Suspension and Ineligibility

AGENCY: Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The Agency for International Development proposes to amend Part 208 to include AID procurement contracts and subscontracts and direct AID and AID-financed agreements (e.g., grants, cooperative agreements, and host country contracts) and subagreements. Part 208 currently applies to debarment and suspension of AID-financed suppliers of commodities and commodity-related services. The amendment expands the coverage to include direct AID agreements (e.g. grants and cooperative agreements) and all AID-financed agreements (e.g., host county contracts). The amendment also implements and supplements 48 CFR Subpart 709.4 (49 FR 13240, April 3, 1984) with respect to procurement contracts and subcontracts.

DATES: Comments must be submitted on or before May 20, 1985.

Comments: Comments may be mailed to Mr. Jan W. Miller, Office of the General Counsel, Room 6943 N.S., Agency for International Development, Washington, D.C. 20523. Telephone: (202) 632-8874.

FOR FURTHER INFORMATION CONTACT: Jan Miller (202) 632-8874.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility and Impact Analysis

This action will not have a significant economic impact on a substantial number of small entities including small businesses, small organizational units and small governmental jurisdictions.

This action does not constitute a "major rule" under Executive Order No. 12291.

Administrative Procedures Act

This is not a rule subject to rulemaking under the Administrative Procedures Act. However, in order to afford interested parties with an opportunity to comment, the regulation is being published as a proposed rule. The regulation will be published as a final rule following the comment period.

Environmental Impact

This action does not constitute a major Federal action significantly affecting the quality of the human environment.

List of Subjects in 22 CFR Part 208

Foreign aid, Government procurement, Government contracts, Grant programs—foreign relations, Grants administration.

Accordingly, AID proposes to revise 22 CFR Part 208 to read as follows:

PART 208—DEBARMENT, SUSPENSION AND INELIGIBILITY

Subpart A—General

Sec.

Subpart B—Effect of Being Listed on the AID and GSA Lists

Subpart C—Debarment

Subpart D—Suspension

Authority: Sec. 621 of the Foreign Assistance Act of 1961, 22 U.S.C. 2381; 48 CFR Subpart 9.4.

Subpart A—General

§ 208.1 Scope.

(a) This part:

(1) Prescribes policies and procedures for the Agency for International Development (AID) governing the debarment and suspension of organizations and individuals from participating in AID agreements, including contracts, grants, cooperative agreements, AID-financed host country contracts, AID-financed commodity transactions under 22 CFR Part 201, and reimbursement for overseas freight charges under 22 CFR Part 202;

(2) Sets forth the causes, procedures and requirements for determining the scope, duration and effect of AID debarment and suspension actions; and

(3) Implements and supplements 48 CFR Subpart 709.4 with respect to suspension, debarment and ineligibility for Goverment procurement contracts.

§ 208.2 Policy.

(a) AID shall not solicit bids and proposals from, award agreements to, or finance or consent to agreements with, organizations and individuals that are suspended, proposed for debarment, debarred, or ineligible as indicated on the AID List or that are debarred, suspended or ineligible as indicated on the GSA List.

(b) The serious nature of debarment and suspension requires that they be imposed only in the public interests, for the Government's protection and not for purposes of punishment. Debarment and suspension shall be imposed to protect the Government's interest, and only for the causes and in accordance with the procedures set forth in this part.

(c) Offices responsible for the award and administration of agreements are responsible for reporting to the Inspector General, AID, information about possible fraud, waste, abuse, or other wrongdoing which may constitute or contribute to a cause for debarment or suspension under this Part.

§ 208.3 Definitions.

For purposes of this Part—

(a) "Adequate evidence" means information sufficient to support the reasonale belief that a particular act or omission has occurred.

(b) "Affiliates." Organizations or individuals are affiliates if, directly or indirectly, (1) either one controls or can control the other; or (2) a third controls or can control both.

(c) "Agency" means an executive department, military department or defense agency, or other agency or

independent establishment of the executive branch.

(d) "AID agreement" means a contract, grant, cooperative agreement, loan, loan guarantee, sales agreement, donation agreement or any other agreement to which AID is a party or which AID finances or approves. It also means any subagreement under an AID agreement. It includes AID Government procurement contracts, grants and cooperative agreements, AID-financed host country contracts, AID-financed commodity transactions under 22 CFR Part 201, reimbursement of freight charges under 22 CFR Part 202, and transactions under Title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480).

(e) "AID List" means the AID Consolidated List of Debarred, Suspended or Ineligible Awardees maintained by AID in accordance with this Part.

(f) "Authorized representative" means an official who has been designated by and authorized to act on behalf of the Administrator of AID for the purposes of this part including, but not limited to, acting as a debarring or suspending official.

(g) "Awardee" means any individual or legal entity that submits offers for, is awarded or performs services under, or reasonably may be expected to be awarded or perform services under an AID agreement. It includes an employee of an awardee and any person who conducts business with AID as an agent or representative of an awardee. It also includes AID contractors.

(h) "Contractor" means any individual or legal entity that submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government procurement contract or conducts business with the Government as an agent or representative of another contractor.

(i) "Conviction" means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, and includes a conviction entered upon a plea of nolo contendere.

(j) "Debarment" means action taken by a debarring official to exclude an organization or individual from receiving Government procurement contracts or AID agreements for a reasonable, specified period. An organization or individual so excluded is "debarred".

(k) "Debarring Official" means an agency head or an official authorized by an agency head to impose debarment. The AID debarring official is the Associate Assistant to the Administrator for Management (M/AAA-SER).

(l) "Government procurement contract" means (1) an agreement to which a Federal agency is a party for the acquisition of supplies or services (including construction) for the direct benefit or use of the Federal Government or (2) a Government-approved or financed subcontract under a Government procurement contract.

(m) "GSA List" means the Consolidated List of Debarred, Suspended and Ineligible Contractors maintained by the General Services Administrator.

(n) "Indictment" means indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

(o) "Ineligible" means excluded from Government contracting (and subcontracting, if appropriate) under statutory, Executive Order, or regulatory authority other than this regulation or subpart 9.4 of the Federal Acquisition Regulation. For example, contractors excluded under the Davis-Bacon Act and its related statutes and implementing regulations, the Service Contract Act, the Equal Employment Opportunity Acts and Executive Orders, the Walsh-Healey Public Contract Act, the Buy American Act, and the Environment Protection Acts and Executive Orders are ineligible.

(p) "Legal proceedings" mean any civil judicial proceeding to which the Government is a party or any criminal proceeding. The term also includes appeals from such proceedings.

(q) "Preponderance of the evidence" means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(r) "Suspending official" means an agency head or an official authorized by an agency head to impose suspension. The AID suspending official is the Associate Assistant to the Administrator for Management (M/AAA/SER).

(s) "Suspension" means action taken by a suspending official to exclude an organization or individual temporarily from receiving Government procurement contracts or AID agreements. An organization or individual so excluded is "suspended".

§ 208.4 GSA Notification.

The Agency shall—

(a) Notify GSA, within 5 working days after debarring or suspending a contractor or modifying or rescinding such an action, of the information set forth in § 208.5;

(b) Notify GSA of the names and addresses of the organizations within the Agency that are to receive the consolidated list and the number of copies to be furnished to each; and

(c) Direct inquiries concerning listed contractors to the agency or other Governmental authority that took the action.

§ 208.5 AID Consolidated List of Debarred, Suspended and Ineligible Awardees.

The agency shall compile and maintain a list of awardees and affiliates who are proposed for debarment or who are curently debarred or suspended under this part. At a minimum, the AID List shall contain the following information:

(a) The awardee's name and address;

(b) The cause(s) for the action;

(c) The effect of the action;

(d) The effective date of the action and, in the case of debarments, the termination date for each listing; and

(e) The name and telephone number of AID's point of contact for the action.

Subpart B—Effect of Being Listed on the AID and GSA Lists

§ 208.6 GSA List.

AID shall not—

(a) Solicit or consider a bid or proposal for a Government procurement contract from;

(b) Award, extend or renew any Government procurement contract with; or

(c) Approve or consent to the award, extension or renewal of a Government procurement contract with—

A contractor on the GSA List.

§ 208.7 AID List.

AID shall not—

(a) Solicit or consider a bid or proposal for an agreement from;

(b) Award, extend, or renew any agreement with;

(c) Finance, approve or consent to the award, extension, or renewal of any agreement—

An awardee on the AID LIST.

§ 208.8 Waiver.

(a) The Associate Assistant to the Administrator for Management may waive the prohibitions of §§ 208.6 and 208.7 by issuing a written determination setting forth the compelling reasons justifying the waiver.

(b) Some examples of circumstances that may constitute a compelling reasons include: (1) The property or services to be acquired are available only from the listed awardee or contractor; (2) the urgency of the requirement dictates that AID deal with

the awardee or contractor; (3) the contractor or awardee and AID have entered an agreement covering the same events which resulted in the listing and the agreement includes a decision by AID not to debar or suspend the awardee or contractor; and (4) for such other reasons related to U.S. foreign assistance activities which require continued business dealing with the listed awardee or contractor.

Subpart C—Debarment

§ 208.9 General.

(a) The debarring official may, in the public interest, debar an awardee for any of the causes contained in § 208.10, using the procedures in § 208.11. The existence of a cause for debarment under § 208.10, however, does not necessarily require that the awardee be debarred; the seriousness of the awardee's acts or omissions and any mitigating factors should be considered in making any debarment decision.

(b) Debarment of an awardee constitutes debarment of all divisions or other organizational elements of the awardee, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities. Debarment extends to affiliates of the awardee, only if they are (1) specifically named and (2) given written notice of the proposed debarment and opportunity to respond (see § 208.11).

§ 208.10 Causes for debarment.

The debarring official may debar an awardee for:

(a) Conviction of or civil judgment for—

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public agreement or subagreement;

(2) Violation of Federal or State antitrust statutes relating to the submission of bids or proposals; or

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the present responsibility of an awardee.

(b) Violation of the terms of an agreement or subagreement so serious as to justify debarment, such as—

(1) Willful failure to perform in accordance with the terms of one or more agreements or subagreements; or

(2) A history of failure to perform, or of unsatisfactory performance of, one or mroe agreements or subagreements.

(c) Any other cause of so serious or compelling a nature that it affects the present responsibility of an AID contractor or awardee. Such cause may include but is not limited to:

(1) Failure to furnish information in accordance with the terms of one or more agreements or subagreements;

(2) Violation of AID regulations in a substantial manner; or

(3) Offer or acceptance of a bribe or other illegal payment or credit or commission of a fraud in connection with any AID-financed transaction.

(d) On the basis of a debarment for any of the above causes by another agency.

§ 208.11 Procedures.

(a) *Notice of proposal to debar.* Debarment shall be initiated by sending the awardee or affiliates, a notice containing, as appropriate, the following information:

(1) That debarment is being proposed.

(2) The reasons for the proposed debarment in terms sufficient to put the awardee or affiliate on notice of the conduct or transaction(s) upon which it is based.

(3) The cause(s) relied upon under § 208.10 for the proposed debarment, and, if applicable, under FAR Subpart 9.4.

(4) That, within 30 days after the receipt of the notice, the awardee or affiliate may (i) submit, in person, in writing, or through a representative, information and argument in opposition to the proposed debarment, including any additional specific information that raises a genuine dispute over the material facts; and (ii) request in writing a hearing.

(5) The effects of the proposed debarment and the effects of a final debarment. If a notice of proposed debarment is issued to an awardee or affiliate who is not suspended, the notice shall state that, for purposes of AID agreements, the proposed debarment shall have the effect of a suspension.

(6) The awardee's or affiliate's name and address have been placed on the AID List.

(b) *Hearing.*—(1) *Appointment.* Upon receipt of a timely request for a hearing, the debarring official will appoint a hearing officer.

(2) *Purpose.* The purpose of the hearing is to provide the awardee or affiliate an opportunity to dispute material facts, present evidence of any mitigating factors, present arguments concerning the imposition, scope, duration or effects of a proposed debarment or debarment and to provide the debarring official with proposed findings of fact.

(3) *Evidence and argument.* The awardee or affiliate shall have the opportunity to appear with counsel, to submit documentary evidence, to examine and cross-examine witnesses and to present argument.

(4) *Transcript.* The hearing officer shall make a transcribed record of the hearing and make it available at cost to the awardee of affiliate. The requirement for a transcript may be waived by mutual agreement.

(5) *Report.* Within 30 days after the hearing record is closed, the hearing officer will transmit to the debarring official and the awardee or affiliate a written report setting forth proposed findings of fact as to disputed material facts. The awardee or affiliate shall have 30 days from receipt of the report to submit written exceptions to the debarring official.

(c) *Debarring official's decision.* (1) The debarring official shall make a decision on the basis of all the information in the administrative record, including any submission made by the awardee or affiliate, the hearing report and any exceptions. The debarring official may set aside findings of fact only after specifically determining them to be aribitrary and capricious or clearly erroneous.

(2) In any action in which the proposed debarment is not based upon a conviction or civil judgment, the cause for debarment must be established by a preponderance of the evidence.

(d) *Notice of debarring official's decision.* (1) If the debarring official decides to impose debarment, the awardee or affiliate shall be sent a notice with the following information as appropriate;

(i) A reference to the notice of proposed debarment.

(ii) Any findings of fact and conclusion of law.

(iii) The reasons for the debarment.

(iv) The period of debarment, including effective dates.

(v) The type of agreements and subagreements covered by the debarment.

(vi) If the debarment is based on one or more causes in FAR Subpart 9.4, a statement that the debarment is effective throughout the Executive Branch as provided in FAR Subpart 9.4, and that the awardee's or affiliate's name will be added to the GSA List.

(vii) The awardee's or affiliate's name and address will be or have been placed on the AID List.

(2) If debarment is not imposed, the debarring official shall so notify the awardee or affiliate.

§ 208.12 Period of debarment.

(a) Debarment shall be for a period sufficient to protect the Government's interest. Generally, a debarment should not exceed 3 years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(b) The debarring official may extend the debarment for an additional period, if that official determines that an extension is necessary to protect the Government's interest. However, a debarment may not be extended solely on the basis of the facts and circumstances upon which the initial debarment action was based. If debarment for an additional period is determined to be necessary, the procedures of § 208.11 above shall be followed to extend the debarment.

(c) At any time, an awardee or affiliate may submit a written request to the debarring official for review of the period or extent of debarment because of new information or changed circumstances, such as—

(1) Newly discovered material evidence;

(2) Reversal of the conviction or judgment upon which the debarment was based;

(3) Bona fide change in ownership or management;

(4) Elimination of other causes for which debarment was imposed; or

(5) Other reasons such as restitution and other actions in mitigation.

§ 208.13 Scope of debarment (imputed conduct).

(a) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with an awardee may be imputed to the awardee when the conduct occurred in connection with the individual's performance of duties for or on behalf of the awardee, or with the awardee's knowledge, approval, or acquiescense. The awardee's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) The fraudulent, criminal, or other seriously improper conduct of an awardee may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the awardee who participated in, knew of, or had reason to know of, the awardee's conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one awardee participating in a joint venture or similar arrangement or with the knowledge, approval, or acquiescence of the organizations or individuals. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

Subpart D—Suspension

§ 208.14 General.

(a) The suspending official may, in the public interest, suspend an awardee for any of the causes in § 208.15, using the procedures in § 208.16.

(b) Suspension is a serious action to be imposed on the basis of adequate evidence, pending the completion of an investigation or legal proceedings, when it has been determined that immediate action is necessary to protect the Government's interest. In assessing the adequacy of the evidence, consideration should be given to how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. This assessment should include an examination of basic documents such as contracts, inspection reports, and correspondence.

(c) Suspension constitutes suspension of all divisions or other organizational elements of the awardee, unless the suspension decision is limited by its terms to specific divisions, organizational elements, or commodities. The suspending official may extend the suspension decision to include any affiliates of the awardee if they are (1) specifically named and (2) given written notice of the suspension and an opportunity to respond (see § 208.16).

§ 208.15 Causes for suspension.

The suspending official may suspend an organization or individual:

(a) Indicted for or suspected, upon adequate evidence, of the causes in paragraphs (a) and (c) of § 208.10.

(b) On the basis of a suspension or debarment by another agency.

(c) On the Basis of the causes, upon adequate evidence, set forth in paragraphs (a), (b), and (c) of § 208.10.

§ 208.16 Procedures.

(a) *Notice of suspension.* When a decision to suspend has been made the awardee or any affiliates shall be sent a notice of suspension containing, as appropriate, the following information.

(1) That the decision to suspend has been made.

(2) The reasons for the suspension in terms sufficient to place the awardee or affiliate on notice of the causes upon which suspension is based, except the notice shall omit any information which would prejudice an ongoing criminal or civil investigation or a pending contemplated legal proceeding.

(3) The cause(s) relied upon under § 208.15 and, if applicable, under FAR Subpart 9.4 for imposing suspension.

(4) The effects of the suspension.

(5) That, within 30 days after receipt of the notice, the awardee or affiliate may submit, in person, in writing or through a representative, information and argument in opposition to the suspension, including any additional specific information that raises a genuine dispute over material facts.

(6) That, within 30 days after receipt of the notice, the awardee or affiliate may request a hearing; unless (i) the action is based on an indictment or (ii) a determination is made, on the basis of Department of Justice advice, that the substantial interests of the Government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced.

(7) The suspension is effective as of the date of the notice.

(8) The awardee's or affiliate's name and address have been placed on the AID List.

(9) If suspended for one or more of the causes in FAR Subpart 9.4, that the awardee's or affiliate's name will be added to the GSA List.

(b) *Hearing.* When the awardee or affiliate has been given an opportunity to request a hearing under paragraph (a)(6) of this section and upon receipt of a timely request for a hearing, the provisions for debarment hearings in paragraph (b) of § 208.11 will be followed.

(c) *Suspending officials decision.* The suspending official shall make a decision based on all the information in the administrative record, including any submission made by the awardee or affiliate, the hearing report and any exceptions. The suspending official may set aside findings of fact only after specifically determining them to be arbitrary and capricious or clearly erroneous.

(d) *Notice of suspending official's decision.* (1) If the suspending official decides to sustain the suspension, the awardee or affiliate shall be sent a notice with the following information, as appropriate:

(i) A reference to the notice of suspension.

(ii) Any findings of fact and conclusion of law.

(iii) The reasons for sustaining the suspension.

(iv) The type of agreements and subagreements covered by the suspension.

(v) If the suspension is based on one or more of the causes in FAR Subpart 9.4, a statement that the suspension is effective throughout the Executive Branch as provided in FAR Subpart 9.4.

(vi) Modifications, if any, of the terms of the suspension.

(vii) The awardee's or affiliate's name and address will be or have been placed on the AID List.

(2) If the suspension is terminated, the suspending official shall notify the awardee or affiliate of that decision.

§ 208.17 Period of suspension.

(a) Suspension shall be for a temporary period pending the completion of investigation and any ensuing legal proceedings; unless sooner terminated by the suspending official or as provided in this section.

(b) If legal proceedings are not initiated within 12 months after the date of suspension notice, the suspension shall be terminated unles the Department of Justice requests its extension, in which case it may be extended for an additional 6 months. If legal proceedings are initiated before the period of suspension expires, the suspension may continue until legal proceedings are conducted.

(c) The suspending official shall notify the Department of Justice of the proposed termination of the suspension at least 30 days before the 12 month period expires to give it an opportunity to request an extension.

(d) At any time, an awardee or affiliate may submit a written request to the suspending official for a review of the period or extent of suspension because of new information or changed circumstances such as those listed in paragraph (c) of § 208.12.

§ 208.18 Scope of suspension.

The scope of suspension shall be the same as that for debarment (see § 208.13), except that the procedures of § 208.16 shall be used in imposing the suspension.

Dated: January 22, 1985.

R.T. Rollis,

Assistant to the Administrator for Management.

[FR Doc. 85-9206 Filed 4-18-85; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol,Tobacco and Firearms

27 CFR Part 9

[Notice No. 562]

South Coast Viticultural Area; Establishment

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in California to be known as "South Coast." This proposal is the result of a petition submitted on behalf of the South Coast Vintners Association, a group of grape growers in the proposed area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will enable winemakers to label wines more precisely and will help consumers to better identify the wines they purchase.

DATE: Written comments must be received by June 3, 1985.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 562).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 1220 Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 provide for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

Part 9 of 27 CFR provides for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 3.25a(e)(1), Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specifieid in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petition

ATF has received a petition from the South Coast Vintners Association, proposing an area south of Los Angeles, California, as a viticultural area to be known as "South Coast." The area contains about 1,800 square miles. It is located along the Pacific coastline between Los Angeles and the Mexican border. There are about 3,000 acres of grapes currently planted in the proposed area. The petitioner states that at least 15 wineries are operating within the area.

The petitioner claims that the proposed viticultural area is known by the name of "South Coast." To support this, he submitted the following evidence:

(a) *Wine Maps*, published in 1984 by The Wine Spectator, designates various coastal grape-growing areas of California. One such area is identified on both a "Key Map" and a more detailed map as "South Coast." The area shown on these maps corresponds generally to the petitioned area.

(b) The South Coast Vintners Association, which is the only association of vintners in existence in the proposed area, was incorporated in the State of California on January 31, 1984. Prior to incorporation, this association existed informally for several years. Its membership includes most of the wineries in the proposed area. While in existence, the petition states, this association "has created

publications featuring 'South Coast' wines, has held joint tastings and public relations functions, and generally has sought to create name and location identification in the wine industry for 'South Coast' fine wines." As evidence of this effort, the petitioner submitted a booklet published by it, titled "South Coast Wineries." This booklet features a map showing the locations of the association's winery members, and also contains this description: "The wineries are located in the foothills and valleys of the coastal region, most, less than thirty miles from the ocean. Here the combination of higher elevations, well drained soils, and cooling Pacific breezes produce an ideal environment for growing the finest European grape varieties."

The proposed viticultural area is distinguished geographically from the surrounding areas as follows:

(1) To the north, the area is set off by the predominant urbanization of Los Angeles County, which makes grape-growing there unfeasible. The petition explains this as follows: "No doubt portions of Los Angeles County would qualify [with respect to name] as 'South Coast.' However, as a practical matter the entire Los Angeles County coastal area is urbanized and no present or potential grape growing areas exist. Since no grapes come from Los Angeles County and it is very unlikely that any ever will, it was considered confusing to include the County in 'South Coast'."

(2) To the west, the area is bounded by the Pacific Ocean.

(3) The southern boundary of the area, the Mexican-American border, does not correspond to a geographical distinction. However, since 27 CFR Part 9 is titled "American Viticultural Areas," and since "American" is defined in 27 CFR 9.11 as "Of or relating to the several States, the District of Columbia, and Puerto Rico," it is evident that an American viticultural area must not extend into Mexico.

(4) To the east, the proposed area is distinguished geographically by the limit of "coastal influence." This distinction is described in the petition as follows: "Applicant believes that 'coast' infers some substantial coastal influence on the grape growing areas involved, resulting in classification of same as Zones I through III of the Davis scale. While many grapes are grown in San Bernardino, eastern Riverside, eastern San Diego and Imperial Counties, they are grown in Zones IV or V, and are primarily table grapes rather than wine grapes."

The boundaries of the proposed viticultural area may be found on three U.S.G.S. maps of the 1:250,000 series, titled Long Beach, Santa Ana, and San Diego; and on one U.S.G.S. map of the 7.5 minute series, titled Wildomar. The boundaries would be as described in the proposed § 9.104. ATF has slightly modified these proposed boundaries from the boundaries originally proposed by the petitioner, so as to include all of the approved Temecula viticultural area, since evidence submitted in conjunction with the approval of that area showed that all of the Temecula area is influenced by coastal climate factors.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidential effects on a substantial number of small entities. Further, the proposal will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of February 17, 1981, the Bureau has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. Furthermore, while this document proposes possible boundaries for the South Coast viticultural area, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is revised to add the title of § 9.104, to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.104 South Coast.

Par. 2. Subpart C of 27 CFR Part 9 is amended by adding § 9.104, which reads as follows:

§ 9.104 South Coast.

(a) *Name.* The name of the viticultural area described in this section is "South Coast."

(b) *Approved maps.* The appropriate maps for determining the boundaries of South Coast viticultural area are four U.S.G.S. maps. They are titled:

(1) San Diego, 1:250,000 series, 1958 (revised 1978).

(2) Santa Ana, 1:250,000 series, 1959 (revised 1979).

(3) Long Beach, 1:250,000 series, 1957 (revised 1978).

(4) Wildomar Quadrangle, 7.5 minute series, 1953 (photorevised 1973).

(c) *Boundary*—(1) *General.* The South Coast viticultural area is located in California. The starting point of the following boundary description is the northern intersection of the Orange County line with the Pacific Ocean (on the Long Beach map).

(2) *Boundary Description*—(i) From the starting point generally northeastward, eastward, and southeastward along the Orange County line, to the intersection of that county line with the township line on the northern border of Township 7 South (on the Santa Ana map).

(ii) From there eastward along that township line to its intersection with the portion of the Temecula viticultural area boundary described in § 9.50, paragraphs (c)(1), (c)(2), (c)(23), and (c)(24) (on the Wildomar Quadrangle map).

(iii) From there following that portion of the boundary of the Temecula viticultural area generally northeastward, eastward, and southeastward until it again intersects the township line on the northern border of Township 7 South.

(iv) From there eastward along that township line to the San Bernardino Meridian (on the Santa Ana map).

(v) Then southward along the San Bernardino Meridian to the Riverside County-San Diego County line.

(vi) Then westward along that county line for about 7½ miles, to the western boundary of the Cleveland National Forest (near the Pechanga Indian Reservation).

(vii) Then generally southeastward along the Cleveland National Forest boundary to where it joins California Highway 76.

(viii) From there, generally southeastward along Highway 76, to the township line on the northern border of Township 12 South.

(ix) Then eastward along that township line to its intersection with the range line on the eastern border of Range 3 East.

(x) From there southward along that range line to the U.S.-Mexico international border.

(xi) Then westward along that international border to the Pacific Ocean.

(xii) Then generally northwestward along the shores of the Pacific Ocean to the starting point.

Approved: April 5, 1985.

Stephen E. Higgins,

Director.

[FR Doc. 85-9475 Filed 4-18-85; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Ch. II

Leasing of Nonenergy Minerals in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of the Interior (Department) is considering the desirability of issuing new regulations to govern leasing in the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Act (OCSLA). Comments and recommendations are requested from interested parties. The Minerals Management Service (MMS) will consider relevant comments in determining the conditions, benefits, costs, and probable consequences of such regulations.

This request is made in response to comments received from industry, environmental groups, interested parties, States, and Federal Agencies on the draft Environmental Impact Statement (EIS) for the Gorda Ridge and from the Federal /State Task Forces which have been formed to evaluate the environmental, economic, developmental, and operational aspects of various areas.

DATE: Comments in response to this request should be postmarked or hand-delivered no later than close of business August 19, 1985.

ADDRESS: Comments may be mailed or delivered to Reid T. Stone, Program Director for Strategic and International Minerals, Minerals Management Services, Department of the Interior, 11 Golden Shore, Suite 260, Long Beach, California 90802, telephone (213) 548-2901.

FOR FURTHER INFORMATION CONTACT: Andrew V. Bailey, Minerals Management Service, Office of Strategic and International Minerals, 12203 Sunrise Valley Drive, Mail Stop 642, Reston, Virginia 22091, telephone (703) 860-6823

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 8(k) of the OCSLA, the Secretary of the Interior "is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the Outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease."

The OCS includes areas that may be favorable for a variety of strategic and critical materials including phosphates and minerals contining copper, lead, zinc, cobalt, nickel, silver, cadmium, titanium, and manganese. Recognizing the potential for the development of these domestic resources, the President declared in his State of the Union Address on January 26, 1984, that the Department will encourage careful, selective exploration and production of our vital resources in the Exclusive Economic Zone within the 200-mile limit off our coasts but with strict adherence to environmental laws and with full State and public participation.

The Department published an Advance Notice of Proposed Rulemaking in the **Federal Register** on December 7, 1984 (49 FR 47871), requesting comments on the desirability of using the regulations at 30 CFR Part 251 to govern strategic, critical, and other minerals exploration activities.

To aid in the evaluation of the environmental and management aspects of leasing for strategic, critical, and other minerals in the OCS, the Department is reviewing the desirability of promulgating new regulations to govern these activities.

Although the regulations in 30 CFR Part 256 now govern leasing activities for nonenergy minerals as well as oil, gas, and sulphur, separate regulations

may better enable the Department, industry, and the public to evaluate the environmental, economic, and management implications of exploration for nonenergy minerals in the OCS. Recommendations to prepare such clarifying regulations were made in the public hearings on the Gorda Ridge draft EIS by individuals, environmental organizations, and State and Federal Agencies.

Consequently, comments are requested as to whether regulations separate from those in 30 CFR Part 256 should be developed for leasing strategic, critical, and other minerals in the OCS, and if so, how such regulations should differ from those in 30 CFR Part 256. In particular, comments, suggestions, data, and recommendations are requested with respect to the inclusion and treatment in such regulations of the following:

Resource Management

Identification of tracts to be offered
Size of tracts
Duration of lease
Exploration and development requirements
Assignment of leases

Fiscal Considerations

Rentals and royalties
Bonus bids
Alternative bidding systems
Joint bidding
Bonus
Application fees

Protection of Health, Safety, and Environment

Qualifications of lessee
Suspension of operations
Termination of leases
Control of operations
Inspections

Multiple-Use Aspects

Public notice and participation
State and local government involvement
Coastal zone management considerations

Other Considerations

Lease form
Release of information to States and to the public

Any other ideas considered to be relevant to the leasing of minerals other than oil, gas, and sulphur.

Dated: April 12, 1985.

Thomas M. Gernhofer,

Acting Director, Minerals Management Service.

[FR Doc. 85-9456 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 154

[CGD 77-069]

Proposed Safety Standards for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases

Correction

In FR Doc. 85-6100, beginning on page 10264 in the issue of Thursday, March 14, 1985, make the following corrections:

1. On page 10270, in the second column, in § 154.7, in the definition for "Existing gas vessel", paragraphs (a) and (b) should have been designated (1) and (2).

2. On page 10270, in the third column, in § 154.7, in the definition for "Gas-dangerous space", paragraphs (a) through (m) should have been designated (1) through (13) and subparagraphs (1) and (2) under misdesignated paragraph (k) should have been designated (i) and (ii).

3. On page 10271, in the first column, in § 154.7, in the definition for "IMO Certificate", paragraphs (a) through (c) should have been designated (1) through (3).

4. On page 10271, in the second column, in § 154.7, in the third line of the definition for "Membrane tank", the word "membrance" should have read "membrane".

5. On page 10271, in the second column, in § 154.7, in the definition for "New gas vessel", paragraphs (a) through (d) should have been designated (1) through (4) and subparagraphs (1) through (3) of misdesignated paragraph (d) should have been designated (i) through (iii).

6. On page 10271, in the second column, in § 154.7, in the definition for "Service space", the word "gallery" in the third line should have read "galley".

7. On page 10272, in the first column, in § 154.12, the semi-colon at the end of paragraph (b)(2) should have been a period.

8. On page 10272, in the first column, in § 154.12, the third line of paragraph (c)(1) should have read "the Coast Guard issued the original".

9. On page 10272, in the second column, in § 154.12, the last line of paragraph (e)(28) should have read "154.1120(b), and 154.1125 (c), (e), and (f)."

10. On page 10273, in the first column, in § 154.22, the second word in the first line of paragraph (a)(9)(ii) should have read "vessel's".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-73; RM-4850]

TV Broadcast Stations in Pendleton, OR; Missoula, Havre, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of VHF TV Channel 11 to Pendleton, Oregon, as that community's first commercial television service, at the request of Terrell Communications. In order to accomplish the assignment the offsets of unused Channel *11 at Missoula, Montana, and unused Channel 11 at Havre, Montana must be changed.

DATES: Comments must be filed on or before May 28, 1985, and reply comments on or before June 12, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Pendleton, Oregon; Missoula, and Havre, Montana); MM Docket No. 85-73, RM-4850.

Adopted: March 11, 1985.
Released: April 9, 1985.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by Terrell Communications ("petitioner"), requesting the assignment of VHF Television Channel 11 to Pendleton, Oregon, as that community's first commercial television service. Petitioner stated an intention to apply for the channel, if assigned. The assignment can be made in compliance with the minimum distance separation requirements. However, in order to accomplish the assignment, the offsets of unused Channel *11− at Missoula, Montana, and an used Channel 11+ at Havre, Montana must be reversed.

2. Pendleton (population 14,521)[1] seat of Umatilla County (population 58,861) is

[1] Population figures are from the 1980 U.S. Census.

located in northeastern Oregon approximately 290 kilometers (180 miles) east of Portland, Oregon.

3. Since Missoula and Havre, Montana and Pendleton are all located within 400 kilometers (250 miles) of the common U.S.-Canadian border, the proposal requires concurrence by the Canadian government.

4. In view of the fact that the proposed assignment could provide a first local television service to Pendleton, the Commission believes it is in the public interest to seek comments on the proposal to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules for the following communities:

City	Channel No.	
	Present	Proposed
Havre, MT	9+, 11+, and *18−.	9+, 11−, and *18−
Missoula, ML	8−, *11−, 13−, 17−, and 23−.	8−, *11+, 13−, 17−, and 23−
Pendleton, OR		11−

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.— A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 28, 1985, and reply comments on or before June 12, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Gary D. Terrell, 2420 Belair, Magnolia, AR 71753.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

B. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contract is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, an §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or person acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85–9525 Filed 4–18–85; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 76

[MM Docket No. 85–38]

Review of Technical and Operational Requirements of the Cable Television Service Rules; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: This Order extends the time for filing reply comments in BC Docket

No. 85–38 concerning the technical and operational Requirements of the Cable Television Service Rules in response to a Motion for Extension of Time filed by the National Cable Television Association, Inc. ("NCTA").

DATES: Reply comments must be filed on or before May 15, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Policy and Rules Division, Mass Media Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: The proposed rule in this proceeding was published in the **Federal Register** on February 26, 1985, 50 FR 7801.

Order Extending Time for Filing Reply Comments

In the matter of Review of Technical and Operational Requirements of Part 76, Cable Television, MM Docket No. 85–38.

Adopted: April 11, 1985.

Released: April 15, 1985.

By the Chief, Mass Media Bureau.

1. The Commission has before it for consideration a Motion for Extension of Time to file reply comments, filed by the National Cable Television Association, Inc. ("NCTA"), in the above-captioned proceeding. NCTA requests a fourteen day extension, however we believe a thirty day extension would afford all parties sufficient time for commentary.

2. Accordingly, it is ordered, that the date for filing reply comments in BC Docket No. 85–38, is extended to May 15, 1985.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

[FR Doc. 85–9522 Filed 4–18–85; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[FRA Docket No. RSFC–6, Notice 12]

Railroad Freight Car Standards

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Announcement of change in hearing schedule.

SUMMARY: FRA announces that the public hearing scheduled for April 25, 1985 in Washington, D.C., regarding thermal abuse of freight car wheels, has been rescheduled to May 13, 1985 and may be extended for an additional day (through May 14, 1985) if necessary.

DATES: The public hearing previously announced as beginning at 10:00 a.m. on Thursday, April 25, 1985, will not be convened until 10:00 a.m. on May 13, 1985 and, if necessary to assure adequate time for the presentation of information or views, may be reconvened at 10:00 a.m. on May 14, 1985.

ADDRESS: The public hearing will be held in Room 8334 of the Nassif Building located at 400 Seventh Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, telephone (202) 426–0897.

SUPPLEMENTARY INFORMATION: On December 17, 1984 FRA published in the **Federal Register** (49 FR 48952) an announcement that it was scheduling additional dates for public hearings regarding its proposal to amend FRA's regulatory provision defining freight car wheels as defective because of thermal abuse. The hearing scheduled for April 25, 1985 was focused on the concern raised by a commenter that FRA's current regulatory approach to thermally abused freight car wheels is intrinsically flawed because it continues to rely on a scientifically unjustified detection methodology.

Due to unforeseen scheduling conflicts, FRA has decided to reschedule this hearing until 10:00 a.m. on May 13, 1985. Based on the information FRA has received concerning this hearing, FRA believes that it may be necessary to extend the hearing until the following day so as to permit all interested parties to fully explain their views. Therefore, FRA is tentatively scheduling an additional day for the conduct of this hearing. If appropriate, FRA will reconvene the hearing on May 14, 1985 at 10:00 a.m. in the same location.

FRA believes that interested parties may want to review notices published in the **Federal Register** concerning specific waiver requests received from various individual railroads since FRA anticipates that individuals planning to appear at this hearing will discuss these individual waiver requests. The **Federal Register** issues of March 1, March 6, and March 11, 1985 contain descriptions of the waiver requests received from six railroads. *See* 50 FR 8432, 9146, 9753. In addition, FRA has just received two more requests that will appear in the **Federal Register** in the near future.

To assist FRA in conducting this hearing, any individual or organization desiring to present testimony is requested to notify FRA prior to the hearing and to provide FRA with the name and title of the person expected to testify as well as an estimate of the amount of time required for the presentation.

Issued in Washington, D.C., on April 12, 1985.

John H. Riley,

Administrator.

[FR Doc. 85–9533 Filed 4–18–85; 8:45 am]

BILLING CODE 4910–06–M

Notices

Federal Register
Vol. 50, No. 76
Friday, April 19, 1985

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Forest Service

[Docket No. 85-327]

Gypsy Moth Suppression and Eradication Projects; Final Environmental Impact Statement as Supplemented—1985; Decision

AGENCY: Animal and Plant Health Inspection Service and Forest Service, USDA.

ACTION: Notice of decision.

SUMMARY: This gives notice that based on the environmental analysis as documented in the Final Environmental Impact Statement, (FEIS), as Supplemented consideration of comments made at public meetings, and comments received on the draft supplement, a decision has been made to adopt Alternative 4 as identified in the FEIS as Supplemented. Alternative 4 provides for an integrated pest management (IPM) approach for gypsy moth suppression and eradication projects and is environmentally preferable to the other alternatives identified in the FEIS as Supplemented.

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436-8295; or Thomas N. Schenarts, Area Director, Insect Disease Management Staff, Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008, (215) 461-3158.

SUPPLEMENTARY INFORMATION: The 1984 final EIS on gypsy moth suppression and eradication projects was filed with the U.S. Environmental Protection Agency and made available to the public on March 16, 1984. Since the issuance of the 1984 final EIS, the Department received additional comments and obtained additional information concerning health risks of the insecticides discussed in that document. As a result of those comments and information, the Forest Service and Animal and Plant Health Inspection Service (APHIS) published a notice in the **Federal Register** on August 23, 1984 (49 FR 33471) announcing their intent to prepare a supplement to the 1984 final EIS.

On December 14, 1984, the draft Supplement to the final Environmental Impact Statement was filed with the Environmental Protection Agency (EPA). The four alternatives considered were: (1) No action; (2) Chemical insecticide treatment; (3) Biological insecticide treatment; and (4) Integrated pest management. A notice was published on December 21, 1984, (49 FR 49649) announcing the availability and requesting comments on the draft Supplement to the EIS. The official comment period ended on February 4, 1985. However, comments on the draft were accepted and responded to through February 21, 1985. The EIS as Supplemented significantly revised Appendix F with regard to an analysis of the human health risks of using acephate, carbaryl, diflubenzuron and trichlorfon insecticides in gypsy moth suppression and eradication projects.

In preparing the FEIS, as Supplemented comment letters were reviewed in detail to determine if any concerns, issues or data were presented that would alter or revise the assumption or conclusions drawn from the risk analysis or influence the adoption of Alternative 4. No information was presented that would alter the selection of this Alternative for implementation in proposed cooperative gypsy moth suppression or eradication projects.

Subsequent to publishing the FEIS as Supplemented we learned that the U.S. Environmental Protection Agency developed a list of pesticides "possibly contaminated with dioxin." Diflubenzuron was on the list of pesticides which was published in the February 20 issue of Pesticide and Toxic Chemical News. We have subsequently discussed the possible diozin contamination of diflubenzuron with both EPA and the registrant, Uniroyal Inc. EPA concluded that the list was only speculative and 2,3,7,8-tetrachlorodibenzo-p-dioxin was not an anticipated contaminant. Moreover, the registrant has found no chlorinated dibenzo-p-dioxins or dibenzofurans in analysis of technical grade diflubenzuron run at 0.01 ppm sensitivity. Therefore, we conclude that diflubenzuron is not contaminated with detectable levels of dioxin, and the possibility of dioxin contamination is not an issue needing further discussion in the FEIS, as Supplemented.

Implementation of Alternative 4, IPM, an integrated pest management alternative in gypsy moth suppression and eradication projects will provide for mitigation and monitoring measures to minimize environmental impacts of the techniques utilized, while maximizing established natural controls in the majority of areas affected by the insect. Biological and chemical insecticides registered pursuant to the Federal Insecticide Fungicide and Rodenticide Act will be applied according to label directions. Appropriate public involvement, public notification, and utilization of mitigating measures for insecticide treatments will further reduce human exposure during periods of application. Specific mitigation and monitoring measures, and public involvement and notification procedures will be identified and addressed in site-specific environmental analyses.

Alternative 4, IPM, will be carried out by the USDA Forest Service and APHIS through technical and financial assistance to cooperating State and Federal agencies. Decisions on granting such assistance will be made on the basis of site-specific environmental analyses conducted in accordance with the National Environmental Policy Act (NEPA) regulations, agency operating procedures, and other applicable laws.

The decision to adopt Alternative 4 conforms with the Forest Service mission as defined in the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313) to suppress or prevent pest population outbreaks by methods that will restore, maintain, and enhance the quality of the environment through cooperative efforts with Federal land managers, State Foresters, or equivalent State officials.

The decision also conforms with the Animal and Plant Health Inspection Service mission as outlined in the Plant

Quarantine Act of August 20, 1912 (7 U.S.C. 151–165 and 167), the Organic Act of September 21, 1944 (7 U.S.C. 147a), and the Federal Plant Act of May 23, 1957 (7 U.S.C. 150aa—150jj). These authorities direct APHIS cooperative State regulatory programs to retard the artificial, long-range spread of the gypsy moth and to eradicate isolated infestations of the pest.

Dated: April 15, 1985.

R. Max Peterson,

Chief, Forest Service.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 85–9471 Filed 4–18–85; 8:45 am]

BILLING CODE 3410–11–M

Forest Service

Alaska Region, Chugach National Forest; Intent To Prepare an Environmental Impact Statement

The Chugach National Forest will prepare an environmental impact statement to disclose the environmental consequences of developing winter recreation facilities.

Four sites on the Kenai Peninsula portion of the Forest are being considered for a variety of winter recreation uses and development. The sites include Glacier/Winner Creek in Girdwood Valley, Seattle Creek south of Girdwood Valley across Turnagain Arm, Tincan Mountain at Turnagain Pass and Manitoba Mountain near Summit Lake.

A wide range of alternatives will be considered including development of facilities to serve a variety of winter recreation users at one or more of the sites being evaluated. The type of development and/or allocation being considered includes alpine ski area development (2500 to 7500 skiers at one time), nordic skiing, snowmachining and other winter recreation uses (sledding, dog mushing, etc.).

We invite other Federal, State, and local agencies, and interested individuals and groups to participate in the project, including the initial scoping which will continue through June 15, 1985.

The Final EIS should be finished by April 15, 1987, with the Draft EIS out during the early fall of 1986. If development of facilities at one or more of the locations is approved a developer(s) will be chosen using a competitive process.

Written comments and questions should be directed to Jim Tallerico, Recreation Specialist, Chugach National Forest, 201, E. 9th Avenue, Suite 206, Anchorage, Alaska 99501. His phone number is 261–2510.

Dalton Du Lac,

Forest Supervisor, Chugach National Forest.

[FR Doc. 85–9459 Filed 4–18–85; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Colorado Advisory Committee; Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Colorado Advisory Committee to the Commission originally scheduled for April 20, 1985, at the Executive Tower Building, 1405 Curtis Street, Denver Colorado, (FR Doc. 85–7845, on page 50 FR 13056) has been cancelled.

Dated at Washington, D.C. April 15, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–9511 Filed 4–18–85; 8:45 am]

BILLING CODE 6335–01–M

Georgia Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 3:30 p.m. and will end at 6:00 p.m. on June 21, 1985, at the Marriott Hotel Downtown, Courtland & International Boulevard, the Thornwood Room, Atlanta, Georgia. The purpose of the meeting is to discuss program plans for 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson John Ruffin, or Bobby Doctor in the Southern Regional Office, (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 8, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–9513 Filed 4–18–85; 8:45 am]

BILLING CODE 6335–01–M

Kentucky Advisory Committee; Agenda For Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 4:00 p.m. on June 18, 1985, at the Brown Hotel, 4th and Broadway, The Louisville Room, Louisville, Kentucky. The purpose of the meeting is for an orientation of the newly rechartered advisory committee members and discussion of the housing forum and Commissioners' briefing memorandum.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Paul Oberst, or Bobby Doctor of the Southern Regional Office at (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. April 5, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–9510 Filed 4–18–85; 8:45 am]

BILLING CODE 6335–01–M

Tennessee Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 3:30 p.m. and will end at 6:00 p.m. on June 14, 1985, at the Marriott Hotel-Nashville, 1 Marriott Drive, the Memphis Room, Nashville, Tennessee. The purpose of the meeting is to discuss program plans for 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson James Blumstein, or Bobby Doctor in the Southern Regional Office (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 5, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–9512 Filed 4–18–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; Children's Hospital of San Francisco et al.

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

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

Docket No. 85–080R. Applicant: Children's Hospital of San Francisco, 3700 California Street, San Francisco, CA 94118. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: The instrument is intended to be used for research which includes but is not limited to the following:

(1) Morphometric analysis of ultrastructural changes in the tumor, Kaposi's sarcoma, prior to and after treatment.

(2) Examination of peripheral neuropathy syndrome.

(3) Study of the ultrastructure of muscle biopsy material from a newly described myopathic syndrome.

(4) Study of the localization and nature of membrane antigens on lymphocytes reacting with antilymphocyte antibiodies employing immunoelectron microscopy.

(5) Examination and morphological analysis of nerve biopsies in order to increase diagnostic sensitivity as well as providing further information about basic mechanisms in acute Guillain-Barre syndrome.

(6) Muscle fatigue study.

(7) Morphometric Analysis of lung cancer with respect to progression and prognosis.

(8) Determination of in vitro hormonal response to human carcinomas of breast and prostate.

Original application received by Commissioner of Customs: January 29, 1985.

Docket No. 84–294R. Applicant: University of Maryland, Baltimore, MD 21201. Instrument: Time-resolved Spectrofluorometer, Model 199S. Original notice of this resubmitted application was published in the Federal Register of October 5, 1984.

Docket No. 85–119. Applicant: Auburn University, Department of Chemical Engineering, 230 Ross Hall, Auburn, AL 36849. Instrument: Turbomolecular Pumps. Manufacturer: Leybold Heraeus GmbH and Company, West Germany. Intended use: Studies of surfaces, thin films, organic/inorganic compounds and absorbed gases. Speciments of particular interest include heterogeneous catalysts and multilayered thin films. The experiments to be conducted include: reaction of multicomponent thin films in selected gaseous atmospheres followed by surface characterization and depth profiling using secondary ion mass spectroscopy, electron energy loss spectroscopy, electron spectrosocopy for chemical analysis, and other available techniques. The primary educational function of the instrument will be in the training of M.S. and Ph.D. students during the course of their thesis research. Application received by Commissioner of Customs: March 15, 1985.

Docket No. 85–122. Applicant: David Taylor Naval Ship Research and Development Center, Annapolis, MD 21402–1198. Instrument: Electron Microscope, Model EM 420. Manufacturer: N.V. Philips, The Netherlands. Intended use: Studies of a variety of metals and alloys systems. Investigations will be conducted to evaluate new alloys and determine the effects of variations in the composition, manufacturing processes or environment on the various metals and alloys. Application received by Commissioner of Customs: March 15, 1985.

Docket No. 85–127. Applicant: Richard L. Roudebush VA Medical Center, 1481 West 10th Street, Indianapolis, IN 46202. Instrument: Electron Microscope, Model H–300 with Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use: The instrument will be used for experiments conducted to assess the effects of disease on the ultrastructural morphology of human and animal tissues for the purpose of discovering new medical knowledge consonant with the research programs of the Veterans Administration. Application received by Commissioner of Customs: March 13, 1985.

Docket No. 85–129. Applicant: Rensselaer Polytechnic Institute, Eight Street, Troy, NY 12180–3590. Instrument: Microscope Stage System. Manufacturer: Autoscan Systems Pty., Ltd., Australia. Intended use: Fission track analysis of several minerals to determine geological history. Application received by Commissioner of Customs: March 18, 1985.

Docket No. 85–130. Applicant: University of California, San Diego, Central Purchasing, Q–026, La Jolla, CA 92093. Instrument: Laser Doppler Flowmeter, Model Periflux. Manufacturer. PERIMED, K.B., Sweden. Intended use: Study of skin blood flow to develop diagnostic criteria for a variety of diseases e.g. Raynaud's syndrome, amputation level determination, diabetic vasomotor disturbances. A number of vasomotor responses will be studied to identify the potency of the cutaneous vascular bed as well as the responsiveness of the skin circulatory system to sympathomimetic stimuli. The instrument will also be used for laboratory training of undergraduate and graduate bioengineering students. The objective is to familiarize the students with the Doppler principal and modern non-invasive modalities to examine skin blood flow. Application received by Commissioner of Customs: March 18, 1985.

Docket No. 85–131. Applicant: Rutgers-The State University of New Jersey, Waksman Institute of Microbiology, P.O. Box 759, Piscataway, NJ 08854. Instrument: Refrigerated Microcentrifuge with Accessories. Manufacturer: Sigma Laborzentrifugen GmbH, West Germany. Intended Use: Research to determine if the genes of plastids are regulated by transcription, translation, at some other level or if it is unregulated. Application received by Commissioner of Customs: March 18, 1985.

Docket No. 85–132. Applicant: University of Colorado, Boulder, Department of Molecular, Cellular & Developmental Biology, Box 347, Boulder, CO 80309. Instrument: High Pressure Freezing Apparatus (Prototype). Manufacturer: Balzers AG, Switzerland. Intended use: Study of the basic organization of cells, and how cell architecture is changed by disease. Work will also include basic testing of the usefulness of the instrument for biological research, development of application procedures, and testing of design modifications. The instrument will also be used to train undergraduate and graduate students as well as postdoctoral fellows in the use of the most advanced techniques in structural

cell biology. Application received by Commissioner of Customs: March 18, 1985.

Docket No. 85–133. Applicant: Department of the Interior, U.S. Geological Survey, National Mapping Division, Box 25046, MS 509, Denver Federal Center, Denver, CO 80225. Instrument: Automatic Geodetic Level, Model NI 002 with Accessories. Manufacturer: aus JENA, East Germany. Intended use: Long-term monitoring designed to reveal crustal motion which may be detrimental to underground hazardous nuclear waste disposal sites and to support geologic and hydrologic investigations to suspected crustal movements, within the Long Valley Caldera, California. Application received by Commissioner of Customs: March 20, 1985.

Docket No. 85–135. Applicant: Montana State University, Bozeman, MT 59717. Instrument: Electron Microscope, Model EM 10 CA with Accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use: Studies of bacteria, fungi, viruses, and animal and plant tissues in a biomedical research project. Plant tissues, viruses, bacteria, and fungi will be studied in an agricultural research project. In addition, the instrument will be used for educational purposes in the courses "Biological Electron Microscopy" PLP 520 and "Plant Virology" PLP 530. Application received by Commissioner of Customs: March 20, 1985.

Docket No. 85–136. Applicant: National Institutes of Health, Building 36, Room 4A29, 9000 Rockville Pike, Bethesda, MD 20205. Instrument: Electron Microscope, Model EM 410 with Accessories. Manufacturer: N.V. Philips Electronic Instruments, The Netherlands. Intended use: Research on the cellular mechanisms of myelin formation, maintenance and breakdown in the nervous system of normal and diseased humans and experimental animals. The material to be studied includes myelinated tracts or nerves obtained surgically which may be frozen or chemically fixed, embedded and sectioned for electron microscopic examination. Application received by Commissioner of Customs: March 22, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–9470 Filed 4–18–85; 8:45 am]

BILLING CODE 3510-DS-M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee will be held May 7, 1985, at 11:30 p.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer peripherals, components and related test equipment or technology.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of the status on the technical data regulations.
4. Report of the Joint Technical Advisory Committee Meeting.
5. Report on membership by the Chairman.
6. Items for decontrol.
7. DOC response to the letter from the Committee to the Under Secretary for International Trade concerning CCL 1565.
8. Discussion of the proposed foreign availability regulations.

Executive Session

9. Discussions of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meeting of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, 6628, U.S. Department of Commerce, (202) 377–4217.

For further information or copies of the minutes contact Margaret A. Cornejo (202) 377–2583.

Dated: April 16, 1985.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85–9542 Filed 4–18–85; 8:45 am]

BILLING CODE 3510-DT-M

[C–351–020]

Non-Rubber Footwear From Brazil; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On March 9, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Brazil. The review covers the period December 7, 1979, through December 31, 1980.

We gave interested parties an opportunity to comment on the preliminary results. After review of all comments received, the Department has determined the net subsidy to be 11.03 percent *ad valorem* for the period December 7, 1979, through December 31, 1979, and 8.84 percent *ad valorem* for 1980.

EFFECTIVE DATE: April 19, 1985.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Peggy Clarke, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 9901) the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Brazil (39 FR 32903, September 12, 1974). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1983 ("the Tariff Act").

On June 2, 1983, the International Trade Commission ("the ITC") published its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of Brazilian non-rubber footwear if the order were revoked (48 FR 24796). Consequently, the Department published in the **Federal Register** (48 FR 28310, June 21, 1983) a revocation of the order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after October 29, 1981.

Scope of the Review

Imports covered by the review are shipments of Brazilian non-rubber footwear currently classifiable under Part 1A of Schedule 7 of the Tariff Schedules of the United States Annotated, excluding items 700.5100 through 700.5400, 700.5700 through 700.7100, and 700.9000. The preliminary results notice erroneously included items 700.5400 and 700.9000; these items are not within the scope of the order and are not covered by these final results.

The review covers the period December 7, 1979, through December 31, 1980, and twelve programs: (1) Preferential financing for exports through CECEX; (2) an income tax exemption for export earnings; (3) the export credit premium for the Goods Circulation Tax ("ICM"); (4) the export credit premium for the Industrial Products Tax ("IPI"); (5) tax reductions on equipment used in export production ("CIEX"); (6) preferential financing under CIC–CREGE 14–11; (7) incentives for trading companies (Resolution 643); (8) the Fundo de Democratizacao do Capital das Empresas; (9) fiscal benefits for special export programs ("BEFIEX"); (10) preferential financing for the storage of merchandise destined for export (Resolution 330); (11) Gold Draft of Exportation; and (12) preferential export financing under Resolution 68 ("FINEX").

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the petitioner, Footwear Industries of America, Inc., and from the Volume Footwear Retailers of America ("VFRA"), a group of importers.

Comment 1: The petitioner argues that the appropriate benchmark for short-term export financing is not the discount rate for sales of domestic cruzeiro-denominated accounts receivable, used by the Department in reaching its preliminary results, but rather the "Advance Over the Exchange Contract." In an advance over the exchange rate transaction, the exporter assigns its foreign account receivable to a Brazilian bank and receives the discounted dollar value of the export shipment in cruzeiros. The petitioner believes that these foreign currency transactions are the most common form for raising working capital for export financing and, therefore, should be the basis for the benchmark. The advance benchmark properly reflects the fact that common Brazilian commercial practice places the risk of depreciation of the cruzeiro against the foreign currency receivable on the borrower.

Department's Position: In choosing the benchmark for countervailable short-term loans, we seek instruments commonly used that are most similar to the loan we are countervailing. A borrower under Resolution 674 receives cruzeiros today and repays cruzeiros in the future. The discounting of cruzeiro-denominated accounts receivable is also an exchange of current cruzeiros for future cruzeiros. While a discount of dollars receivable can be converted into an exchange of current of cruzeiros for furture cruzeiros, something is added in the conversion, the exchange rate. Since exchange rates fluctuate, the cost of discounting dollars receivable must differ from the cost of discounting cruzeiros receivable. Therefore, discounting of dollar-denominated accounts receivable is not an appropriate benchmark for short-term cruzeiro-denominated loans.

Comment 2: The Petitoner argues that, even if the Department were to use the discount of cruzeiro-denominated accounts receivable as the commercial benchmark for short-term loans, the benchmark used in the preliminary calculations, was incorrect for three reasons: (1) The Department use the official rate established by the Banco do Brasil, which cannot be regarded as a commercial institution, rather than a weighted-average of the discount rates from banks other than the Banco do Brasil; (2) the Department calculated a simple annual rate rather than a compounded annual rate; and (3) the department did not consider the effect of compensating balances on the discount rate.

Department's Position: We agree that the rate offered by the Banco do Brasil alone does not accurately reflect the national average for discounting of cruzeiro accounts receivable. Rates established solely by banks other than Banco do Brasil also do not. We are therefore using a national average rate of both.

We agree that a simple annual rate for discounts of accounts receivable is inappropriate. We have now calculated our benchmark from the national average nominal rate for 30-day discounts of accounts receivable as found in *Analise/Business Trends*. From this rate, we then calculated the compounded annual commercial benchmark.

Concerning the argment that the Department must account for compensating balances in establishing the benchmark, Department officials met with representatives of four privately-owned Brazilian banks in connection with a recent verification concerning pig iron from Brazil. All of the bank representatives indicated that they do not uniformly require either compensating balances or minimum deposits. In many cases, the banks lend only to a few favored clients, and the banks do not require compensating balances since the clients maintain a sufficient volume of business overall. When such balances are required, the size and terms of the requirement may vary widely. Because the Department has no evidence of a uniform requirement for compensating balances nor a reliable measure of the extent to which compensating balances are actually used, we have decided not to use compensating balances in calculating our benchmark interest rate. (*see also*, our final affirmative countervailing duty determination on oil country tubular goods from Brazil, 49 FR 46570, November 27, 1984.)

For our preliminary results, we calculated the benefit from a loan by prorating the loan amount over the portion of the review period during which the loan was outstanding irrespective of the timing of the interest payment. We not believe that the benefit occurs when the cash flow effect occurs. For loans under Resolution 515, 602, 641 and 643, and for CIC–CREGE 14–11 loans, that effect occurred when the borrower made the preferential interest payments. We calculated the benefit based on the date of payment. We divided the total number of days the loan was outstanding by 365 days and applied the resulting ration to the interest differential (the difference between the annual commercial benchmark and the preferential interest rate at the time of drawdown). Then we multiple the result by the affected loan principal.

Based on our recalculations, we determine the benefit from Resolutions 514, 602 and 641 financing to be 10.20 percent *ad valorem* for the period December 7, 1979, through December 31, 1979, and 7.62 percent *ad valorem* for 1980; for CIC–CREGE 14–11, 0.35 percent *and valorem* for the period of review; and for Resolution 643, 0.02 percent *ad valorem* for the period of review.

Comment 3: The petitioner argues that, for the income tax exemption for export earnings, the Department should not reduce the benefit by the amount of potentially owed taxes that corporate taxpayers may direct into various specified investment funds.

Department Position: We agree and we have not made such a reduction.

Comment 4: The petitioner contends that the Department should assess a countervailing duty on exports during 1981 to compensate for the delay until 1982 of payment of the export tax offsetting the IPI credit premium. The petitioner has particular criticisms of our method of calculation of the benefit in other cases.

Department's Position: The petitioner's contentions are premature. The Department will address this issue in the next administrative review.

Comment 5: The petitioner argues that the Department should determine the extent to which the Brazilian government collected an additional offsetting export tax of 8 percent. This tax was allegedly imposed by the Brazilian government on July 26, 1982, on exports of non-rubber footware to the United States to offset the remaining potential subsidy calculated by the Department.

Department's Position: The issue is irrelevant. The Department revoked the order effective October 29, 1981, on the basis of the ITC's negative determination under section 104(b) of the Trade Agreements Act of 1979 (the "TAA") (48 FR 28310, June 21, 1983). Even so, the Department has verified that the Brazilian government collected the export tax.

Comment 6: VFRA argues that the results of section 751 reviews of countervailing duty orders issued under section 303 of the Tariff Act are to be applied prospectively. There is no authority in the law permitting suspension of liquidation pending the completion of administrative reviews or the retroactive assessment of countervailing duties. VFRA cites the decision of *Florsheim Shoe Company* v. *United States*, 577 F. Supp. 196 (Ct. Int'l Trade 1983), as support for its position.

Department's Position: In *Ambassador Division of Florsheim Shoe* v. *United States*, Appeal No. 84–819 (Fed. Cir. Nov. 19, 1984), the Court of Appeals for the Federal Circuit (the "CAFC") reversed the CIT decision. The CAFC ruled that the ITA has the authority to suspend liquidation of entries and to retroactively assess duties on those entries based on a section 751 review.

Comment 7: VFRA states that, even if the law permits suspension of liquidation pending completion of reviews, it does not authorize continued suspension if the Department fails to complete a review by the time limits set forth in section 751 of the Tariff Act. Since the Department did not complete its administrative review by the anniversary date of the order, entries made during the review period should automatically be liquidated in accordance with section 504(a) of the Tariff Act.

Department's Position: In *Florsheim Shoe, supra*, the CAFC concluded that the statutory scheme permits suspension of liquidation of entries and the later assessment of duties on those entries based on a section 751(a) review. It does not follow that, if the ITA does not complete the review within the time specified by section 751(a), the ITA may never complete the review and never order assessment of any countervailing duties on the merchandise covered by that 751 review. No provision of the Tariff Act specifies a consequence for failure to complete a review within the 12-month period beginning on the anniversary of the date of publication of an outstanding countervailing duty order specified in section 751(a). The statutory period referred to in section 751(a) for conducting a periodic review is merely directory, not mandatory (see *Alberta Gas Chemicals, Inc.* v. *Unites States*, 1 CIT 312, 315–316, 515 F. Supp. 780, 785 (1981), and the cases there cited).

Comment 8: VFRA claims that section 104(b)(4)(B) of the TAA refers to *any* countervailing duties collected since the TAA became effective. VFRA argues that the revocation of the order should apply to entries made since January 1, 1980 (not just those since the date of ITC notification to the Department of the section 104(b) injury request, *i.e.*, October 29, 1981) and that all estimated countervailing duties collected since the earlier date should be refunded without interest.

Department's Position: We do not agree. Under the transition provisions of the TAA, section 104(b) provides that revocations resulting from negative injury determinations apply retroactively to the date of the ITC's notification to the administering authority. The law is explicit in its instruction concerning this issue and we have followed that practice in all revocations under section 104(b) by the Department.

Final Results of the Review

Based on our analysis of the comments received and our recalculation of the benefits from the preferential financing programs, we determine the aggregate net subsidy to be 11.03 percent for the period December 7, 1979, through December 31, 1979, and 8.84 percent for the period January 1, 1980, through December 31, 1980. Accordingly, the Department will instruct the Customs Service to assess countervailing duties of 11.03 percent of the f.o.b. invoice price on all shipments of Brazilian non-rubber footwear exported on or after December 7, 1979, and on or before December 31, 1979. The Department will instruct the Customs Service to assess countervailing duties of 8.84 percent of the f.o.b. invoice price on all shipments exported on or after January 1, 1980, and on or before December 31, 1980.

All unliquidated entries of this merchandise that were exported from Brazil before December 7, 1979, shall be liquidated at the applicable rates set forth in **Federal Register** notices dated May 17, 1979 (44 FR 28791), July 3, 1979 (44 FR 38839), September 28, 1979 (44 FR 55825) and February 26, 1980 (45 FR 12413).

The Department still must review the period January 1, 1981, through October 28, 1981, and is immediately beginning that review. The Department encourages interested parties to review the public record and submit applications for protective order, if desired, within ten days of the date of publication of this notice.

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 § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: April 14, 1985.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 85–9537 Filed 4–18–85; 8:45 am]

BILLING CODE 3510-DS-M

Technical Regulations Subcommittee of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Technical Regulations Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held May 7, 1985, at 9:00 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue NW., Washington, D.C. The Technical Regulations Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

General Session

1. Opening remarks by the Subcommittee Chairman.

2. Presentation of papers or comments by the public.

3. Review of Committee Chairman's letter to the Under Secretary for International Trade concerning CCL

1565 proposed revisions (embedded and incorporated).

4. Secretary Baldrige comments on decontrol—a focus for our Committee: What do these remarks mean? (General Discussion)

5. Foreign availability and areas where decontrol is obvious.

6. Magnetic media—where does hardware capacity obviate decontrol of media for example, personal computers and 5¼" floppy discs.

7. Recommendations for specific commodities for decontrol. What are the mechanics to accomplish this?

8. Action items underway.

9. Action items due at next meeting.

Executive Session

10. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department to Commerce, Telephone: 202–377–4217. For further information or copies of the minutes contact Margaret A. Cornejo, (202) 377–2583.

Dated: April 16, 1985.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85–9543 Filed 4–18–85; 8:45 am]

BILLING CODE 3510–DT–M

National Bureau of Standards

[Docket No. 41044–4144]

Proposed Federal Information Processing Standard; Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS)

Correction

In FR Doc. 85–8541, beginning on page 14128 in the issue of Wednesday, April 10, 1985, make the following corrections.

On page 14129, first column:

1. In the eighth line from the bottom of the page, "could" should have read "would".

2. In the fifteenth line from the bottom of the page, "X3.100–1983" should have read "X3.110–1983".

BILLING CODE 1505–01–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Permit Review Committee will meet May 1, 1985, at 1:30 p.m. in Room 337 in the Federal Building in Juneau, AK. They will discuss the types of conditions and restrictions that should be placed on joint ventures and foreign fishing permit applications, and review the Council's Interim Policy on Joint Ventures and Allocations.

Dated: April 15, 1985.

Richard B. Roe,

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

[FR Doc. 85–9489 Filed 4–18–85; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Import Restraint Level for Certain Cotton Textile Products Produced or Manufactured in Bangladesh

April 15, 1985.

On February 26, 1985, a notice was published in the **Federal Register** (50 FR 7811) announcing that, on January 29, 1985, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, had requested the Government of Bangladesh to enter into consultations concerning exports to the United States of men's and boys' other cotton coats in Category 334, produced or manufactured in Bangladesh.

The United States Government has decided, inasmuch as consultations with the Government of Bangladesh held April 2–5, 1985 failed to reach a mutually satisfactory solution concerning this category, to control imports of cotton textile products in Category 334, produced or manufactured in Bangladesh and exported during the twelve-month period which began on Janaury 29, 1985 and extends through January 28, 1986 at a level of 31,068 dozen.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 334 exported during the twelve-month period which began on January 29, 1985, in excess of the designated level of restraint.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Effective Date: April 19, 1985.

For Further Information Contact: Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

April 15, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles; done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; and in accordance with the provision of Executive Order 11651 of March 3, 1972, as amended, you are directed effective on April 19, 1985, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 334,

produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 29, 1985, in excess of 31,068 dozen.[1]

Textile products in Category 334 which have been exported to the United States prior to January 29, 1985 shall not be subject to this directive.

Textile products in Category 334 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this actions falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-9468 Filed 4-18-85; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Consultations With the Government of the People's Republic of China Concerning Category 359pt. (Infants' Sets)

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 19, 1985. For further information contact Diana Solkoff, International Trade Specialist (202) 377-4212.

Background

On March 29, 1985, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983 between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of infants' sets in Category 359pt. (only TSUSA numbers 383.0339, 383.0341, 383.0342, 383.0344, 383.0856, 383.0857, 383.0858, 383.0859, 383.0861, 383.3045, 383.3046, 383.3047, 383.3048, 383.5062, 383.5063, 383.5067, 383.5069 and 383.5072, produced or manufactured in China and exported to the United States. A summary market disruption statement concerning this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Anyone wishing to comment or provide data or information regarding the treatment of this category under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Pursuant to the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of this product during the ninety-day period which began on March 29, 1985 and extends through June 26, 1985 to 351,541 pounds.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-months following the ninety-day consultation period to 1,112,732 pounds (June 27, 1985–June 26, 1986).

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Category 359pt., exported during the ninety-day period at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

In the event the limit established for Category 359pt. for the ninety-day period is exceeded, such excess amounts, if allowed to enter at the end of the restraint period, shall be charged to the level (described above), defined in the agreement for the subsequent twelve-month period.

SUPPLEMENTARY INFORMATION: On December 28, 1984 a letter to the Commissioner of Customs was published in the **Federal Register** (49 FR 50432) from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain categories of cotton, wool and man-make fiber textile products, produced or manufactured in the People's Republic of China and exported during 1985. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Category 359pt. which is not subject to a specific ceiling and for which a level may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of apparel products in Category 359pt., produced or manufactured in the People's Republic of China and exported during the

[1] The level of restraint has not been adjusted to reflect any imports exported after January 28, 1985.

indicated ninety-day period, in excess of the designated level.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

China—Market Statement

Category 359 Pt.—Infant's Sets Up to and Including 24 Months

March 1985.

Summary and Conclusions

United States imports of Category 359 infant's sets from China increased from 298,000 pounds in 1982 to 344,000 in 1983 and to 963,000 pounds in 1984. Imports from China in 1984 were up 180 percent from the same period in 1983. China is the third largest supplier of these sets, accounting for 11 percent of the total imports.

The substantial increase in imports of Category 359 infants' sets from China was a major factor in the disruption occurring in the U.S. market for these items. Continuation of the increases in imports threaten to increase the market disruption.

The U.S. industry producing these infants' sets is highly fragmented with three largest firms accounting for only about 15 percent of total production. These three major manufacturers report substantial unit declines in production due to increased imports. Their representatives report that the smaller firms are experiencing production declines equal or more serious than those experienced by the three major firms.

The market disruption for Category 359 infants' sets which has occurred for several years intensified in 1984 as imports surged. Over the years, production declined, imports increased, and the domestic producer's share of the market decreased. In 1983, the domestic share was 60.5 percent, down from 67.0 in 1981. It is anticipated that the 1984 share will decline to 44.0 percent. This decline is based on a projection that the market will increase by 2 percent and on 1984 imports and assuming no change in inventories.

U.S. Production

Production of Category 359 infants' sets declined from 2,569,000 dozens in 1981 to 2,469,000 dozen in 1983. With an anticipated market growth of two percent, domestic production likely totaled only 1,831,000 dozens in 1984.

U.S. Imports and Import Ratios

Imports increased from 1,264,000 dozens (4.3 million pounds) in 1981 to 1,610,000 dozens (5.5 million pounds) in 1983. Imports in 1984 were 2,330,000 dozens (8.6 million pounds). Imports were equal to 49.2 percent of the 1982 production, 65.2 percent of the 1983 production, and an estimated 127.3 percent in 1984.

During 1984, 47 percent of the Category 359 infants' sets imports from China entered under TSUSA No. 383.3060 and 46 percent under TSUSA No. 383.5075. These imports were valued well below the U.S. producer prices for comparable garments.

April 15, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 19, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 359 pt.[1] produced or manufactured in the People's Republic of China and exported during the ninety-day period which began March 29, 1985 and extends through June 26, 1985, in excess of 351,541 pounds.[2]

Textile products in Category 359pt.[1] which have been exported to the United States prior to the first day of the indicated ninety-day period shall not be subject to this directive.

Textile products in Category 359pt.[1] which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-9469 Filed 4-18-85; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 359, only TSUSA numbers 383.0339, 383.0341, 383.0342, 383.0344, 383.0856, 383.0857, 383.0858, 383.0859, 383.0861, 383.3045, 383.3046, 383.3047, 383.3048, 383.5062, 383.5063, 383.5067, 383.5069 and 383.5072.

[2] The level has not been adjusted to reflect any imports exported after March 28, 1985.

DEPARTMENT OF DEFENSE

Office of the Secretary

Annual Review of the Manual for Courts-Martial

SUMMARY: The Department of Defense is considering recommending changes to the Manual for Courts-Martial, Exec. Order No. 12473, as amended by EO 12484. The proposed changes are part of the annual review required by the Manual for Courts-Martial and DoD Directive 5500.17, "Review of the Manual for Courts-Martial," January 23, 1985. The proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, "Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and Comments Thereon," May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other government agency.

The proposed changes include modifications to the Rules for Courts-Martial relating to the competency of an accused to stand trial, the defenses of lack of mental responsibility and partial mental responsibility, speedy trial, punitive separations prescribed for noncommissioned warrant officers, advice concerning post-trial and appellate rights, and instructions regarding lesser included offenses which are barred by the statute of limitations. They also include modifications to the Military Rules of Evidence relating to confessions and admissions, searches and seizures, and admissibility of expert testimony with respect to the mental state or condition of an accused.

This notice is provided in accordance with DoD Directive 5500.17, "Review of the Manual for Courts-Martial," January 23, 1985. It is intended only to improve the internal management of the federal government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

ADDRESS: Copies of the proposed changes, and the accompanying Discussion and Analysis, may be examined at the Military Law Branch, Room 1004, Federal Building No. 2 (Navy Annex), Judge Advocate Division, Headquarters, United Sates Marine Corps, Washington, D.C. A copy of the proposed changes and accompanying Discussion and Analysis may be obtained by mail upon request from the following address: Headquarters, U.S. Marine Corps (JAM), Washington, D.C. 20380–0001, Attn: Major D.P. O'Neil.

DATE: Comments on the proposed changes must be received not later than July 3, 1985 for consideration by the Joint-Service Committee on Military Justice.

FOR FURTHER INFORMATION CONTACT: Major D.P. O'Neil, (202) 694–4197.

Dated: April 15, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85–9557 Filed 4–18–85; 8:45 am]

BILLING CODE 3810–01–M

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATES: June 10, 1985, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Bolling AFB, D.C.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Space Based Collection and Reconnaissance.

Dated: April 16, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85–9556 Filed 4–18–85; 8:45 am]

BILLING CODE 3810–01–M

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that closed meetings of a panel of the DIA Scientific Advisory Committee have been scheduled as follows:

DATES: May 16, and June 13, 1985, 9:00 a.m. to 5:00 p.m..

ADDRESS: The DIAC, Bolling AFB, D.C.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meetings are devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Advanced Air Defense.

Dated: April 16, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85–9555 Filed 4–18–85; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

Chief of Naval Operations; Executive Panel Advisory Committee; Anti-Submarine Warfare Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Anti-Submarine Warfare Task Force will meet May 9, 1985, from 9 a.m. to 5 p.m., at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to evaluate U.S. Navy anti-submarine warfare long term strategies. The entire agenda for the meeting will consist of discussions of key issues related to anti-submarine warfare and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756–1205.

Dated: April 16, 1985.

William F. Ross, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85–9520 Filed 4–18–85; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee Panel or Joint C^3 Interoperability will meet on May 6–8, 1985, at the Headquarters of USCINCEUR, Vaihingen, Germany; CINCUSAREUR, Heidleberg, Germany; and CINCUSAFE, Ramstein, Germany. The agenda will include operation briefings from these U.S. Commands on their respective command and control systems, requirements, and infrastructure capability. Each session will commence at 8:30 A.M. and terminate at 4:30 P.M. daily on May 6, 7, and 8, 1985. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to examine the quality of joint command and control systems and assess future requirements and infrastructure capability. The entire meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M.B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696–4870.

Dated: April 16, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85–9518 Filed 4–18–85; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committeee Act (5 U.S.C. app.), notice is hereby given that the David W. Taylor Naval Ship Research and Development Center (DTNSRDC) Review Team of the Naval Research Advisory Committee Panel on Laboratory Oversight will meet on May 7, 1985, at the David W. Taylor Naval Ship Research and Development Center, Carderock, Maryland. The first and only session of the meeting will commence at 8:30 a.m. and terminate at 5:00 p.m. on May 7. This meeting session will be closed to the public.

The purpose of the meeting is to examine the scientific, technical, and engineering health of DTNSRDC. The agenda for the meeting will consist of technical briefing by the Review Team to the DTNSRDC management and discussion among the Review Team members to begin consolidating a draft report. The entire meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting contact: Commander M.B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: April 8, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85–9519 Filed 4–18–85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Intent To Grant Exclusive Patent License; Acctek Associates Inc.

Notice is hereby given of an intent to grant to Acctek Associates Inc. of La Grange, Illinois, an exclusive license to practice in the United States the invention described in U.S. Patent No. 3,986,026, entitled "Apparatus for Proton Radiography." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Department will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, D.C. on April 10, 1985.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 85–9490 Filed 4–18–85; 8:45 am]

BILLING CODE 6450-01-M

Intent To Grant Exclusive Patent License; ETS Inc.

Notice is hereby given of an intent to grant to ETS Inc. of Roanoke, Virginia, an exclusive license to practice in the United States the invention described in U.S. Patent No. 3,976,747, entitled "Modified Dry Limestone Process for Control of Sulfur Dioxide Emissions." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Department will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, D.C. on April 10, 1985.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 85–9491 Filed 4–18–85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 85–10–NG]

Czar Resources Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Application for Authorization to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 8, 1985, of an application filed by Czar Resources Inc. (Czar Inc.) to import on a best-efforts, interruptible basis, up to 5,800 Mcf per day of Canadian natural gas from Czar Resources Ltd. (Czar Ltd.) for resale to the Weyerhaeuser Company (Weyerhaeuser). The maximum volume sought to be imported is 3.4 Bcf over a period of two years beginning on the date of first delivery. During the initial three-month term, the price of the gas at the international border would be $2.75 (U.S.) per MMBtu; $3.70 (U.S.) delivered to Weyerhaeuser. Thereafter, the proposed contract would permit pricing adjustments on a quarterly basis to reflect prevailing market conditions.

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act. Protests or petitions to intervene are invited.

DATES: Protests, motions to intervene or notices to intervene, as applicable, and written comments are to be filed no later than 4:30 p.m., May 20, 1985.

FOR FURTHER INFORMATION CONTACT:

Olga T. Ronkovich (Natural Gas Division, Office of Fuels Programs),

Economic Regulatory Administration, Forrestal Building, Room GA–007, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9482

Diane J. Stubbs (Office of General Counsel, Natural Gas and Mineral Leasing), Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, D.C 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: On April 8, 1985, Czar Inc. filed an application to import from Czar Ltd. on an interruptible, best-efforts basis, up to 5,800 Mcf per day of Canadian natural gas for resale to Weyerhaeuser. Czar Inc. is a wholly owned U.S. subsidiary of Czar Ltd., a Canadian-based natural gas producer. The maximum volume sought to be imported is 3.4 Bcf over a period of two years beginning on the date of first delivery at an average daily rate of 4,600 Mcf per day. Following the initial two-year term, the arrangement is to continue on a month-to-month basis until terminated by any party or until a maximum of 3.4 Bcf of gas has been delivered, whichever occurs first. The imported gas is intended to displace No. 6 fuel oil used a Weyerhaeuser's Longview, Washington, fiber manufacturing facility.

In accordance with the draft sales contract dated April 1, 1985, the gas would enter the U.S. at a point near Dumas, Washington, where the existing pipeline facilities of Westcoast Transmission Company Limited interconnect with those of Northwest Pipeline Corporation (Northwest). Northwest would then transport the gas to the facilities of Cascade Natural Gas Corporation which would complete delivery to the Longview facility. At this time, no final transportation agreements have been reached by the parties.

The sales contract provides that, during the first three months, the price Czar Inc. would pay Czar Ltd. for the gas is $2.75 (U.S.) per MMBtu. The delivered cost to Weyerhaeuser during that period would be $3.70 (U.S.) per MMBtu. Thereafter, price redeterminations may be made quarterly, subject to mutual agreement, to reflect prevailing market conditions. Any party may terminate the arrangement if agreement on an acceptable import or delivered price cannot be reached. In the absence of a minimum purchase obligation or take-or-pay requirement, Weyerhaeuser has agreed that all of the natural gas needed for fuel oil displacement at its facility would be supplied by Czar Ltd., provided the volumes requested can be delivered and the price is competitive. Under the contract Weyerhaeuser is entitled to determine, at its sole discretion, the amount of gas required daily for its facility on the basis of operating, economic, or any other consideration.

In support of the application, Czar Inc. asserts that the imported gas would provide Weyerhaeuser with a cost-effective means of improving the manufacturing facility's operating economics because the offered gas supply can be delivered at a significant saving over Weyerhaeuser's cost for No. 6 fuel oil of approximately $4.25 (U. S.) per MMBtu. According to the applicant, the import is in the public interest because it would (1) provide an environmental advantage compared to burning fuel oil; (2) reduce or eliminate Weyerhaeuser's requirement for fuel oil, thus freeing that oil for use by other domestic purchasers; (3) reduce reliance on imported foreign crude oil; (4) serve an incremental market which the existing transmission and distribution systems have not been able to serve under similar competitive conditions; and (5) increase revenues for the transporting pipelines which will benefit their residential and industrial customers.

The decision on this application will be made consistent with the Department of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest. Parties who may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written coments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received by persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–033, RG–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m., May 20, 1985.

A decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues.

A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comment should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed.

Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the factds.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Czar Inc.'s application is available for inspection and copying in the Natural Gas Division Docket Room, GA–033–B, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on April 15, 1985.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85–9493 Filed 4–18–85; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Proposed Form EIA–846, Manufacturing Energy Consumption Survey

AGENCY: Office of Energy Markets and End Use, Energy Information Administration, DOE.

ACTION: Extension of date for receipt of written comments, rescheduling of public hearings, and corrections to original notice.

SUMMARY: The Department of Energy recently published a notice (50 FR 11486, March 21, 1985) of public hearings and requests for comments on the proposed Form EIA–846, Manufacturing Energy Consumption Survey. Notice is hereby given that the period for receiving written comments on the questionnaire has been extended from 30 days after publication of the original notice (March 21, 1985) to 45 days after publication. The public hearings are rescheduled as follows: Washington, DC, May 6, 1985; Denver, Colorado, May 9, 1985. The location and time of the public hearings are unchanged from the original notice.

In addition, the following corrections to the original notice should be incorporated:

- Page 11487, second column, Question J, change "IEA to EIA."
- Page 11488, first column, ITEM 4, change "Item 2" to "Item 3."
- Page 11488, first column, add the following general instruction:

"G. When is the report due? The completed Form EIA–846 is due 60 days after receipt."

For further information, contact John L. Preston, Energy End Use Division, Office of Energy Markets and End Use, (202) 252–1128.

Issued in Washington, DC, April 15, 1985.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 85–9487 Filed 4–18–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. GP85–22–000]

Natural Gas Policy Act Jurisdictional Determinations; Colorado; Petition To Reopen and Vacate Final Well Category Determinations and Request To Withdraw

April 16, 1985.

In the matter of State of Colorado; Section 107 NGPA Determinations; Amoco Production Co., State of Colorado "Z" No. 1 Well, FERC JD No. 84–38919, UPRR 41 Pan Am "A" No. 1 Well, FERC JD No. 84–16312.

On February 11, 1985, Amoco Production Company (Amoco) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and vacate and a request to withdraw its applications for final well category determinations that natural gas from the State of Colorado "Z" No. 1 Well and the UPRR 41 Pan Am "A" No. 1 Well, both located in Weld County, Colorado, qualify as tight formation gas under section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA).[1] These determinations by the Colorado Oil and Gas Conservation Commission became final with respect to the State of Colorado "Z" No. 1 Well and the UPRR 41 Pan Am "A" No. 1 Well on August 5, 1984 and February 27, 1984, respectively.[2]

Amoco states that it made NGPA section 107 filings because it inadvertently failed to consult the appendix of an Errata Notice, pertaining to Commission Order No. 124, which showed that the two captioned wells were excluded from the Wattenberg "J" Sand tight formation, notwithstanding the State of Colorado's original recommendation that the captioned wells be included within the aforesaid tight sand formation. Also Amoco states that it has not collected, with respect to the two captioned wells, the maximum lawful price permitted for tight formation gas.

Although Amoco states that refunds will not be required for the subject wells, the Commission gives notice that the question of whether refunds plus interest as computed under § 154.102(c) will be required is a matter which is subject to the review and final determination of the Commission.

Within 30 days of publication in the **Federal Register**, any person may file a protest to Amoco's petition or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. If you wish to become a party to this proceeding, you must file a petition to intervene. *See* Rules 214 or 211.[3]

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–9465 Filed 4–18–85; 8:45 am]

BILLING CODE 6717–01–M

[1] 15 U.S.C. 3301–3432 (1982).

[2] NGPA section 503(d) and 18 CFR 275.202(a).

[3] 18 CFR 385.214 or 385.211 (1983).

[Project No. 8053–001]

City of Newaygo, MI; Surrender of Preliminary Permit

April 16, 1985.

Take notice that the City of Newaygo, Michigan, Permittee for the proposed Newaygo Hydro Project No. 8053, requested by letter dated March 4, 1985, that its preliminary permit be terminated. The preliminary permit was issued on August 20, 1984, and would have expired on January 31, 1986. The project would have been located on the Muskegon River in Newaygo County, Michigan.

The Permittee filed the request on March 20, 1985, and the preliminary permit for Project No. 8053 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. 85–9463 Filed 4–18–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. SA85–21–000, ST81–258–001, ST81–437–001, ST82–127–001, ST83–134–001, ST84–81–000, ST84–431–000]

Liberty Natural Gas Co.; Petition for Adjustment

April 16, 1985.

On March 26, 1985, Liberty Natural Gas Company (Liberty) filed with the Federal Energy Regulatory Commission a petition for an adjustment under section 502(c) of the Natural Gas Policy Act, wherein Liberty sought relief from the Commission's regulations governing rates for the transportation of gas by intrastate pipelines as set forth in 18 CFR 284.123(b)(2). Liberty seeks such an adjustment to permit Liberty to use an existing rate charged to Intratex Gas Company for intrastate transportation service, which rate is on file with the Railroad Commission of Texas. Liberty proposes to charge this rate for transportation service rendered to Tennessee Gas Pipeline Company, United Gas Pipe Line Company, Transcontinental Gas Pipe Line Corporation, Transwestern Pipeline Company, Neches Gas Distribution Company, and Industrial Natural Gas Company through Liberty's Linc System facilities in Loving and Ward Counties.

Texas pursuant to section 311(a) of the NGPA. Liberty's application is on file with the Commission and is available for public inspection.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding shall file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-9464 Filed 4-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-61-000]

State of Texas NGPA Section 108 Determination, Sun Exploration and Production Co.; Frost National Bank-C-No. 2U FERC JD No. 82-28865; Petition To Reopen Final Determination and Request To Withdraw

Issued April 16, 1985.

On September 18, 1983, Sun Exploration and Production Company (Sun) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a final well category determination that natural gas from the Frost National Bank-C-No. 2U Well, located in the Cortez Field, Starr County, Texas, qualifies as stripper well natural gas under section 108 of the Natural Gas Policy Act of 1978 (NGPA).[1] The affirmative determination was made by the Railroad Commission of the State of Texas.

Although Sun gave no reason for its petition to reopen and its request to withdraw the subject well, it is assumed that the subject well does not meet the section 118 stripper well natural gas requirements.

Within thirty days of publication in the **Federal Register,** any person may file a protest to Sun's petition or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. If you wish to become a party to this proceeding, you must file a petition to intervene. See Rules 214 or 211.[2]

Kenneth F. Plumb,

Secretary

[FR Doc. 85-9466 Filed 4-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-386-000, et. al.]

Northwest Central Pipeline Corporation et al.; Natural Gas Certificate Filings

April 12, 1985.

Take notice that the following filings have been made with the Commission:

1. Northwest Central Pipeline Corporation

[Docket No. CP85-386-000]

Take notice that on March 25, 1985, Northwest Central Pipeline Corporation (Applicant), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP85-386-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a pipeline tap, measuring station, regulator and appurtenant facilities and a sale of gas to Public Service Company of Colorado for resale in and about the City of Merino, Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed tap, measuring station, regulator and appurtenant facilities would cost approximately $43,110, which would be paid from treasury cash. Applicant further estimates that the gas required for the first three years of operation would be 15,554 Mcf, 17,604 Mcf and 20,161 Mcf, respectively. Applicant states that such sale would not significantly affect its overall gas supply and that the proposed sale would not adversely affect any of its existing customers.

Comment date: May 3, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP85-384-000]

Take notice that on March 25, 1985, Arkla Energy Resources, a division of Arkla, Inc. (AER), P.O. Box 21734 Shreveport, Louisiana 71151, filed in Docket No. CP85-384-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and related metering and regulating facilities in Texarkana, Texas-Arkansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

AER proposes to construct and operate 29 miles of 12-inch pipeline along with related metering and regulating facilities in order to ensure an adequate gas supply to the Arkansas Louisiana Gas Company division (ALG) which serves the Taxarkana metropolitan area located on the state line in northeast Texas and southwest Arkansas, and also to permit service to two of AER's new industrial customers in the surrounding area. More specifically, AER proposes to

1. Transfer from distribution investment to transmission investment 3,076 feet of 10¾ inch O.D. pipeline, originating at Nash Town Border Station, Bowie County, Texas. This transfer would permit AER to integrate better the operation of those facilities servicing ALG's Taxarkana town borders into AER's redesigned Taxarkana supply system, it is explained.

2. Construct 19.5 miles of 12-inch new pipeline from the existing Line LT-1 to the junction of Line A and Lines AM-45 and AM-129 located in Miller and Lafayette Counties, Arkansas.

3. Construct a west loop pipeline around the west side of Taxarkan a from near the #1 town border station to the town of Nash. This west loop line would be 9.5 miles of 12-inch pipeline located in Miller County in Arkansas and Bowie County in Texas.

4. Upgrade the pressure rating of Line AM-45 in Miller County, Arkansas, by performing hydrostatic pressure tests. AER proposed to increase the operating pressure rating from the existing 300 psig to about 500 psig, maximum allowable operating pressure.

5. Upgrade the existing pressure rating of 12¾ inch Line LT-1 in Columbia and Lafayette Counties, Arkansas, by performing hydrostatic pressure tests to 800 psig maximum allowable operating pressure.

6. Install metering and regulating facilities at six locations.

AER estimates the cost of the proposed facilities to be $8,524,931, which would be financed initially out of funds on hand and short-term financing and then converted to long-term financing at a later date.

Comment date: May 3, 1985, in accordance with Standard Paragraph F at the end of this notice.

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[1] 15 U.S.C. 3301-3432 (1982).

[2] 18 CFR 385.214 or 385.211 (1983).

3. Transcontinental Gas Pipe Line Corporation

[Docket No. CP79-230-005]

Take notice that on March 12, 1985, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP79-230-005, a petition to amend the order issued June 7, 1979, in Docket No. CP79-230, as amended pursuant to section 7(c) of the Natural Gas Act so as to authorize the establishment of additional delivery points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Transco states that it transports for El paso Natural gas Company (El Paso) quantities of natural gas up to a contract demand quantity of 54,600 Mcf per day. It is explained that the gas which El Paso purchases in various blocks in the High Island area, offshore Texas, is received by Transco at the point of interconnection of its Southwest Louisiana Gathering System and the tailgate of the separation plant of U-T Offshore System at Johnson's Bayou, Cameron Parish, Louisiana. Transco states that it delivers or causes to be delivered, on a firm basis, thermally equivalent quantities, less quantities retained for compressor fuel and line loss make-up and less adjustments for variations in thermal content, if any, to Houston Pipeline Company (HPL) and/or for HPL's affiliate, Oasis Pipe Line Company, at (1) the existing point of interconnection between the facilities to Transco and the katy plant of Exxon Company, U.S.A., in Waller County, Texas (Katy delivery point), (2) the existing point of interconnection between the facilities of HPL and Transco near Fulshear, Fort Bend County, Texas (Fulshear delivery point), and (3) the existing point of interconnection between the facilities of HPL and Transco near Bammel, Harris County, Texas (Bammel delivery point).

Transco states that by amendatory agreement dated August 28, 1984, new points of delivery to or for the account of El Paso have been added at (1) the existing interconnection between the facilities of Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), and Transco at Starks, Calcasieu Parish, Louisiana (Starks delivery point), (2) the existing interconnection between the facilities of Florida Gas Transmission Company and Transco near Vinton, Calcasieu Parish, Louisiana (Vinton delivery point), and (3) the existing interconnection between the facilities of Louisiana Resources Company and Transco at Transco's Johnson's Bayou plant, Cameron Parish, Louisiana (Johnson's Bayou delivery point). Transco states further that deliveries to the Starks, Vinton and Johnson's Bayou delivery points would be made on an interruptible basis upon mutual agreement of the parties and that Transco would continue to deliver gas on a firm basis at the Katy, Fulshear and Bammel delivery points.

It is further stated that Transco would charge El Paso a monthly demand charge of $78,624.00 for the delivery to any of the delivery points of quantities of gas within El Paso's contract demand quantity of 54,600 Mcf per day, the demand charge provided in Transco's FERC Rate Schedule X-198. It is explained that for quantities of gas delivered to any delivery point which exceed the contract demand quantity, Transco would initially charge El Paso a rate of 4.7 cents per dt equivalent. It is asserted that such rate is based on a rate of 2.8 cents per dt per 25 miles with a minimum charge of 5.6 cents per dt pursuant to Transco's July 31, 1984, filing in Docket No. RP83-30. Transco states that such rate has been reduced to reflect the one-third conversion to a fully rolled-in rate for agreements executed prior to October 31, 1983, pursuant to the Commission's letter order dated April 5, 1984, approving the interim settlement agreement in Docket No. RP83-30. It is explained that such rate is subject to refund pending the outcome in Docket No. RP83-30 and that for all quantities of gas which Transco transports for El Paso, 0.6 percent would be retained for compressor fuel and line loss make-up.

Comment date: May 3, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motin to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear of be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-9467 Filed 4-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-421-000, et al.]

Electric Rate and Corporate Regulation Filings; Southern California Edison Co. et al.

April 16, 1985.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Company

[Docket No. ER85-421-000]

Take notice that on April 9, 1985, Southern California Edison Company (Edison) tendered for filing a notice of change of rates for transmission service as embodied in Edison's agreements with the following entities:

	Rate schedules FERC No.
Contract Rate TN	FPC Electric Tariff, Original Volume No. 1.
City of Riverside	165.
City of Anaheim	164.

The rate changes are proposed to become effective on minimum statutory notice, i.e., 60 days after receipt for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Company

[Docket No. ER85-418-000]

Take notice that on April 8, 1985, Florida Power & Light Company (FP&L) tendered for filing a document entitled "Amendment Number One to Contract for Interchange Service Between FP&L and Orlando Utilities Commission."

FP&L states that under the Amendment FP&L and Orlando Utilities Commission (OUC) utilize the provisions of the existing Contract for Interchange Service between FP&L and OUC, the parties to establish additional service schedules. FP&L further states that the additional Service Schedule X provides the parties with the necessary vehicle to better maximize the overall economy of power production in the State of Florida.

FP&L requests waiver of the Commission's notice requirements to allow the proposed Amendment be made effective no later than 60 days from the date of filing.

According to FP&L, a copy of this filing was served upon Orlando Utilities Commission.

Comment date: April 30, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Tucson Electric Power Company

[Docket No. ER85-419-000]

Take notice that on April 9, 1985, Tucson Electric Power Company (Tucson) tendered for filing a letter agreement supplementing Service Schedule B of the Tucson—M-S-R Interconnection Agreement between Tucson and M-S-R Public Power Agency ("M-S-R"). The primary purpose of this letter agreement is to clarify certain understandings between Tucson and M-S-R in connection with Tucson's sale of its ownership interest in Springerville Generating Station Unit 1 and San Juan Unit 3 to Alamito Company and how such sale will affect the arrangement under which Tucson provides M-S-R with coal-fired energy costs.

Comment date: May 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Tampa Electric Company:

[Docket No. ER84-422-000]

Take notice that on April 9, 1985, Tampa Electric Company (Tampa) tendered for filing an Agreement for Interchange Service between Tampa and the City of Lake Worth, Florida (Lake Worth). The Agreement was supplemented with Service Schedules, A, B, C, D, and X, providing for emergency, scheduled, (short-term) economy, long-term, and extended economy interchange service, respectively. Tampa states that the Agreement and accompanying schedules supersede Tampa's Rate Schedule FERC No. 8.

Tampa proposes an effective date of April 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Lake Worth and the Florida Public Service Commission.

Comment date: May 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Central Hudson Gas & Electric Corporation

[Docket No. ER85-420-000]

Take notice that on April 9, 1985, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing a rate schedule an executed agreement dated March 13, 1985 between Central Hudson and the New York Power Authority (NYPA). The proposed rate schedule provides for electric transmission service and standby electric service for generation associated with NYPA's Ashokan Hydro Electric Generating Plant.

Central Hudson states that the rate schedule provides for a monthly transmission charge of $1.69 per kilowatt and a standby charge of $8.51 per kilowatt per month during the summer and winter peak periods.

Central Hudson requests an effective date of November 1, 1984.

Copies of this filing were served on NYPA.

Comment date: May 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER85-423-000]

Take notice that on April 10, 1985, Southern California Edison Company (Edison) tendered for filing a notice of change of rates for transmission service as embodied in Edison's agreements with the following entities:

	Rate schedules FERC No.
City of Anaheim	130.
City of Azusa	160.
City of Banning	159.
City of Colton	162.
City of Riverside	129.
City of Vernon	149 and 172.

Edison requests waiver of the Commission's prior notice requirements and an effective date of January 1, 1985, for these rate changes.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp doing business as Pacific Power & Light Company

[Docket No. ER85-37-000]

Take notice that on April 11, 1985, PacifiCorp doing business as Pacific Power & Light Company (Pacific) filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing it to issue and sell not more than $60,000,000 of Serial Preferred Stock.

Comment date: May 10, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 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. 85-9517 Filed 4-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7802-002, et al.]

Hydroelectric Applications (Natural Energy Resources Co. et al.); Notices of Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

(1)(a) Type of Application: Amendment of Preliminary Permit.

(b) Project No.: 7802-002.

(c) Date Filed: January 28, 1985.

(d) Applicant: Natural Energy Resources Company.

(e) Name of Project: Union Park Pumped Storage Project.

(f) Location: Taylor Park Reservoir, Gunnison County, Colorado.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Alvin L. Steinmark, President, Natural Energy Resources Company, Greeley, Colorado 80631.

(i) Comment Date: May 28, 1985.

(j) Description of Project: A 36-month preliminary permit for the Union Park Pumped Storage Project No. 7802 was issued to Natural Energy Resources Company (Permittee) on August 15, 1984. The proposed project under the preliminary permit would consist of a 900 MW capacity pumped storage facility utilizing the U.S. Bureau of Reclamation's Taylor Park Reservoir as lower reservoir, and a proposed impoundment to be constructed on Loth's Creek as upper reservoir.

Since the issuance of the preliminary permit, the Permittee has identified an alternate location for the upper reservoir in an area outside the present project boundary. By using the alternate upper reservoir location, the project capacity would be 1,000 MW, with an estimated average annual power production of 1,400 GWh. The Permittee seeks an amendment of the preliminary permit that would change the project boundary to include lands within Gunnison National Forest to accommodate the alternate upper reservoir.

(k) This notice also consists of the following standard paragraphs' A6, A7, A9, B, C, and D2.

(2) (a) Type of Application: Major License.

(b) Project No: 5797–002.

(c) Date Filed: April 30, 1984.

(d) Applicant: B & C Energy, Inc.

(e) Name of Project: Star Falls.

(f) Location: At Star Falls on the Snake River in Jerome and Twin Falls Counties, Idaho on lands of the United States administered by the Bureau of Land Management.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. C. B. Beymer, Jr., 188 Blair Drive, Twin Falls, ID 83301.

(i) Comment Date: June 17, 1985.

(j) Description of Project: The proposed project would consist of: (1) a 20-foot-high, 500-foot-long gravity arch concrete dam with crest elevation 3,930 feet creating an impoundment with a 161-acre normal maximum water surface area and having a 2,780-acre-foot gross storage capacity; (2) a 2,200-foot-long power canal; (3) an enclosed penstock intake; (4) a 21-foot-diameter, 190-foot-long buried penstock; (5) a 66-foot-wide, 114-foot-long, 95-foot-high powerhouse containing a generating unit rated at 29.7 MW and producing an average annual energy output of 90.4 GWh; (6) a 200-foot-long tailrace with normal tailwater elevation 3,853 feet; (7) a 138–kV, 4.75-mile-long transmission line; and (8) a 2,500-foot-long access road from the canyon rim to the powerhouse and a roadway along the power canal embankment. Proposed recreational facilities include picnic and boating access facilities upstream of the project dam, public access to the tailrace and powerhouse area with parking and picnic facilities in the construction staging area, and whitewater boating access immediately upstream of the Murtaugh Bridge. The total estimated project cost is $45,575,000 in 1987 dollars. This application was filed pursuant to a preliminary permit.

(k) This notice also consists of the following standard paragraphs: A3, A9, B, and C.

(3) (a) Type of Application: Minor License.

(b) Project No.: 7890–001.

(c) Date Filed: January 30, 1985.

(d) Applicant: Matthew J. Bonaccorsi.

(e) Name of Project: Wendell Dam.

(f) Location: On the Sugar River near the Town of Sunapee, Sullivan County, New Hampshire.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Matthew J. Bonaccorsi, Box 206 RFD 3, Newport, New Hampshire 03773.

(i) Comment Date: June 14, 1985.

(j) Description of Project: The proposed project would consist of: (1) the existing 8-foot-high, 56-foot-long concrete gravity Wendell Dam; (2) the installation of 1.25-foot-long flashboards; (3) a reservoir having a surface area of 11.4 acres, a storage capacity of 20 acre-feet, and normal water surface elevation of 978.4 feet m.s.l.; (4) the existing gate house; (5) a proposed 180-foot-long, 5-foot-diameter steel penstock; (6) a proposed powerhouse containing two generating units having a total installed capacity of 140kW; (7) a proposed 100-foot-long tailrace; (8) a proposed 300-foot-long 12-kV transmission line; and (9) appurtenant facilities. The existing dam and project facilities are owned by the State of New Hampshire Fish and Game Department. The Applicant estimates the average annual generation of 610,000 kWh. The Applicant filed this license application during the term of his preliminary permit.

(k) Purpose of Project: All power would be sold to the Public Service Company of New Hampshire.

(l) This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

(4) (a) Type of Application: Preliminary Permit.

(b) Project No.: (9016–000.

(c) Date Filed: March 11, 1985.

(d) Applicant: Feather River Improvement Company.

(e) Name of Project: Serpentine Canyon.

(f) Location: East Branch of the North Fork Feather River, near Belden, in Plumas County, CA.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Daniel L. Ostrander, Feather River Improvement Company, 12750 Quail Run Drive, Chico, CA 95928.

(i) Comment Date: July 17, 1985.

(j) Description of Project: The proposed run-of-the-river project would consist of: (1) a 15-foot-high, 150-foot-long concrete diversion weir and intake tunnel structure located on the East Branch of the North Fork Feather River at elevation 2,560 feet msl; (2) a 12,500-foot-long, 8-foot-diameter steel lined and rock tunnel; (3) a 350-food-long, 8-foot-diameter steel penstock; (4) a powerhouse located in Section 20, T25N, R7E, MDB&M, with an estimated installed capacity of 7.4 MW and an average annual energy generation of 40 GWh; and (5) a 1,000-foot-long, 60-kV transmission line connecting the project to an existing Pacific Gas and Electric Company (PG&E) line. Project power would be sold to PG&E. The project would be partially located on Plumas National Forest lands.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $175,000.

(k) This notice also consists of the following standard paragraphs: A6, A7, B, C, and D2.

(5) (a) Type of Application: Amendment of a Major License.

(b) Project No.: 2299–007.

(c) Date Filed: January 7, 1985.

(d) Applicant: Turlock and Modesto Irrigation Districts.

(e) Name of Project: Don Pedro.

(f) Location: On San Joaquin River in Tuolumne County, California.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Ernest Geddes, General Manager, Turlock Irrigation District, P.O. Box 949, Turlock, CA 95381.

(i) Comment Date: June 12, 1985.

(j) Description of Project: The proposed amendment would consist of: (1) a powerhouse containing a single generating unit with a total installed capacity of 28,000 kW to be constructed in an excavation site adjoining the left wall of the existing licensed powerhouse of Don Pedro Project No. 2299; (2) a power transformer; (3) switchyard; (4) a 13-food-diameter tailrace; and (5) appurtenant facilities. No recreational facilities are proposed by the Applicant.

(k) Purpose of Project: The power produced by the project would provide additional capacity during systems peak demand.

(l) This notice also consists of the following standard paragraphs: B and C.

(6) (a) Type of Application: Preliminary Permit.

(b) Project No.: 8977–000.

(c) Date Filed: February 26, 1985.

(d) Applicant: Golden Hydro Limited Partnership.

(e) Name of Project: Golden Hydro.

(f) Location: On North Fork Clearwater Creek, within the Clearwater National Forest, near Pierce, in Clearwater County, Idaho.

(g) Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Raymond T. Michener, P.E., Michener Associates, Inc., P.O. Box 2176, Tri-Cities, WA 99302.

(i) Comment Date: June 17, 1985.

(j) Description of Project: the proposed project would consist of: (1) a 40-foot-diameter, 10-foot-deep, 250-foot-long screened flume intake; (2) an 8-mile-long, 15-foot-diameter tunnel; (3) four 7-foot-diameter, 1000-foot-long penstocks; (4) a powerhouse containing four 7,000 kW turbines; and (5) a 28-mile-long, 69-kV transmission line. The Applicant estimates the average annual energy production to be 139,424 MWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. A ¼-mile long access road will be required at the powerhourse site and drilling will also be required. The estimated cost of permit activities is $185.000.

(k) Purpose of Project: The project power would be sold to Washington Water Power Company of Spokane, Washington.

(l) This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

(7) (a) Type of Application: Preliminary Permit.

(b) Project No.: 9025–000.

(c) Date Filed: March 4, 1985.

(d) Applicant: Weyerhaeuser Company.

(e) Name of Project: Hancock Creek.

(f) Location: Near North Bend, King County, Washington on Hancock Creek.

(g) Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Horbert E. Methven, Weyerhaeuser Company, Tacoma WA 98477.

(i) Comment Date: June 14, 1985.

(j) Description of Project: the proposed project would consist of: (1) a 10-foot-high diversion weir; (2) a 42-inch-diameter, 8,000-foot-long penstock; (3) a powerhouse containing a generating unit rated at 6,800 kW; and (4) a 1½ mile-long transmission line. The Applicant estimates the average annual energy production to be 29,500 MWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $50,000. No new roads would be constructed or drilling conducted during the feasibility study.

(k) Purpose of Project: Applicant proposes to use the output or sell to a utility.

(l) This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

(8)(a) Type of Application: Preliminary Permit.

(b) Project No: 9006–000.

(c) Date Filed: March 7, 1985.

(d) Applicant: Mutual Energy Co., Inc.

(e) Name of Project: Tumalo Creek.

(f) Location: On lands located in the Deschutes National Forest, near the City of Bend, in Deschutes County, Oregon.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Bart M. O'Keeffe, Mutual Energy Co., Inc., 3451 Longview Drive, Suite 130, North Highlands, CA 95660.

(i) Comment Date: June 10, 1985.

(j) Description of Project: The proposed project would consist of: (1) the existing Columbia Southern Diversion Dam; (2) a 72-inch-diameter, 16,500-foot-long low pressure pipeline; (3) a 66-inch-diameter, 5,800 foot-long penstock; (4) a powerhouse containing one generating unit rated at 7,300 kW; (5) a four-mile long, 69–kV transmission line; and (6) a 2,000-foot-long access road. The Applicant estimates that the average annual energy production to be 29,000 MWh.

A preliminary permit, does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $125,000. No new roads would be constructed or drilling conducted during the feasibility study.

(k) Purpose of Project: Applicant proposes to sell the power to a local privately owned utility in the Pacific Northwest.

(l) This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

(9)(a) Type of Application: Preliminary Permit.

(b) Project No: 8817–000.

(c) Date Filed: December 24, 1984.

(d) Applicant: Gainesville Hydro Associates.

(e) Name of Project: Gainesville Hydro Project.

(f) Location: On the Tombigbee River near Gainesville, Greene County, Alabama.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Casey Cummings, 410 Severn Avenue, Suite 409, Annapolis, Maryland 21403.

(i) Comment Date: June 3, 1985.

(j) Competing Application: Project No. 8812–000, Date Filed: December 24, 1984. Comment Due Date: April 1, 1985.

(k) Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Gainesville Lock and Dam, a 875-foot-long and 50-foot-wide diversion channel, and would consist of: (1) a new powerhouse located on the east side of the river in the diversion channel housing two 7.5-MW generators for a total installed capacity of 15 MW; (2) a proposed 44-kV transmission line approximately 12 miles long interconnecting with Alabama Power Company's transmission system; and (3) appurtenant facilities. The Applicant estimates that the average annual generation would be 52 GWh. All project energy would be sold to Alabama Power Company.

(l) This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

(m) Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant

would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $30,000.

(10) (a) Type of Application: Major License (Under 5MW).

(b) Project No.: 6867–001.

(c) Date Filed: October 26, 1984.

(d) Applicant: Daniel J. Horrall.

(e) Name of Project: Williams Dam Project.

(f) Location: On East Fork of White River in Lawrence County, IN.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Robert W. Everett, W.M. Lewis & Associates, Inc., 740 Fifth Street, P.O. Box 1383, Portsmouth, Ohio 45662, and Daniel J. Horrall R.R. #2, Washington, IN 47501.

(i) Comment Date: June 24, 1985.

(j) Description of Project: The Williams dam is owned by the state of Indiana, Department of Natural Resources. The proposed project would consist of: (1) the existing reinforced concrete dam, approximately 300 feet long and 20 feet high; (2) the existing resevoir with a surface area of 200 acres and a storage capacity of 1,000 acre-feet at powerpool elevation of 476 feet m.s.l.; (3) an existing powerhouse which would be rehabilitated and would contain four generating units rated at 470 kW each for a total installed capacity of 1,880 kW; (4) a proposed 150-foot-long, 12.47-kV transmission line; and (5) appurtenant facilities. The estimated average annual energy generation for the project is 10,660,000 kWh.

(k) Purpose of Project: The energy generated at the project would be sold to a utility company.

(l) This notice also consists of the following standard paragraphs: A3, A9, B, C, & D1.

(11) (a) Type of Application: Revised Application for Minor License.

(b) Project No: 8660–001.

(c) Dated Filed: February 19, 1985.

(d) Applicant: Boulder Hydro, A Limited Partnership.

(e) Name of Project: Little Gold.

(f) Location: On Little Gold Creek in Granite County, Montana, within Deerlodge National Forest.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 792(a)–825(r).

(h) Contact Person: F. Lee Tavenner, Star Route, Hall, MO 59837.

(i) Comment Date: June 20, 1985.

(j) Description of Project: The proposed project would consist of: (1) a 4-foot-high, 20-foot-long wooden diversion dam with a 3-foot-deep, 8-foot-long overflow notch, crest elevation 6,405 feet USGS datum; (2) an integral intake in the southern end of the dam; (3) a 15-inch-diameter, 3,880-foot-long low-pressure PVC pipeline; (4) a 12-inch-diameter, 3,000-foot-long steel penstock; (5) a 16-foot-wide, 20-foot-long concrete block powerhouse at elevation 5,520 feet containing a generating unit with a rated capacity of 450 kW producing an average annual energy output of 1.90 GWh; (6) a corrugated pipe trailrace; (7) a 200-foot-long, 25-kV transmission line from the transformer adjacent to the powerhouse to an existing Montana Power Company transmission line; and (8) 400-foot of new access road. The estimated cost of the project is $230,000 as of October, 1984.

(k) Purpose of Project: To produce electricity to sell to Montana Power Company.

(l) This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

(12)(a) Type of Application: Minor License.

(b) Project No.: 8515–000.

(c) Date Filed: August 13, 1984 as amended on January 16, 1985.

(d) Applicant: Louis J. Travis.

(e) Name of Project: Hope Creek Water Power.

(f) Location: On Hope Creek, Tributary to Freezout Creek, near Imnaha, in Wallowa County, OR.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Al Peters, Energy Planning Associates, 3182 SE Timberlake Drive, Hillsboro, OR 97123.

(i) Comment Date: June 24, 1985.

(j) Description of Project: The proposed project would consist of: (1) a 4-foot-high, 15-foot-long concrete diversion structure at an elevation of 3,665; (2) a 4000-foot-long, 8-inch-diameter penstock; (3) an 8-foot by 8-foot powerhouse containing one generating unit with an installed capacity of 115 kW at an operating head of 560 feet; and (4) a 3000-foot-long, 19.6-kV transmission line to Applicant's farm house for connection to a Pacific Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 354,000 kWh. The cost to construct the project would be $100,000 in 1984 dollars.

(k) Purpose of Project: The project power would be sold to the Pacific Power and Light Company.

(l) This notice also consists of the following standard paragraphs: A3, A9, B and C.

(13)(a) Type of Application: New Major License.

(b) Project No.: 2335–002.

(c) Date Filed: December 27, 1984.

(d) Applicant: Central Maine Power Company.

(e) Name of Project: Williams.

(f) Location: Kennebec River in Somerset County, Maine.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Ralph L. Bean, Vice President, Engineering, Central Maine Power Company, Edison Drive, Augusta, Maine 04336.

(i) Comment Date: June 24, 1985.

(j) Description of Project: The existing operating project commenced operation in 1939 and was issued an initial license in 1964, which will expire in 1987. The Licensee has filed for a new license for the continued operation of the project with a change in the operating head from 43 feet to 45 feet. The existing project consists of: (1) a concrete core earth dike, approximately 202 feet long with a crest elevation of 325.0 feet USGS datum consisting of; (a) a 75.5-foot-long concrete core with an elevation of 323.0 feet USGS datum; (b) a 15-foot-long concrete core and; (c) a 111.5-foot-long retaining wall with an elevation of 325.0 feet USGS datum; (2) a reinforced concrete gate section 243.5 feet long consisting of 5 taintor gates and one vertical lift wheel gate, each 32.5 feet wide by 20.5 feet high with a spillway crest of 300.0 feet USGS datum which includes a 203-foot-long stanchion and timber panel section; (3) a reservoir with a normal water surface area of 446 acres, and storage capacity of 3,650 acre-feet at elevation 320.0 feet USGS datum; (4) an intake located at the west bank of the retaining wall; (5) a concrete powerhouse containing one unit with a capacity of 8,040 kW and one unit with a capacity of 6,460 kW for a total installed capacity of 14,500 kW; (6) a 6,000-foot-long tailrace; (7) a transmission line 3,900 feet long; and (8) appurtenant facilities. The Applicant proposes to increase the timber panel and gate section by 2 feet, and therefore increase the normal water surface area of the reservoir to 448 acres and the storage capacity to 4,475 acre-feet at elevation 322.0 feet USGS datum. The Applicant estimates the increased average annual generation would be 99,000,000 kWh. The dam is owned by Central Maine Power Company. The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act. The cost of the existing project is $3,500,000.

(k) Purpose of Project: Project power would continue to be sold to the customers of Central Maine Power Company.

(l) This notice also consists of the following standard paragraphs: B and C.

14 (a) Type of Application: Conduit Exemption.

(b) Project No.: 8930–001.

(c) Date Filed: February 15, 1985.
(d) Applicant: County of Tuolumne.
(e) Name of Project: Columbia Ditch Hydroelectric Project.
(f) Location: On Columbia Ditch, part of the Applicant's existing water supply system, in Tuolumne County, California.
(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
(h) Contact Person: Mr. Billy H. Marr, Water Supervisor, Tuolumne County Administration Center, 2 South Green Street, Sonora, CA 95370.
(i) Comment Date: June 3, 1985.
(j) Description of Project: The proposed project would comprise three sites. The Site #1 at Yankee Hill would consist of a 12-inch-diameter, 1,750-foot-long pipeline/penstock and a powerhouse containing a single generating unit with a rated capacity of 118 kW to operate under a head of 450 feet. The Site #2 at Ridge Road would consist of a 12-inch-diameter, 520-foot-long pipeline/penstock and a powerhouse containing a single generating unit with a rated capacity of 45 kW to operate under a head of 141 feet. The Site #3 at Old Oak Ranch would consist of a 12-inch-diameter, 310-foot-long pipeline/penstock and a powerhouse containing a single generating unit with a rated capacity of 32 kW to operate under a head of 86 feet. Three short 12.5-kV transmission lines will connect the powerhouses with an existing Pacific Gas and Electric Company (PG&E) line south of the sites.
(k) Purpose of Project: The project's estimated annual generation of 1.72 million kWh would be sold to PG&E.
(l) This notice also consists of the following standard paragraphs: A3, A9, B, C, & D3b.
15 (a) Type of Application: Application for License (over 5 MW).
(b) Project No.: 5081–001.
(c) Date Filed: September 23, 1983.
(d) Applicant: Utah Board of Water Resoruces.
(e) Name of Project: White River Dam Hydro Project.
(f) Location: On White River in Unitah County, Utah.
(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).
(h) Contact Person: Dennis J. Strong, Division of Water Resources, State of Utah, 1636 West North Temple, Salt Lake City, UT 84116.
(i) Comment Date: June 7, 1985.
(j) Description of Project: The proposed unconstructed project would affect lands of the United States under the jurisdiction of the Bureau of Land Management (BLM) and would consist of: (1) a multi-zoned earth and rockfill dam, 136 feet high and approximately 2,500 feet long, having a crest elevation at 5,026 feet m.s.l.; (2) a service spillway consisting of a fantail inlet, a box culvert conduit and stilling basin, along with an auxilliary fuse plug type spillway extending from the left dam abutment; (3) a reservoir impounding approximately 109,250 acre-feet of water and covering 1,982 acres at service spillway crest elevation 5,017 feet m.s.l.; (4) outlet works consisting of a multi-level intake structure, a 10-foot-diameter pressure conduit and a 36-inch-diameter bypass pipe with gated outlet; (5) a 10-foot-diameter penstock trifurcating into 6-foot-6-inch diameter penstocks; (6) a powerhouse to contain 3 turbine generator units rated as 3,000 kW each for a total rated capacity of 9,000 kW; (7) a tailrace returning flow to the river just below the toe of the dam; (8) a 500-foot-long, 138-kV transmission line; and (9) appurtenant facilities. The applicant estimates that the average annual energy output would be 39.6 million kWh.
(k) Purpose of Project: The applicant intends to market the power on the open market for regional power needs.
(l) This notice also consists of the following standard paragraphs: A3, A9, B, C.
16 (a) Type of Application: Preliminary Permit.
(b) Project No.: 9001–000.
(c) Date Filed: March 5, 1985.
(d) Applicant: China Flat Company.
(e) Name of Project: China Creek Power Project.
(f) Location: On China Creek, near Willow Creek, within Six Rivers National Forest, in Humboldt County, California.
(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
(h) Contact Person: Mr. Albert E. Hodgson, Chairman, China Flat Company, P.O. Box 536, Willow Creek, California 95573.
(i) Comment Date: June 7, 1985.
(j) Description of Project: The proposed project would consist of: (1) a 4-foot-high, 30-foot-long diversion dam at elevation 1,400 feet; (2) a 24-inch-diameter, 1,500-foot-long diversion conduit; (3) a 20-inch-diameter, 2,500-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 640 kW operating under a head of 815 feet; and (5) a 300-foot-long, 12.5-kV transmission line from the powerhouse to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 4.6 million kWh to be sold to PG&E.
A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $15,000.
(k) This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.
17 (a) Type of Application: Preliminary Permit.
(b) Project No.: 9012–000.
(c) Date Filed: March 11, 1985.
(d) Applicant: Salt Lake City Corporation.
(e) Name of Project: Little Cottonwood Power Project.
(f) Location: On Little Cottonwood Creek in Salt Lake County, Utah.
(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
(h) Contact Person: Mr LeRoy Hooton, Director, Department of Public Utilities, 1530 South West Temple, Salt Lake City, UT 84115.
(i) Comment Date: June 10, 1985.
(j) Description of Project: The proposed project would be located entirely within the Wasatch National Forest and would consist of: (1) a new low intake structure across Little Cottonwood Creek near Red Pine Creek; (2) a new penstock, 36 inches in diameter and 10,500 feet long; (3) a new powerhouse to contain turbine-generator units having a total rated capacity of 4,290 kW; (4) a short tailrace returning flow to the creek; (5) a new buried transmission line, about 3 miles long, connecting to an existing Utah Power and Light Company 25 kV line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 14,572,000 kWh.
(k) Purpose of Project: Project energy would be utilized by the Salt Lake City Corporation.
(l) This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.
(m) Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $13,000.
(18) (a) Type of Application: License (5 MW or Less).

(b) Project No: 8160–000.
(c) Date Filed: March 7, 1984.
(d) Applicant: Mr. Dale L.R. Lucas.
(e) Name of Project: Lewis Fork Creek.
(f) Location: On Lewis Fork Creek in Madera County, California; within Sierra National Forest.
(g) Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
(h) Contact Person: Mr. Dale L.R. Lucas, 36600 Orange Grove Avenue, Madera, California 93638.
(i) Comment Date: June 6, 1985.
(j) Description of Project: The proposed project would consist of: (1) a 3-foot-high diversion dam and intake at elevation 4,080 feet; (2) a 48-inch-diameter, 6,000-foot-long pipeline; (3) a 48-inch-diameter, 1,000-foot-long steel penstock; (4) a powerhouse containing a single impulse turbine-generator with a total installed capacity of 3,700 kW; and (5) a 12-kV, 1,000-foot-long transmission line connecting with an existing transmission line owned and operated by Pacific Gas and Electric Company (PG&E). No recreational facilities are proposed by the Applicant.
(k) Purpose of Project: The estimated 9.3 million kWh generated annually by the proposed project would be sold to PG&E.
(l) This notice also consists of the following standard paragraph: A3, A9, B, C and D1.
(19) (a) Type of Application: Preliminary Permit.
(b) Project No.: P–9011–000.
(c) Date Filed: March 11, 1985.
(d) Applicant: Independence Electric Corporation.
(e) Name of Project: Taylorsville Dam.
(f) Location: On Salt River in Spencer County, Kentucky.
(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
(h) Contact Person: Mr. G. William Miller, President, Independence Electric Corporation, 919 18th Street NW., Washington, DC 20006.
(i) Comment Date: June 10, 1985.
(j) Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Taylorsville Dam and Reservoir and would consist of: (1) a proposed power tunnel and penstock 10 feet in diameter and 1,600 feet long; (2) a proposed powerhouse containing two double regulated propeller turbine/generators each rated at 2,000 kW; (3) a proposed tailrace channel 100 feet and 400 feet long; (4) a new 69-kV transmission line 4 miles long; and (5) appurtenant facilities. The estimated average annual energy produced by the project would be 10,700,000 kWh operating under a net hydraulic head of 62 feet. Project power would be sold to a utility company in the project area.
(k) This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.
(l) Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $125,000.
(20) (a) Type of Application: Preliminary Permit.
(b) Project No.: 8996–000.
(c) Date Filed: March 4, 1985.
(d) Applicant: Streamline Hydro, Inc.
(e) Name of Project: Bighorn Creek.
(f) Location: On Bighorn Creek in Eagle County, Colorado on lands administered by the White River National Forest.
(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
(h) Contact Person: Mr. Robert Stout, 6565 South Dayton, Suite 1100; Englewood, CO 80111
(i) Comment Date: June 10, 1985.
(j) Description of Project: The proposed project would consist of: (1) a 6 to 10–foot-high and 60–foot-long proposed dam including spillway at elevation 9,040 feet U.S.G.S. datum; (2) a proposed reservoir with a storage capacity of 3000 cubic feet and a surface area of 1500 square feet at elevation 9,046 feet U.S.G.S. datum; (3) a proposed penstock 2500 feet long, approximately 10 inches in diameter; (4) a proposed powerhouse 15 feet long and 15 wide containing one proposed turbine/generator with a rated capacity of 100 kW; (5) a proposed closed channel conduit tailrace 18 inches in diameter and 20 feet long; (6) a new three phase 25–kV transmission line 200 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be .14 million kWh operating under a net hydraulic head of 315 feet. Project power would be sold to the Holy Cross Electric Company of Glenwood, Springs, Colorado.
(k) This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.
(l) Proposed Scope under this Permit: A preliminary permit if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $3,000.
(21) (a) Type of Application: Preliminary Permit.
(b) Project No.: P–8995–000
(c) Date Filed: March 4, 1985.
(d) Applicant: Streamline Hydro, Inc.
(e) Name of Project: Booth Creek.
(f) Location: On Booth Creek in Eagle County, Colorado on lands administered by the White River National Forest.
(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
(h) Contact Person: Mr. Robert Stout, 6565 South Dayton, Englewood, CO 80111.
(i) Comment Date: June 10, 1985.
(j) Description of Project: The proposed project would consist of: (1) a 6 to 10–foot-high and 60–foot-long proposed dam including spillway at elevation 8,766 feet U.S.G.S. datum; (2) a proposed reservoir with a storage capacity of 5,400 cubic feet and surface area of 1800 square feet at elevation 8,760 feet U.S.G.S. datum; (3) a proposed penstock 2,200 feet long, approximately 10 inches in diameter; (4) a proposed powerhouse 15 feet long and 15 wide containing one proposed turbine/generator with a rated capacity of 130 kW; (5) a proposed closed channel conduit tailrace 18 inches in diameter and 20 feet long; (6) a new three phase 25–kV transmission line 200 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be .4 million kWh operating under a net hydraulic head of 280 feet. Project power would be sold to the Holy Cross Electric Company of Glenwood, Springs, Colorado.
(k) This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.
(l) Proposed Scope under this Permit: A preliminary permit if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based

on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $2,000.

(22) (a) Type of Application: Preliminary Permit.

(b) Project No.: P–8994–000.

(c) Date Filed: March 4, 1985.

(d) Applicant: Streamline Hydro, Inc.

(e) Name of Project: Buffehr Creek.

(f) Location: On Buffehr Creek in Eagle County, Colorado on lands administered by the White River National Forest.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Robert E. Stout, 6565 South Dayton, Suite 1100, Englewood, CO 80111.

(i) Comment Date: June 10, 1985.

(j) Description of Project: The proposed project would consits of: (1) a 6- to 10-foot-high and 60-foot-long proposed dam including spillway at elevation 8760 feet U.S.G.S. datum; (2) a proposed reservoir with a storage capacity of 3000 cubic feet and surface area of 1500 square feet at elevation 8766 U.S.G.S. datum; (3) a proposed penstock 2500 feet long, approximately 12 inches in diameter; (4) a proposed powerhouse 15 feet long and 15 feet wide containing one proposed turbine/generator with a rated capacity of 150 kW; (5) a proposed closed channel conduit tailrace 18 inches in diameter and 20 feet long; (6) a new three-phase 25-kV transmission line 3400 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be .5 million kWh operating under a net hydraulic head of 360 feet. Project power would be sold to the Holy Cross Electric Company of Glenwood Springs, Colorado.

(k) This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.

(l) Proposed Scope under this Permit: A preliminary permit if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $40,000.

(23) (a) Type of Application: Preliminary Permit.

(b) Project No.: P–8993–000.

(c) Date Filed: March 4, 1985.

(d) Applicant: Streamline Hydro, Inc.

(e) Name of Project: Pitkin Creek.

(f) Location: On Pitkin Creek in Eagle County, Colorado on lands administered by the White River National Forest.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Mr. Robert Stout, 6565 South Dayton, Suite 1100, Englewood, CO 80111.

(i) Comment Date: June 10, 1985.

(j) Description of Project: The proposed project would consits of: (1) a 6- to 10-foot-high and 60-foot-long proposed dam including spillway at elevation 9,000 feet U.S.G.S. datum; (2) a proposed reservoir with a storage capacity of 5,400 cubic feet and surface area of 1,800 square feet at elevation 9,006 feet U.S.G.S. datum; (3) a proposed penstock 2,000 feet long, approximately 10 inches in diameter; (4) a proposed powerhouse 15 feet long and 15 feet wide containing one proposed turbine/generator with a rated capacity of 130 kW; (5) a proposed closed channel conduit tailrace 18 inches in diameter and 20 feet long; (6) a new three-phase 25-kV transmission line 200 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be .5 million kWh operating under a net hydraulic head of 384 feet. Project power would be sold to the Holy Cross Electric Company of Glenwood Springs, Colorado.

(k) This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.

(l) Proposed Scope under this Permit: A preliminary permit if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $3,000.

(24) (a)Type of Application: Preliminary Permit.

(b) Project No.: P–8992–000.

(c) Date Filed: March 4, 1985.

(d) Applicant: Streamline Hydro, Inc.

(e) Name of Project: Gore Creek.

(f) Location: On Gore Creek in Eagle County, Colorado on lands administered by the White River National Forest.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

(h) Contact Person: Mr. Robert E. Stout, 6565 South Dayton, Englewood, CO 80111.

(i) Comment Date: July 10, 1985.

(j) Description of Project: The proposed project would consist of: (1) a 6 to 10-foot-high and 50-foot-long proposed dam including spillway at elevation 9,200 feet U.S.G.S. datum; (2) a proposed reservoir with a storage capacity of 4,000 cubic feet and a surface area of 2,000 square feet at elevation 9,204 feet U.S.G.S. datum; (3) a proposed penstock 3,200 feet long, approximately 10 inches in diameter; (4) a proposed powerhouse 30 feet long and 15 feet wide containing two proposed turbine/generators with a total capacity of 200 kW; (5) a proposed closed channel conduit tailrace 18 inches in diameter and 20 feet long; (6) a new three phase 25-kV transmission line 1,600 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be .8 million kWh operating under a net hydraulic head of 300 feet. Project power would be sold to the Holy Cross Electric Company of Glenwood Springs, Colorado.

(k) This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.

(l) Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $4,000.

(25) (a) Type of Application: Preliminary Permit.

(b) Project No: 8945–000.

(c) Date Filed: February 11, 1985.

(d) Applicant: Richard D. Ely.

(e) Name of Project: Natchaug River 1.

(f) Location: On the Natchaug River in Tolland and Windham Counties, Connecticut.

(g) Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

(h) Contact Person: Richard D. Ely, P.O. Box 474, Storrs, Connecticut 06268–0474.

(i) Comment Date: June 13, 1985.

(j) Description of Project: The proposed run-of-river project would consist of two independent developments and would utilize two existing U.S. Army Corps of Engineers' dams.

Site 1 Development would utilize the Mansfield Hollow Dam and outlet works and would consist of a new powerhouse at the downstream end of the existing outlet works with three new turbine generator units with a total installed capacity of 234 kW. Interconnection to distribution lines is available at the site.

Site 2 Development would utilize a small dam and existing headrace canal about 300 feet downstream from the Site 1 Development and would consist of: (1) a new short pensock; (2) a new powerhouse with three turbine-generator units with a total installed capacity of 234 kW; (3) a short tailrace; and (4) other appurtenances. Interconnection to distribution lines is available at the site.

Applicant estimates a total average annual generation of 2,000,000 kWh.

(k) Purpose of Project: Project energy would be sold to Northeast Utilities.

(l) This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

(m) Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $68,000.

Competing Applications

(A1) Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

(A2) Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

(A3) License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

(A4) License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

(A5) Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33(a) and (d).

(A6) Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33(a) and (d).

(A7) Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the

competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33(a) and (d).

(A8) Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33(a) and (d).

(A9) Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduct exemption application, and be served on the applicant(s) named in this public notice.

(B) *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. §§ 385.210, .211, .244. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

(C) *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

(D) *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historic and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

(D2) *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

(D3a) *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

(D3b) *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife

Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 16, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-9516 Filed 4-18-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures; Blex Oil, Inc., et al.

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $44,314.31 (plus accrued interest) obtained as a result of Consent Orders which the DOE entered into with Blex Oil, Inc. of Minneapolis, Minnesota (Case No. HEF-0038), Cross Oil Company of Wellston, Missouri (Case No. HEF-0058), and Independent Oil & Tire Company of Elyria, Ohio (Case No. HEF-0094). The funds will ba available to customers who purchased refined petroleum products from one of the consent order firms during the relevant consent order period.

DATE AND ADDRESS: Applications for refund of a portion of one of the consent order funds must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to: Blex Consent Order Proceeding, Cross Consent Order Proceeding, or Independent Consent Order Proceeding, Officer of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585. All applications should conspicuously display a reference to the appropriate case number.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to Consent Orders entered into by Blex Oil, Inc. (Blex), of Minneapolis, Minnesota, Cross Oil Company (Cross) of Wellston, Missouri, and Independent Oil and Tire Company (Independent) of Elyria, Ohio (hereinafter collectively referred to as the consent order firms). These Consent Orders settled possible pricing and allocation violations with respect to the consent order firms' sales of refined petroleum products during the relevant consent order periods. Under the terms of the Consent Orders, the products covered, the consent order periods, and the consent order amounts are as follows:

Products covered	Consent order period	Consent order amount
Blex: Motor gasoline	1/1/79-6/30/80	$7,100.00
Cross:		
Premium gasoline	11/1/73-5/7/75	13,384.69
Regular gasoline	11/1/73-7/31/75	
No. 2 heating oil	11/1/73-1/8/75	9,658.65
Independent: Motor gasoline	1/1/79-12/31/79	14,170.97

The consent order amounts are being held in separate interest-bearing escrow accounts pending determination of their proper distribution.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the three consent order funds. The Proposed Decision and Order discussing the distribution of the consent order funds was issued on December 10, 1984. 49 FR 48978 (December 17, 1984).

As the Decision and Order indicates, applications for refunds from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Applications will be accepted from customers who purchased refined petroleum products from one of the consent order firms during the relevant consent order period. The specified information required in an application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: April 10, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

April 10, 1985.

Names of Firms: Blex Oil, Inc., Cross Oil Company, Independent Oil and Tire Company.

Date of Filing: October 13, 1983.

Case Numbers: HEF-0038, HEF-0058, HEF-0094.

In accordance with tfhe procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to Consent Orders entered into by the DOE and the following parties: Blex Oil, Inc. (Blex) of Minneapolis, Minnesota, Cross Oil Company (Cross) of Wellston, Missouri, and Independent Oil and Tire Company (Independent) of Elyria, Ohio (hereinafter collectively referred to as the consent order firms).[1]

I. Background

Each of the consent order firms is a "reseller-retailer" of "refined petroleum products," as these terms were defined in 10 CFR 212.31. ERA audits of the consent order firms revealed possible violations of the Mandatory Petroleum Price Regulations. Subsequently, each of these firms entered into a separate Consent Order with the DOE in order to settle its disputes with the DOE concerning certain sales of refined petroleum products. Each Consent Order refers tro the ERA allegations of overcharges, but notes that no findings of violation were made. In addition, each Consent Order states that the consent order firm does not admit that it committed such violations.

[1] The Cross Consent Order covers sales of motor gasoline and No. 2 heating oil by Cross Oil Company and its five subsidiaries: Kirby Oil Company, Automatic Heat, Wiesehan Oil Company, Marvel Fuel Oil and Gas Company (from February 1975), and Froesel Oil Company (from December 1973).

Pursuant to these Consent Orders, the firms agreed to pay to the DOE specified amounts in settlement of their potential liability regarding sales to their repective customers during the consent order periods. The firms' payments are currently being held by the DOE in separate interest-bearing escrow accounts pending distribution by the DOE. The names and locations of the firms, the settlement amounts, the products covered by the Consent Orders, and the dates of the consent order periods are set forth in Appendices A–C to this Decision and Order.

On December 10, 1984, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order funds. 49 FR 48978 (December 17, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of the pricing practices of one of the consent order firms during the relevant consent order period.

A copy of the PD&O was published in the **Federal Register** on December 17, 1984, and comments were solicited regarding the proposed refund procedures. While none of the consent order firms' customers filed comments on the proposed procedures, comments were filed on behalf on the State of New Mexico. These comments, however, discuss the distribution of any residual funds that might remain after refunds have been made to first stage claimants. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the present refund proceeding. This Decision sets forth the information that a purchaser of petroleum products from one of the consent order firms should submit in an Application for Refund in order to establish eligibility for a portion of the consent order funds. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement,* 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for use to address at this time the issues raised by New Mexico's comments concerning the disposition of any funds remaining after all the meritorious first stage claims have been paid.[2] Since we have received no other comments regarding issues raised in the PD&O, we will adopt the proposed refund procedures.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distibution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured by alleged or adjudicated violations, or unable to ascertain the amounts of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreement, *see Office of Enforcement,* 9 DOE ¶82,553 (1982); *Office of Enforcement,* 9 DOE ¶82,508 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) *(hereinafter cited as Vickers).* As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the three consent order funds. We will therefore grant the ERA's petition and assume jurisdiction over the distribution of these funds.

III. Determination of Injury and Refund Amounts

As proposed in the PD&O, reseller claimants will be required to demonstrate that they did not pass on to their customers the price increases implemented by one of the consent order firms. *See, e.g., Vickers.* Accordingly, in order to qualify for a refund, resellers of refined petroleum products purchased from one of the consent order firms must show that during the consent order period market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers must show that they maintained a "bank" of unrecovered costs in order to demonstrate that they did not subsequently recover these costs by increasing their prices.[3] As we noted in the PD&O, however, the maintenance of a bank will not, automatically establish injury. *See Tenneco Oil Co. / Chevron U.S.A., Inc.,* 10 DOE ¶ 85,014 (1982); *Vickers Energy Crop. /Standard Oil Co.,* 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp. /Koch Industries, Inc.,* 10 DOE ¶ 85,038 (1982).

We will also adopt certain presumptions proposed in the PD&O which have been used in many prior refund cases. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of refined petroleum products made by the consent order firms during the relevant consent order period. The OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expense, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The volumetric refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

In the PD&O, we stated that the information available in the ERA audit files is insufficient to base refunds on the amount each individual applicant was allegedly overcharged. Although the Cross and Independent audit files identify a number of customers who purchased petroleum products directly

[2] It is not clear, however, that New Mexico and its citizens have a legitimate interest in this proceeding, since none of the sales involved were made in the state of New Mexico.

[3] Some of the petroleum product sales covered by the Consent Orders occurred subsequent to the amendment of the retailer price rule that eliminated the banking provision for retailers of motor gasoline. *See* 10 CFR 212.93(a)(2). 44 FR 42542 (July 19, 1979) (effective July 15, 1979). Accordingly, retailers will not be required to submit bank information concerning any purchases of motor gasoline they may have made after July 15, 1979.

from the consent order firms, those files do not provide individual alleged overcharge amounts. The Blex audit file does not identify any customers who may have been injured by Blex's pricing practices nor any alleged overcharged amounts.[4] Accordingly, we will use the volumetric method to allocate the consent order funds.[5] The volumetric refund amounts, determined by dividing each consent order fund by the estimated total volume of petroleum products sold by the consent order firm during the relevent consent order period, are set forth in the Appendices.[6] In each case, a successful applicant will receive a refund amount for each gallon of petroleum products which it purchased from the consent order firm.[7] The interest which has accrued on the money in each escrow account will be added to the refund of each successful claimant in proportion to the size of its refund.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in each Consent Order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information and the cost to the OHA of analyzing it may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of refund claims quickly, and use its limited resources more efficiently. Finally, we know that these smaller claimants did purchase covered products from one of the consent order firms and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level.[8] Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consent order firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. As proposed in the PD&O, the same approach will be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. Since the per gallon refund amount is fairly low in the case of Blex and Independent, and the time period of the Consent Order is quite distant in the case of Cross, we believe that the establishment of a presumption of injury for all claims of $5,000 or less is reasonable in the present proceeding.[9] *See, id.; Marion Corp.*, 12 DOE ¶ 85,014 (1984).

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the Consent Orders. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *See also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We have therefore concluded that end-users of petroleum products purchased from one of the consent order firms need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges.[10]

We shall also adopt our proposal to establish a minimum amount of $15 for

[4] Although the ERA audit files pertaining to Blex identify two retail outlets which sold motor gasoline supplied by Blex, these outlets appear to be consignees of Blex Oil, rather than independently operated retail outlets. As in previous cases, we will adopt a rebuttable presumption that consignees of a consent order firm experienced an injury as a result of the consent order firm's pricing practices. *See Aztex Energy Co.*, 12 DOE ¶ 85,110 (1984). Accordingly, in order to be eligible for a refund, these two outlets must either rebut this presumption or show that they operated as independent retailers during Blex's consent order period.

[5] We recognize, however that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that it suffered a disproportionate injury as a result of the pricing practices of one of the consent order firms during the relevent audit period. A refund application for an amount greater than that calculated using the volumetric presumption must document the disproportionate impact of the alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984).

[6] Because the ERA audit files provide only partial sales volume data regarding the petroleum products sold by Cross during the Cross consent order period, we have extrapolated volume figures from the available sales volume data.

[7] The Cross Consent Order designates $12,553.29 of the $12,611.99 consent order fund for distribution to dealers of Cross motor gasoline and $9,058.70 for distribution to jobbers of Cross #2 heating oil. In order to carry out the mandate of the Consent Order and to fashion a refund plan which is likely to correspond closely to the injuries experienced, we have calculated a separate volumetric amount for each portion of the consent order fund as set forth in the Appendices.

[8] Resellers who made only spot purchases from the consent order firms will be presumed to have suffered no injury. Accordingly, these resellers will be ineligible for any refund, even a refund at or below the threshold level. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 9 DOE at 85,396–97. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,209 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of those resellers claiming more than the threshold amount, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise considerable discretion as to where and when they made the purchase(s) on which their refund claims are based.

[9] Any reseller whose potential refund exceeds the threshold level may elect to apply for a refund based on the threshold amount.

[10] End-user customers who purchased motor gasoline from Cross during the consent order period should have received a direct refund from Cross, as mandated by the Cross Consent Order. Accordingly, end-users of Cross motor gasoline will not be eligible to apply for a refund in this proceeding, unless they can show that they did not receive a direct refund from Cross.

refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b).

IV. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the two consent order funds. Accordingly, we shall now accept applications for refunds from customers who purchased motor gasoline from Blex, Cross, or Independent, or No. 2 heating oil from Cross during the relevant consent order period.

In order to receive a refund, each applicant will be required to report the monthly volume of motor gasoline or No. 2 heating oil purchased from one of the consent order firms for which it is claiming a refund. The applicant must also state how it used the motor gasoline or No. 2 heating oil, i.e., whether it was a reseller or an ultimate consumer. Retailers and resellers who request refunds in excess of the $5,000 threshold amount must submit evidence to establish that they did not pass on the alleged overcharges to their customers. In addition, each applicant must state whether there has been a change in ownership of the firm since the relevant audit period and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Applicants should also report any past or present involvement as a party in DOE enforcement proceedings. If these proceedings have terminated, the applicant should furnish a copy of the final order issued in the matter and indicate the status of any remedial action required by the order. If the proceeding is ongoing, the applicant should briefly describe the proceeding and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its refund application is pending. *See* 10 CFR 205.9(d).

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. Each application must be in writing, signed by the applicant, and specify that it pertains to either the Blex Consent Order Fund, Case No. HEF–0038, the Cross Consent Order Fund, Case No. HEF–0058, or the Independent Consent Order Fund, Case No. HEF–0094. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from funds remitted to the Department of Energy by the consent order firms listed in Appendices A–C to this Decision and Order may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: April 10, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appendix A

Blex Oil, Inc., 1010 Washington Avenue, Minneapolis, MN

Consent Order Period: 1/1/79–6/30/80
Product Covered: Motor gasoline
Consent Order Amount: $7,100.00
Volumetric Amount: $0.0009964.

No identified non-consignee customers.

Appendix B

Cross Oil Company, 6291 Suburban, Wellston, Mo

Products Covered:
Motor gasoline (premium and regular)
No. 2 heating oil
Consent Order Periods
Premium motor gasoline: 11/1/73–5/7/75
Regular motor gasoline: 11/1/73–7/31/75
No. 2 heating oil: 11/1/73–1/8/75
Consent Order Amount: $23,043.34
$9,658.65 to jobbers of No. 2 heating oil*
$13,384.69 to dealers of motor gasoline*
Volumetric Amounts:
$0.009924 for No. 2 heating oil
$0.003895 for motor gasoline**

*Includes interest that accrued on the consent order amount prior to payment to the DOE.

**We have calculated the volumetric refund factor for service station dealers on the basis of an extrapolated total volume figure for gallons sold to dealers during the consent order period. *See* footnote 6. In the PD&O, we calculated a volumetric refund factor of $0.01539 on the basis of an extrapolated total volume figure of 869,548 gallons. Upon closer examination of the Cross audit file, we have determined that an extrapolated total volume figure of 3, 436,114 gallons is more accurate. Accordingly, we have adjusted the volumetric refund factor to $0.0003895 ($13,384.69 divided by 3,436,114 gallons).

Identified Customers

Adams Store	William Costello
Corless	Joe Manfrede
Dock Side Marina	Harold James
Grover Service	Don Glenn
Gordons	Baden Oil
Gray	Mike Mohrman
Dave Harness	Larry Rozycki
Mauer Service	Circle Service Station
Payton	Plover Garage
Pete's Service	Willer Bruer
Pond Motor	Hill-Top Service Station
Schott's Pontiac	Carl Haskins
Read's Store	Bill Nulsen
Riverbend 66 Service Station	Ron's Service

Appendix C

Independent Oil & Tire Company 39479 Center Ridge Rd., Elyria, OH

Consent Order Period: 1/1/79–12/31/79
Product Covered: motor gasoline (including gasohol)
Consent Order Amount: $14,170.97*
Volumetric Amount: $0. 001144.

*Includes interest that accrued on the consent order amount prior to payment.

Identified Customers

Ainsley	Monroeville Oil
Bolen Oil	Morgan Truck Stop
Cochran Oil	Mansfield Truck Plaza
Chagrin Oil	Ohio Power Waller
C & D Products	Paul's Arco
Dalco	Ravenna Oil
Deichler	Sines & Sines
Dave's Arco	B. Ullman, Inc.
Holland Oil	D. Walters
Lojecks	Weekly Oil
Mid-Penn	Walker Oil

[FR Doc. 85–9492 Filed 4–18–85; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures; Columbia Oil Co. and Empire Oil Co.

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $17,179.41 (plus accrued interest) obtained as the result of Consent Orders which the DOE entered into with Columbia Oil Company (Columbia) of Hamilton, Ohio and Empire Oil Company (Empire) of Bloomington, California. The funds will be available to customers who purchased motor gasoline from Columbia or Empire during the relevant consent order period.

DATE AND ADDRESS: Applications for refund of a portion of one of the consent order funds must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to either Columbia Consent Order Refund Proceeding (Case No. HEF–0052) or Empire Consent Order Refund Proceeding (Case No. HEF–0068), Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All applications should conspicuously display a reference to the appropriate case number.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to Consent Orders entered into by Columbia Oil Company (Columbia) of Hamilton, Ohio and Empire Oil Company (Empire) of Bloomington, California (hereinafter referred to as the consent order firms). These Consent Orders settled possible pricing and allocation violations with respect to the consent order firms' sales of motor gasoline during the following consent order periods: April 1, 1979 through September 30, 1979 for sales by Columbia; March 1, 1979 through July 31, 1979 for sales by Empire. Under the terms of the Consent Orders, $4,871.59 was remitted to the DOE by Columbia, and $12,307.82 was remitted to the DOE by Empire. These amounts are being held in separate interest-bearing escrow accounts pending determination of their proper distribution.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the two consent order funds. The Proposed Decision and Order discussing the distribution of the consent order funds was issued on January 9, 1985. 50 FR 4586 (January 31, 1985).

As the Decision and Order indicates, applications for refunds from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Applications will be accepted from customers who purchased motor gasoline from Columbia or Empire during the relevant consent order period. The specific information required in an application for refund is set forth in Section IV of the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: April 10, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

April 10, 1985.

Names of Firms: Columbia Oil Company, Empire Oil Company.

Date of Filing: October 13, 1983.

Case Numbers: HEF–0052, HEF–0068.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to Consent Orders entered into by the DOE and the following parties: Columbia Oil Company (Columbia) of Hamilton, Ohio and Empire Oil Company (Empire) of Bloomington, California (hereinafter collectively referred to as the consent order firms).

I. Background

Each of the consent order firms is a "reseller-retailer" of motor gasoline, as this term was defined in 10 CFR 212.31. ERA audits of the consent order firms revealed possible violations of the Mandatory Petroleum Price Regulations. Subsequently, each of these firms entered into a separate Consent Order with the DOE in order to settle its disputes with the DOE concerning certain sales of motor gasoline. Each Consent Order refers to the ERA allegations of overcharges, but notes that no findings of violation were made. In addition, each Consent Order states that the consent order firm does not admit that it committed any such violations.

Pursuant to these Consent Orders, the firms agreed to pay to the DOE specified amounts in settlement of their potential liability for alleged overcharges in sales of motor gasoline to their respective customers during the consent order periods. The firms' payments are currently being held by the DOE in separate interest-bearing escrow accounts pending distribution by the DOE. The names and locations of the firms, the settlement amounts, and the dates of the consent order periods are set forth in Appendix A to this Decision and Order.

On January 9, 1985, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order funds. 50 FR 4586 (January 31, 1985). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of any alleged overcharges made by one of the consent order firms during the relevant consent order period.[1]

A copy of the PD&O was published in the **Federal Register** on January 31, 1985, and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to those purchasers whose names and addresses were listed in the Empire audit file (*see* Appendix B). Since we have received no comments from any

[1] The ERA audit of Empire took place in two stages: the first examined sales to end-users from retail stations owned and operated by Empire; the second examined Empire's sales of motor gasoline to independently operated retail stations, other resellers, and direct purchase end-users. Although the consent order amount appears to have been based upon the first stage of the audit, the language of the consent order indicates that it settles the DOE enforcement proceeding with respect to both stages of the Empire audit. Therefore, all purchasers of Empire motor gasoline during the consent order period are eligible to apply for a refund.

customers or interested parties, we will adopt the proposed refund procedures.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE, is unable to readily identify persons who may have been injured by alleged or adjudicated violations, or unable to ascertain the amounts of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement,* 9 DOE ¶ 82,553 (1982); *Office of Enforcement,* 9 DOE ¶ 82,508 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the two consent order funds. We will therefore grant the ERA's petition and assume jurisdiction over these funds.

III. Determination of Injury and Refund Amounts

As proposed in the PD&O, reseller claimants will be required to demonstrate that they did not pass on to their customers the price increases implemented by the consent order firms. *See, e.g., Vickers.* Accordingly, in order to qualify for a refund, resellers of a consent order firm's motor gasoline must show that during the consent order period market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers must show that they maintained a "bank" of unrecovered costs in order to demonstrate that they did not subsequently recover these costs by increasing their prices.[2] As we noted in the PD&O, however, the maintenace of a bank will not automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.,* 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co. (Indiana),* 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.,* 10 DOE ¶ 85,038 (1982).

We will also adopt certain presumptions proposed in the PD&O which have been used in many prior refund cases. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of motor gasoline made by the consent order firms during the relevant consent order period. The OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon approrpriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The volumetric refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

In the PD&O, we stated that the information available in the ERA audit files is insufficient to base refunds on the amount each individual applicant was allegedly overcharged. In the case of Columbia, the ERA audit files do not identify any customers who purchased motor gasoline from Columbia during the consent order period. In the case of Empire, the ERA audit files identify a number of customers who purchased motor gasoline directly from Empire during the audit period, but do not set forth any specific alleged overcharge amounts for these customers. Accordingly, we will use the volumetric method to allocate the consent order funds.[3] The volumetric refund amounts, determined by dividing each consent order fund by the estimated total volume of motor gasoline sold by the consent order firm during the relevant consent order period, are set forth in Appendix A.[4] In each case, a successful applicant will receive a volumetric refund amount for each gallon of gasoline which is purchased from the consent order firm. The interest which has accrued on the money in each escrow will be added to the refund of each successful applicant in proportion to the size of its refund.

The presumption that reseller claimants seeking refunds were injured by the pricing practices settled in each Consent Oder is based on a number of considerations. *See, e.g., Uban Oil Co.,* 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information, and the cost to the OHA of analyzing it, may be many times the expecting refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions for small claims is also desirable from an administrative standpoint because it allows the OHA to process a large number of refund claims quickly and use its limited resources more efficiently. Finally, we know that these smaller claimants purchased motor gasoline from one of the consent order firms and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially.

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[2] Some of the motor gasoline sales covered by the Consent Orders occurred subsequent to the amendment of the retailer price rule that eliminated the banking provision for retailers. *See* 10 CFR 212.93(a)(2), 44 FR 42542 (July 19, 1979) (effective July 15, 1979). Accordingly, retailers will not be required to submit bank information concerning any purchases of gasoline they may have made after July 15, 1979.

[3] We recognize, however, that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser will therefore be allowed to file a refund application based on a claim that it suffered a disproportionate injury as a result of the pricing practices of one of the consent order firms during the relevant audit period. A refund application for an amount greater than the amount calculated using the volumetric presumption must document the disproportionate impact of the allleged overcharges. *See, e.g., Amtel, Inc.,* 12 DOE ¶ 85,073 at 88,233–34 (1984).

[4] Because the avilable ERA audit file provide only partial sale volume data regarding the motor gasoline sold by Columbia and Empire during the relevant consent order period, we have extrapolated sales volume figures or these firms from the available audit data.

The small claims presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level.[5] Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consent order firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. As proposed in the PD&O, the same approach will be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In the present case, where the volumetric refund amounts are fairly low, we believe that the establishment of a presumption of injury for all claims of $5,000 or less is reasonable.[6] *See id.; Marion Corp.*, 12 DOE ¶ 85,014 (1984).

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the consent orders. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We have therefore concluded that end-users of motor gasoline purchased from one of the consent order firms need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges.[7]

We shall also adopt our proposal to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b).

IV. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the two consent order funds. Accordingly, we shall now accept applications for refunds from customers who purchased motor gasoline from one of the consent order firms during the relevant consent order period.

In order to receive a refund, each claimant will be required to report the monthly volume of motor gasoline purchased from one of the consent order firms for which it is claiming a refund. It must also state how it used the motor gasoline, i.e., whether it was a reseller or an ultimate consumer. Retailers and resellers who request refunds in excess of the $5,000 threshold amount must submit evidence to establish that they did not pass on the alleged overcharges to their customers. In addition, each applicant must state whether there has been a change in ownership of the firm since the relevant audit period and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Applicants should also report any past or present involvement as a party in DOE enforcement proceedings. If these proceedings have terminated, the applicant should furnish a copy of the final Order issued in the matter and indicate the status of any remedial action required by the Order. If the proceeding is ongoing, the applicant should briefly describe the proceeding and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its refund application is pending. *See* 10 CFR 205.9(d).

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register.** Each application must be in writing, signed by the applicant, and specify that it pertains to either the Columbia Consent Order Fund, Case No. HEF–0052, or the Empire Consent Order Fund, Case No. HEF–0068. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

It is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of

[5] Resellers who made only spot purchases from the consent order firms will be presumed to have suffered no injury. They will therefore be ineligible for any refund, even a refund at or below the threshold level. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of those resellers claiming more than the threshold amount, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise considerable discretion as to where and when they made the purchase(s) on which their refund claims are based.

[6] As in prior refund cases, resellers whose potential refund exceeds the threshold amount may elect to apply for a refund based on the threshold amount.

[7] The Columbia Consent Order required the firm to refund $6,467.85 directly to its end-user customers. The $4,871.59 which the firm paid to the DOE is therefore primarily intended for distribution to the firm's reseller and retailer customers. Accordingly, an end-user of Columbia's motor gasoline will not be eligible to apply for a refund in this proceeding unless it did not receive a direct refund from Columbia.

Energy by the consent order firms listed in Appendix A to this Decision and Order may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Date: April 10, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A

Name of firm	Consent order period	Consent order amount	Products covered	Volumetric amount
Columbia Oil Co., 4311 Hamilton-Middleton Rd., Hamilton, OH 45011.	4/1/79–9/30/79	[1]$4,871.59	Motor gasoline	$0.003822
Empire Oil Co., 2307 South, Riverside Ave., Bloomington, CA 92316.	3/1/79–7/31/79	12,307.82	do	0.003756

[1] The Columbia Consent Order required the firm to pay $13,532.15 to the DOE, but provided that this payment could be reduced by amounts owed to Columbia by customers whose debts to Columbia were discharged in bankruptcy proceedings. In accordance with this provision, the amount that Columbia was required to deposit was reduced by $8,660.56; Columbia therefore paid only $4,871.59 to the DOE.

Appendix B

Customers Identified in the Empire Audit File

A. Addresses Known

Arlington Heights Citrus Co., 8000 Lincoln Ave., Riverside, CA
Bill's U-Drive Rentals, 3505 Market St., Riverside, CA
Roy Barnett Landscape Contractor, 1253 W. Church St., Riverside, CA
Commercial Honing Company, 8606 Sultana Ave., Fontana, CA
Car Showers, Inc., 6061 Magnolia Ave., Riverside, CA
D&D Installation Plumbing Co., 5116 Steve Ave., Riverside, CA
Easy On Manufacturing Co., 6612 Columbia Ave., Riverside, CA
Gate City Beverage Distributors, 345 West H St., Colton, CA
Grand Terrace Service, 12111 La Cadena Dr., Colton, CA
Inland Lumber Co., 21900 Main St., Colton, CA
Inland Plumbing, Inc., 18805 Van Buren Blvd., Riverside, CA
Lamar Bros., 1924 Monroe St., Riverside, CA
Las Plumas Lumber, 6464 33rd St., Riverside, CA
Loma Linda University, Loma Linda, CA 92354
Monier Company,* 1745 Sampson Ave., Riverside, CA 92504
Polymer Building Systems, 6942 Gage River, Riverside, CA
Reyman Enterprises, 4298 Campbell St., Riverside, CA
Riverside Medical Lab, 6950 Brockton Ave., Riverside, CA
Riverside Plumbing Company,* P.O. Box 7756, Riverside, CA 92502
Riverside Scrap Iron & Metal Corp., 2993 6th St., Riverside, CA
Southwest Painting Corp., 6251 Baldwin Ave., Riverside, CA
Travel Queen, 1850 Massachusetts Ave., Riverside, CA
Tri-Co Disposal Co., 9470 Mission Boulevard, Riverside, CA

*Copies of the PD&O were sent to these firms at the addresses indicated above but wre returned to this Office unclaimed. Accordingly, we will not send these firms copies of the final Decision and Order, but they may still submit an application for refund in the present proceeding.

B. Addresses Unknown

Arlington Heights Packing
Ameron
Air Conditioning Engineering
Auto Engineering
American Metals
Arrowhead Country Club
B&D Installers
Bonnano
George Casey
Chase Automotive
Corona Gulf
Capital Insulation
Crestlawn
Euclid Orange
Global Van Lines
Gaslin Tire
General Am. Transport Co.
Goddard Plumping
Hood Pontiac
Hubbs Equipment
Higbee
Inland Distributors
J&M Sales
Jensen Frame
Robert Kelly
Keith
Dorcie Mitchell
Mario Andretti Grand Prix
Nadig Masonry
Norco
Nading Nursery
Oveweat
Pages Shell
Rubidoux Motor Co.
Rialto Rubbish
Schneiders/Gratz
Southern Services
Spencer & Jones
R.V. Scott
Soren Engineering
Servomation
Socco
James Wickard
Western Wholesale
WK (Riverside)
WK (San Bernardino)
Young Market
Zieman Manufacturing

[FR Doc. 85–9504 Filed 4–18–85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures; Cosby Oil Co.

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $47,616.73 (plus accrued interest) obtained as the result of a Consent Order which the DOE entered into with Cosby Oil Company (Cosby) of Santa Fe Springs, California. The funds will be available to customers who purchased motor gasoline from Cosby during the period November 1, 1973 through April 30, 1974.

DATE AND ADDRESS: Applications for refund of a portion of the Cosby consent order funds must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to: Cosby Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All applications should conspicuously display as reference to Case Number HEF–0056.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to a Consent Order entered into by Cosby Oil Company (Cosby) of Santa Fe Springs, California. The Consent Order settled possible pricing and allocation violations with respect to the firm's sales or motor gasoline during the period November 1, 1973 through April 30, 1974. Under the terms of the Consent Order, $47,616.73 has been remitted by

Cosby and is being held in an interest-bearing escrow account pending determination of its proper distribution.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-state refund procedure and solicited comments from interested parties concerning the proper disposition of the Cosby consent order funds. The Proposed Decision and Order discussing the distribution of the Cosby consent order funds was issued on December 12, 1984. 49 FR 49885 (December 24, 1984).

As the Cosby Decision and Order indicates, applications for refunds from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Applications will be accepted from customers who purchased motor gasoline from Cosby during the period November 1, 1973 through April 30, 1974. The specific information required in an application for refund is set forth in the Decision and Order. the Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: April 10, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

April 10, 1985.

Name of Firm: Cosby Oil Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0056.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a Consent Order entered into by the DOE and Cosby Oil Company (Cosby) of Santa Fe Springs, California.[1]

I. Background

Cosby Oil Company is a "reseller-retailer" of motor gasoline, as this term was defined in 10 CFR 212.31. An ERA audit of Cosby's operations during the period November 1, 1973 through April 30, 1974 (the audit period) revealed possible violations of the Mandatory Petroleum Pricing Regulations. In a Proposed Remedial Order (PRO) issued to Cosby on February 12, 1979, the ERA alleged that during the audit period Cosby overcharged its motor gasoline customers by $103,734.61. In order to settle all claims and disputes between Cosby and the DOE regarding Cosby's compliance with the DOE price regulations in sales of motor gasoline during the audit period, the firm entered into a Consent Order with the DOE on September 10, 1979. Cosby thereby agreed to remit $35,000, plus interest for the period November 1, 1973 through July 31, 1979, to the DOE for deposit in an interest-bearing escrow account.[2] The Consent Order refers to the ERA allegations of overcharges, but notes that no findings of violation were made. Additionally, the Consent Order states that Cosby does not admit that it committed any such violations.

On December 12, 1984, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order funds. 49 FR 49885 (December 24, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we tentatively determined to rely, in part, on the information contained in the Cosby PRO. We observed that this approach was warranted based on our experience in prior Subpart V cases where the audit period was coterminous with the consent order period, all or most of the purchasers of the firm's products were identified by the ERA, and specific alleged overcharge amounts for individual customers were calculated in the ERA audit files. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984). We therefore proposed to establish a claims procedure whereby the identified customers of Cosby could apply for a refund.[3]

A copy of the PD&O was published in the **Federal Register** on December 24, 1984, and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to those purchasers whose names and addresses we obtained from the Cosby PRO. Those firms, as well as firms for whom we do not have addresses, are listed in the Appendix to this Decision and Order. While none of Cosby's customers filed comments on the proposed procedures, comments were filed on behalf of the States of California, New Mexico, North Carolina, Arkansas, Delaware, Kansas, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia. Most of these comments, however, discuss the distribution of any residual funds that might remain after refunds have been made to first stage claimants. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the present refund proceeding. This Decision sets forth the information that a purchaser of motor gasoline from Cosby should submit in an Application for Refund in order to establish eligibility for a portion of the consent order fund. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by the states' comments concerning the disposition of any funds remaining after all the meritorious first stage claims have been paid.[4]

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured by alleged or adjudicated violations, or unable to ascertain the amounts of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981);

[1] During the period covered by the Consent Order, Cosby was located in Whittier, California.

[2] On the date it signed the Consent Order (September 5, 1979), Cosby remitted $47,616.73 ($35,000 plus interest) to the DOE. We note that the PD&O erroneously stated that the consent order amount was $46,616.73. We have adjusted the figures used in the PD&O to calculate the potential refund amounts. *See* Section IV and the Appendix.

[3] We recognized, however, that there may have been other purchasers of Cosby motor gasoline who were not identified in the PRO and who may have been injured as a result of Cosby's pricing practices during the consent order period. As we stated in the PD&O, such customers will also be eligible to apply for refunds in the present proceeding.

[4] It is not clear, however, that any of the states except California have a legitimate interest in this proceeding, since all of the motor gasoline sales involved were made in California.

Office of Enforcement, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). We have received no comments challenging our authority to fashion special refund procedures in this case. We will therefore grant the ERA's petition and assume jurisdiction over distribution of the Cosby consent order fund.

III. Determination of Injury

In the PD&O, we proposed that retailer and reseller claimants (including refiners acting as resellers) be required to demonstrate that they did not pass on to their customers the price increases implemented by Cosby. *See, e.g., Vickers*. We have received no comments objecting to our proposal. Accordingly, in order to qualify for a refund, resellers of Cosby motor gasoline must show that during the consent order period market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers must show that they maintained a "bank" of unrecovered costs in order to demonstrate that they did not subsequently recover these costs by increasing their prices. As we noted in the PD&O, however, the maintenance of a bank will not automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co.*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

We also proposed to adopt a presumption of injury with respect to small claims. Specifically, we proposed that a reseller or retailer claimant whose refund claim is below a threshold amount of $5,000 not be required to submit any additional evidence of injury beyond purchase volumes.

We have received comments from the State of North Carolina and the State of California regarding the use of a small claims presumption. North Carolina argues that the use of a presumption for reseller claimants is inappropriate in the present proceeding. First, North Carolina objects to the statement in the PD&O that a small claims presumption is necessary to insure administrative efficiency and reasonable cost to the claimant, stating that "it is incongruous to believe that resellers would retain the necessary records of purchases—and yet not retain records of their sales and associated prices." Comments at 2. North Carolina then asserts that only end-users should be entitled to refunds based on a presumption of injury.

California does not challenge the use of a presumption for reseller claimants, but objects to the proposed threshold of $5,000. California argues that the threshold level in the present case should be based on a proportion of the consent order amount which is no larger than the proportion established in *Wisconsin Industrial Fuel Oil, Inc.*, 12 DOE ¶ 85,099 (1984). In that case, a $5,000 threshold was established for use in procedures involving the distribution of a $286,885.14 consent order fund. Applying the same proportion to the Cosby consent order fund, California asserts that the threshold in the present case should be no more than $801.

After careful consideration, we find these arguments to be unpersuasive. For the reasons stated below, we have determined that resellers and retailers of Cosby motor gasoline should receive refunds based on a presumption of injury for all claims of $5,000 or less. *See White Petroleum Co.*, 12 DOE ¶ 85,161 (1985) ($5,000 threshold established in case involving $42,325.95 consent order fund).

As we stated in the PD&O, presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e).

As we pointed out in the PD&O, The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Cosby Consent Order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). First, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. As we noted in the PD&O, this procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information and the cost to the OHA of analyzing it may be many times the expected refund amount. In the present case, the transactions involved in the Cosby audit took place 11 years ago, and we recognize that obtaining even just purchase records may be difficult for some of the claimants. We reject North Carolina's unsubstantial assertion that small claimants who have purchase records from 11 years ago would necessarily also have the type of data required to show that they did not pass through the price increases implemented by Cosby. The type of data required to make a detailed showing of cost absorption, including data showing banks of unrecouped costs, is much more difficult to extract or derive from a firm's accounting records than are purchase volume figures that are readily available from copies of invoices the firm may have retained. Therefore, as we stated in the PD&O, we are convinced that failure to allow this type of simplified application procedure for small claims could operate to deprive injured parties of the opportunity to obtain a refund.

Secondly, as we stated in the PD&O, the use of presumptions is desirable from an administrative standpoint, because it allows the OHA to process a large number of refund claims quickly and use its limited resources more efficiently. As of March 20, 1985, the Office of Hearings and Appeals was evaluating 2,363 applications for first-stage refunds in 77 proceedings. In addition, there were 237 pending refund proceedings in which applications for refund will be accepted in the near future. In order to expeditiously process this case load, it is essential to use a small claims presumption like that proposed in the Cosby PD&O.

Finally, as we noted in the PD&O, it is clear that claimants seeking smaller refunds in the Cosby proceeding did purchase covered products from Cosby and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The use of a small claims presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the small claims presumption, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level.[5]

[5] Resellers who made only spot purchases from Cosby will be presumed to have suffered no injury. These resellers will therefore be ineligible for any refund, even a refund at or below the threshold level. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full

Continued

Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, the *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. In the PD&O, we proposed that the same approach be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to both the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In its objection to the threshold level proposed in the present case, California appears to ignore these factors. The size of the individual refund amounts, the amount of time that has passed since the consent order period, and the difficulty of compiling the necessary information are more relevant in establishing a threshold level than the size of the total consent order fund. In this case, where the refund amounts are fairly low and the time period of the Consent Order is quite distant, we believe that the establishment of a presumption of injury for all claims of $5,000 or less is reasonable.[6] *See id.; Marion Corp.*, 12 DOE ¶ 85,014 (1984). Accordingly, we reject the comments of North Carolina and California on this issue.

In addition to the presumption for small claims, we are making a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the Consent Order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, and analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *See also Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. Since we have received no comments challenging our finding regarding end-users, we have concluded that end-users of Cosby gasoline need only document their purchase volumes from Cosby to make a sufficient showing that they were injured by the alleged overcharges.

IV. Calculation of Refund Amounts

In the PD&O, we proposed that the maximum refund for the firms listed in the Appendix be based on the amount they were allegedly overcharged, as indicated by the Cosby PRO. Although we recognize that the PRO does not provide conclusive evidence as to the identity of all allegedly overcharged parties or the amount of money they should receive in a Subpart V proceeding, we believe it is appropriate to use this information in the present case. As we noted in the PD&O, the ERA audit was very narrow in scope, the Consent Order was limited to the same products and time period as the audit, and Cosby had a relatively small number of customers. Because of these factors, the information contained in the PRO can be used to fashion a refund plan which will correspond closely to the injuries experienced. *See, e.g., Marion.* Since we have received no comments regarding our proposed method of distribution, we will adopt the procedures set forth in the PD&O. To calculate the size of each applicant's potential refund, we will multiply the alleged overcharge amounts for each eligible claimant by 0.4590, a pro rata factor determined by dividing the consent order amount ($47,616.73) by the total alleged overcharges ($103,734.61).[7] The alleged overcharge amount and the maximum potential refund for each of the identified customers are listed in the Appendix. In addition, successful refund applicants will receive a pro rata share of the interest which has accrued since the deposit of the funds into the escrow account.

We will also adopt our proposal to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b).

V. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the Cosby consent order fund. Accordingly, we shall now accept applications for refunds from the 15 customers listed in the Appendix. We will also accept claims from any customers not listed in the Appendix who can show that they were injured by Cosby's pricing practices during the consent order period.

In order to receive a refund, each applicant will be required to report the monthly volume of Cosby motor gasoline for which it is claiming a refund. The applicant must also state how it used the motor gasoline, i.e., whether it was a reseller or an ultimate consumer. Retailers and resellers who request refunds in excess of the $5,000 threshold amount must submit evidence to establish that they did not pass on the alleged overcharges to their customers. In addition, each applicant must state whether there has been a change in ownership of the firm since the audit period and must provide the names and addresses of any other owners. If there has been a change in ownership the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Applicants should also report any past or present involvement as a party in DOE enforcement proceedings. If these proceedings have terminated, the applicant should furnish a copy of the final order issued in the matter and indicate the status of any remedial action required by the order. If the proceeding is ongoing, the applicant should briefly describe the proceeding and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in

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amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of those resellers claiming more than the threshold amount, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise discretion as to where and when they made the purchase(s) on which their refund claim is based.

[6] Any reseller whose potential refund exceeds the threshold amount may elect to apply for a refund based on the threshold amount.

[7] In the event that there are customers not listed in the Appendix who file a successful application for refund, we will use the volumetric approach to determine their refund amounts. If such applications are granted under this approach, we may have to reduce the level of refunds proposed for the firms listed in the Appendix. Because of this possibility, we do not intend to issue final determinations on any refund claims in this proceeding until the deadline for applications has passed.

status while its refund application is pending. *See* 10 CFR 205.9(d).

All applications must to be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register.** Each application must be in writing, signed by the applicant, and specify that it pertains to the Cosby Consent Order Fund, Case No. HEF-0056. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the consent order fund remitted to the Department of Energy by Cosby Oil Company may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

George B. Breznay,

Director, Office of Hearings and Appeals.

April 10, 1982.

APPENDIX

Names and address	Alleged overcharges	Potential refund [1]
Automat Oil Company, 200 West Willow Street, Long Beach, CA 90806	$9,067.98	$4,162.00
Bradshaw, Inc., 1708 Gage Avenue, Montebello, CA 90640	223.24	102.00
C.M. Caldwell Company, 540 Sespe Avenue, Filmore, CA 93105	6,813.99	3,128.00
Cerritos High School, 12500 East 183rd Street, Cerritos, CA 90701	135.79	62.00
Chuck and Lees, Address unavailable	3,292.43	1,511.00
Clements Oil Compnay,[2] 8451 Atlantic, Cudahy, CA 90640	8,540.92	3,879.00
Five Points, Address unavailable	5,978.45	2,744.00
H.D. Distributors, 347 South Ogden Drive, Los Angeles, CA 90036	21,194.02	9,728.00
Leona Supere, Address unavailable	$198.55	$91.00
Jerry Litsey [2] L & S Service Station, 7535 East Firestone, Downey, CA 90241	2,295.82	1,054.00

APPENDIX—Continued

Names and address	Alleged overcharges	Potential refund [1]
Pyramid Oil Company, P.O. Box 3225, Santa Fe Springs, CA 90670	78.20	36.00
U.S.A. Petroleum Corp., 1633 26th Street, Santa Monica, CA 90404	6,325.66	2, 903.00
Winall Oil Company, 3978 Cherry Avenue, Long Beach, Ca 90807	31,646.81	14,526.00
World Oil Company, 1017 North La-Cienega Blvd., Lois Angeles, CA 90069	2,809.80	1,290.00
Yucca Valley, Address unavailable	5,132.95	2,356.00

[1] Rounded to the nearest dollar.

[2] Copies of this PD&O were sent to these firms at the above addresses, but were returned to this Office unclaimed. Although we will therefore, not send copies of the final Decision and Order to these firms, they are still eligible to apply for a refund in the present proceeding.

[FR Doc. 85-9503 Filed 4-18-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51567; FRL-2820-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-eight PMNs and provides a summary of each.

DATES: Close of Review Period:

P 85-762, 85-763, 85-764, 85-765, 85-766, 85-767, 85-768, 85-769, 85-770, 85-771, 85-772, 85-773, 85-774, 85-775, 85-776, 85-777, 85-778, and 85-779—July 3, 1985.

P85-780, 85-781, 85-782, 85-783, 85-784 and 85-785—July 7, 1985.

P 85-786, 85-787, 85-788, 85-789, 85-790, 85-791, 85-792, 85-793, 85-794, 85-795 and 85-796—July 8, 1985.

P 85-797, 85-798 and 85-799—July 9, 1985.

Written comments by:

P 85-762, 85-763, 85-764, 85-765, 85-766, 85-767, 85-768, 85-769, 85-770, 85-771, 85-772, 85-773, 85-774, 85-775, 85-776, 85-777, 85-778 and 85-779—June 3, 1985.

P 85-780, 85-781, 85-782, 85-783, 85-784 and 85-785—June 7, 1985.

P 85-786, 85-787, 85-788, 85-789, 85-790, 85-791, 85-792, 85-793, 85-794, 85-795 and 85-796—June 8, 1985.

P 85-797, 85-798 and 85-799—June 9, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-51567]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

P 85-762

Importer. Confidential.

Chemical. (G) Substituted, substituted, substituted anthraquinone.

Use/Import. (S) Industrial colorant for textiles. Import range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Slight, Eye—Non-irritant; IC_{50} 96 hr (Brachydanio rerio): >100 mg/l.

Exposure. Processing: Dermal, inhalation and ocular, weighing once per shift, 5 min.

Environmental Release/Disposal. No release to air and land. Disposal by publicly owned treatment works (POTW), navigable waterway and customers's own waste treatment facility.

P 85-763

Importer. Confidential.

Chemical. (G) Trisubstituted anthraquinone.

Use/Import. (S) Industrial colorant for textiles. Import range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Nonirritant, Eye—Non-irritant; IC_{50} 96 hr (Brachydanio rerio): > mg/L.

Exposure. Processing: Dermal.

Environmental Release/Disposal. Release to water. Disposal by navigable waterway and biological treatment.

P 85–764

Importer. EM Industries.

Chemical. (G) 4-(Trans-4-n-alkylcyclohexyl)-n-alkylbenzene.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–765

Importer. EM Industries.

Chemical. (G) 4-n-alkoxyphenyl-4-trans-n-pentyl cyclohexyl carboxylate.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–766

Importer. EM Industries.

Chemical. (G) 4-(Trans-4-n-alkyl cyclohexyl)-4'-Trans-4-n-alkyl' cyclohexyl biphenyl.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–767

Importer. EM Industries.

Chemical. (G) 4-n-alkoxyphenyl-trans-4-n-alkylcyclohexyl carboxylate.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release

P 85–768

Importer. EM Industries.

Chemical. (G) Trans-5-n-alkyl-2-[4-cyanobiphenyl]-1,3-dioxane.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–769

Importer. EM Industries.

Chemical. (G) Trans-5-n-alkyl-2-[4-cyanobiphenyl]-1,3-dioxane.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–770

Importer. EM Industries.

Chemical. (G) 4-n-alkoxyphenyl-trans-4-n-alkylcyclohexylcarboxylate.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–771

Importer. EM Industries.

Chemical. (G) 4-n-alkoxyphenyl-4-trans-n-alkyl cyclohexylcarboxylate.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–772

Importer. EM Industries.

Chemical. (G) 4-n-alkyl-4'(4-Trans-n-alky')cyclohexyl biphenyl.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–773

Importer. EM Industries.

Chemical. (G) 4-(Trans-4-n-alkylcyclohexyl)-n-alkoxybenzene.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–774

Importer. EM Industries.

Chemical. (G) 4-(Trans-4-n-aklylcyclohexyl)-n-alkyl'benzene.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–775

Importer. EM Industries.

Chemical. (G) 5-n-alkyl-2-[4-n-alkoxyphenyl]-1,3-pyrimidine.

Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release.

P 85–776

Importer. EM Industries.
Chemical. (G) 5-n-alkyl-2-[4-n-alkoxyphenyl]-1,3-pyrimidine.
Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. No release.

P 85–777

Importer. EM Industries.
Chemical. (G) Trans-5-n-alkyl-2-[4-cyanobiphenyl]-1,3-dioxane.
Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. No release.

P 85–778

Importer. EM Industries.
Chemical. (G) 5-n-alkyl-2-[4-n-alkoxyphenyl]-1,3-pyrimidine.
Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. No release.

P 85–779

Importer. EM Industries.
Chemical. (G) 5-n-alkyl-2-[4-n-alkoxyphenyl]-1,3-pyrimidine.
Use/Import. (S) The new chemical substance is part of a liquid crystal mixture used to manufacture displays (watches, instruments, calculators, computers, etc.). Import range: 5–10 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. No release.

P 85–780

Manufacturer. SecoDyne, Inc.
Chemical. (G) Condensed aminomethylated tannins.
Use/Production. (G) A destabilization charge carrier in settling of colloidal suspensions; a crystal-lattice distorter in removal of $CaCo_3$ and $CaSO_4$ scales; and assists with autoflocculation of biomass polysaccharides by zoogloearamigera for cell surface binding and removal. Prod. range: Confidential.
Toxicity Data. Acute oral: Male—84 g/kg, female—92 g/kg; LC_{50} 24 hr (Ranibow Trout): 100 parts per million (ppm).
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–781

Manufacturer. The Dow Chemical Company.
Chemical. (G) Substituted polyglycol.
Use/Production. (S) Industrial polyol for use in polyurethane resins. Prod. range: Confidential.
Toxicity Data. Acute oral: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Manufacture: Dermal, a total of 48 workers.
Environmental Release/ Disposal. Release to air and vapor. Disposal by incineration.

P 85–782

Manufacturer. The Dow Chemical Company.
Chemical. (G) Substituted polyglycol.
Use/Production. (S) Industrial polyol for use in polyurethane resins. Prod. range: Confidential.
Toxicity Data. Acute oral: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Manufacture: Dermal, a total of 48 workers.
Environmental Release/ Disposal. Release to air and vapor. Disposal by incineration.

P 85–783

Manufacturer. Confidential.
Chemical. (G) Chlorinated cyclic olefin/ polydiene adduct.
Use/Production. (G) Adhesives for open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/ Disposal. Confidential.

P 85–784

Manufacturer. The Dow Chemical Company.
Chemical. (G) Substituted polyglycol.
Use/Production. (S) Industrial polyol for use in polyurethane resins. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: Dermal, a total of 48 workers.
Environmental Release/ Disposal. Release to air. Disposal by incineration.

P 85–785

Manufacturer. Confidential.
Chemical. (G) Copolyacrylate.
Use/Production. (G) Industrial polymer for specialty coating. Prod. range: 20,000–100,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Dermal, a total of 28 workers, up to 8 hrs/da, up to 136 da/yr.
Environmental Release/ Disposal. 6 to 65 kg/batch released to land. Disposal by incineration and landfill.

P 85–786

Manufacturer. Confidential.
Chemical. (G) Fatty dibasic acids, amides from polyoxyalkylene amines.
Use/Production. (G) Lubricant additive and wetting agent. Prod. range: 14,600–44,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total of 6 workers, up to 8 hrs/da, up to 3 da/yr.
Environmental Release/ Disposal. 299 kg/batch released to water. Disposal by POTW.

P 85–787

Manufacturer. Confidential
Chemical. (G) Urea derivative.
Use/Production. (S) Site-limited intermediate for latex polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total of 18 workers, up to 5 hrs/da, up to 150 da/yr.
Environmental Release/ Disposal. Less than 0.5 to 1–2 kg/batch released to water with 0 to 1 kg/batch to land. Disposal by POTW.

P 85–788

Manufacturer. General Electric Company.
Chemical. (G) Substituted benzoate ester of polyphenylene oxide.
Use/Production. (S) Industrial automotives, E/E and appliances and fluid handling components. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal and inhalation, a total of 40 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 100 kg released to air and water. Disposal by incineration and on-site waste treatment—the Hudson River.

P 85–789

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (G) Electrical insulation intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–790

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (G) Electrical insulation intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–791

Manufacturer. Confidential.
Chemical. (G) Haloborane-aromatic phosphate ester complex.
Use/Production. (G) Modifier. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: Dermal, total of 7 workers, up to 0.1 hr/da, up to 32 da/yr.
Environmental Release/Disposal. No release.

P 85–792

Manufacturer. Confidential.
Chemical. (G) Indole.
Use/Production. (G) Captive intermediate used in manufacturing a minor component for paper coatings. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85–793

Manufacturer. Confidential.
Chemical. (G) Carboxyphenylcarbonylindole [I].
Use/Production. (G) Captive intermediate used in manufacturing a minor component for paper coatings. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85–794

Manufacturer. Confidential.
Chemical. (G) Carboxyphenylcarbonylindole [II].
Use/Production. (G) Captive intermediate used in manufacturing a minor component for paper coatings. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85–795

Manufacturer. Confidential.
Chemical. (G) Isobenzofuranone [I].
Use/Production. (G) Minor color-forming component in paper coatings. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85–796

Manufacturer. Confidential.
Chemical. (G) Isobenzofuranone [II].
Use/Production. (G) Minor color-forming component in paper coatings. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85–797

Manufacturer. Confidential.
Chemical. (G) Diamino-polydimethyl siloxane.
Use/Production. (G) Organosilicon polymer intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: Male—1,107 mg/kg, female–602 mg/kg, combined—726 mg/kg; Irritation: Skin—Irritant.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–798

Manufacturer. Confidential.
Chemical. (G) Polyimide siloxane.
Use/Production. (G) Open, non-dispersive use coating. Prod. range: Confidential. kg/ lbs/yr.
Toxicity Data. Irritation: Skin—Slight, Eye—Slight/severe; Ames Test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–799

Manufacturer. Rohm and Haas Company.
Chemical. (G) Modified polyacrylate polymer.
Use/Production. (G) Polymeric dispersant. Prod. range: Confidential
Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Slight; LC_{50}96 hr (Rainbow trout): >1,000 mg/L; LC_{50}96 hr (Bluegill sunfish):
>1,000 mg/L; LC_{50} 48 hr (Daphnia magna): >1,000 mg/L.
Exposure. Manufacture: Dermal, a total of 8 workers, up to 3.0 hrs/da, up to 48 da/yr.
Environmental Release/Disposal. Release to water. Disposal by POTW and navigable waterway.

Dated: April 15, 1985.

Linda K. Smith,

Acting Director, Information Management Division.

[FR Doc. 85–9346 Filed 4–18–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59711; FRL–2820–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of twelve such PMNs and provides a summary of each.

DATES: Close of Review Period:
Y 85–43—April 25, 1985.
Y 85–44, 85–45 and 85–46—April 28, 1985.
Y 85–47, 85–48, 85–49, 85–50 and 85–51—April 29, 1985.
Y 85–52, 85–53, and 85–54—April 30, 1985.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street SW., Washington, DC 20460 (202–382–3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the

manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 85–43

Manufacturer. Allied Corporation.
Chemical. (G) Modified polyamide.
Use/Production. (S) Fiber for apparel applications. Prod. range: Confidential.
Toxicity Data. Skin sensitization: Non-sensitizer.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 85–44

Manufacturer. Confidential.
Chemical. (G) Dimer acids, monocarboxylic acids, polymaines polyamide resin.
Use/Production. (S) Industrial binder resin in high solids, solvent based flexographic printing inks. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: Dermal and inhalation, a total of 4 workers.
Environmental Release/Disposal. Less than 0.1 kg/batch released to water with less than 2 kg/batch to land. Disposal by sanitary landfill and to the receiving stream.

Y 85–45

Manufacturer. Enterprise Companies.
Chemical. (S) Polymer of soybean oil, pentaerythritol, phthalic anhydride, intermediate, 1,2 propanediol, 1,3-diisocyanato-methylbenzene and dipropylene glycol monomethyl ether.
Use/Production. (S) Commercial and consumer binder in urethane varnishes and paints, primarily in aerosol spray cans, possibly as floor sealer. Prod. range: 75,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 85–46

Manufacturer. Enterprise Companies.
Chemical. (S) Polymer of phthalic anhydride, trimethylolpropane and tone 0200 polycaprolactone diol.
Use/Production. (S) Industrial and commercial cross linking agent for urethane type coatings, primarily but not exclusively for concrete floors. Prod. range: 2,000–6,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data sumitted.
Environmental Release/Disposal. No data submitted.

Y 85–47

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Alkali soluble styrene-acrylate ranom copolymer.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

Y 85–48

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Alkali soluble styrene-acrylate ranom copolymer.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

Y 85–49

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Alkali soluble styrene-acrylate ranom copolymer.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

Y 85–50

Manufacturer. S. C. Johnson & Son, Inc.
Chemical. (G) Alkali soluble styrene-acrylate ranom copolymer.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

Y 85–51

Importer. NAPP Systems (USA) Inc.
Chemical. (G) Acrylic copolymer resin.
Use/Import. (G) Acrylic copolymer resin for photopolymer printing plates. Import range: Confidential.
Toixicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 85–52

Importer. Albright and Wilson Inc.
Chemical. (G) Alkyl methacrylate polymer.
Use/Import. (S) Industrial and commercial viscosity index improver for hydraulic fluids. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Use: Dermal, a total of 5–50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Release is negligible. Disposal by approved incineration and approved landfill.

Y 85–53

Importer. Albright and Wilson Inc.
Chemical. (G) Alkyl methacrylate polymer.
Use/Import. (S) Industrial, commercial and consumer viscosity index improver for lubricating oils. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Use: Dermal, a total of 5–50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Release is negligible. Disposal by approved incineration and approved landfill.

Y 85–54

Importer. Albright and Wilson Inc.
Chemical. (G) Alkyl methacrylate polymer.
Use/Import. (S) Industrial, commercial and consumer viscosity index improver for lubricating oils. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Use: Dermal, a total of 5–50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Release is negligible. Disposal by approved incineration and approved landfill.

Dated: April 15, 1985.

Linda K. Smith,

Acting Director, Information Management Division.

[FR Doc. 85–9345 Filed 4–18–85; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–59191; FRL–2820–8]

Test Marketing Exemption Application; N,N,-Diallyltartardiamide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA.

Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemptions.

DATE: Written comments by: May 6, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-59191]" and the specific TME number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-4201, 401 M Street SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

T 85-39

Close of Review Period. May 23, 1985.

Manufacturer. Confidential.

Chemical. (G) N,N,-Diallyltartardiamide.

Use/Production. (G) Photo sensitive material. Prod. range: 25 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal and ocular, a total of 308.

Environmental Release/Disposal. No data submitted.

Dated: April 15, 1985.

Linda K. Smith,

Acting Director, Information Management Division.

[FR Doc. 85-9344 Filed 4-18-85; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2821-5]

Water Quality Criteria Request for Comments

AGENCY: Environmental Protection Agency.

ACTION: Notice of request for comments on ambient water quality criteria document for dissolved oxygen.

SUMMARY: EPA announces the availability for public comment and provides a summary of an ambient water quality criteria document for dissolved oxygen. These criteria are published pursuant to section 304(a)(1) of the Clean Water Act. EPA water quality criteria documents may form the basis for enforceable standards.

DATES: Written comments should be submitted to the person listed directly below on or before July 18, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Criteria and Standards Division (WH-585), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 245-3030.

Availability of Document

This notice contains a summary of a criteria document containing proposed ambient water quality criteria for dissolved oxygen for the protection of aquatic life. Copies of the complete criteria document may be obtained upon request from the person listed above. This document is also available for public inspection and copying during normal business hours at: Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M Street, SW, Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of this document are also available for review in the EPA Regional Office libraries.

SUPPLEMENTARY INFORMATION:

Background

Section 304(a)(1) of the Clean Water Act (33 U.S.C. 1314(a)(1)) requires EPA to publish and periodically update ambient water quality criteria. These criteria are to reflect the latest scientific knowledge on the identifiable effects of pollutants on public health and welfare, aquatic life and recreation.

EPA has periodically issued ambient water quality criteria, beginning in 1973, with publication of the "Blue Book" (Water Quality Criteria 1972). In 1976, the "Red Book" (Quality Criteria for Water) was published. On November 28, 1980, (45 FR 79318) and February 15, 1984, (49 FR 5831), EPA announced the publication of 65 individual ambient water quality criteria documents for pollutants listed as toxic under section 307(a)(1) of the Clean Water Act.

Today EPA is announcing the availability for public comment of a water quality criteria document for dissolved oxygen which, upon final publication, will update and revise criteria for dissolved oxygen previously published in the "Red Book" in 1976.

Criteria Implementation Guidance

The proposed dissolved oxygen criteria provide separate criteria for coldwater and warmwater aquatic life. This separation provides for less stringent criteria for warmwater species than for coldwater species. Most of the data for coldwater species are from research on the effects of low dissolved oxygen on salmonid fish. Some other species (often termed coldwater species) appear to be closer to salmonids in their dissolved oxygen requirements than to the warmwater nonsalmonid species. For implementation of the proposed dissolved oxygen criteria, it is important that further clarification be obtained of the species considered to require the coldwater criteria. EPA specifically requests comments on the procedures (species lists, water temperature ranges applicable to each category, or other) that should be used in implementing the new coldwater/warmwater dissolved oxygen criteria.

A similar question involves the identification of times and places where the more stringent criteria for early life stages should be used, or conversely, when and where the less stringent criteria for other life stages should be used. EPA specifically requests comment in this area.

EPA is also interested in obtaining comment on the appropriate water temperatures in modeling dissolved oxygen for each category of dissolved oxygen criteria. For example, what procedures should be used to determine the appropriate water temperature in models used in conjunction with coldwater criteria, both for early life stages and for other life stages? Do all life stages occur during critical high temperature conditions frequently used in modeling?

Dated: April 11, 1985.

Henry L. Longest II,

Acting Assistant Administrator for Water.

[FR Doc. 85-9422 Filed 4-18-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2822-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 1, 1985 through April 5, 1985 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D–AFS–E65030–MS, Rating Alt. #1 and 4=LO; #5=EC2, Mississippi Nat'l Forests Land and Resource Magmt. Plan, MS. Summary: EPA identified either Alternative 1 or 4 as having less impact on the overall environment and water quality than the preferred Alternative 5. Additional discussion of erosion control measures, harvesting, road building, soil preparation and planting operations were requested.

ERP No. D–AFS–K61082–AZ, Rating EC2, Bill Williams Mtn. Ski Area, Mgmt. Plan Kaibab Nat'l Forest, AZ. Summary: EPA requested that the FEIS discuss the following: impacts of erosion on water quality; sources of water for the project, including ground water withdrawal; and impacts of chemicals used to control vegetation on ground water.

ERP No. D–APH–K82003–HI, Rating EU3, Tri-Fly Complex Eradication Program Elimination, HI. Summary: EPA rated the DEIS environmentally unsatisfactory because the program as proposed would be a violation of FIFRA since certain crops will be treated with insecticides that do not have current tolerances or tolerance exemptions. EPA also believes the analysis in the DEIS did not adequately cover the impacts to surface water bodies, ground water resources and the unique Hawaiian flora and fauna. EPA suggested that the DEIS be revised or supplemented.

ERP No. D–BIA–G08009–NM, Rating LO, Norton-Tesuque 115 kV Overhead Transmission Line and Substation, Right-of-Way Permit and Approval, NM. Summary: EPA has not identified any potential environmental impacts requiring changes to the proposal.

ERP No. D–BLM–G08008–NM, Rating LO, El Paso 345 kV, Springerville to Deming, Transmission Line, Construction, Operation and Maintenance, Right-of-Way Permit, NM. Summary: EPA has not identified any potential environmental impacts requiring changes to the proposal.

ERP No. D–COE–G32050–AR, Rating LO, Pine Bluff Harbor Expansion, AR. Summary: EPA has not identified any potential environmental impacts requiring substantive changes to the proposal.

ERP No. D–MMS–A02211–AK, Rating EO3, 1985 N. Aleutian Basin OCS Oil and Gas Lease Sale No. 92, Leasing, Offshore AK. Summary: EPA recommended that MMS revise the EIS and reconfigure the lease sale in order to provide a more environmentally protective buffer zone for the Alaska Peninsula. EPA's detailed comments pointed out where data gaps should be filled and analytical techniques strengthened in order to adequately assess the effects of oil spills in the N. Aleutian Basin. EPA recommends that a revised or supplemental DEIS be prepared and and circulated for comment.

Final EISs

ERP No. F–BLM–J65026–CO, Piceance Basin Mgmt. Plan, White R. Resource Area, CO. The FEIS responded adequately to EPA concerns. EPA remains supportive of BLM's carrying capacity study efforts prior to leasing and will assist BLM on air quality study efforts. EPA continues, however, to have environmental reservations about any new oil shale leasing since the prototype oil shale leasing program has not yet produced an industry to provide environmental baseline data.

ERP No. FS–COE–G30009–LA, Larose to Golden Meadow, Hurricane Protection Project, LA. Summary: The FEIS responded adequately to EPA's comments issued on the DEIS. EPA did not identify any new issues of concern with regard to the proposed action.

ERP No. F–FHW–E40200–NC, US 264, NW Bypass Improvement, US 264 (Relocated) to Greenville Blvd./NC–1590 at US 13/NC–11/Memorial Drive, NC. Summary: EPA expressed environmental objections to the FEIS due to acreage deduction methods of wetland mitigation proposed in the FEIS. It is EPA's belief that acquired "replacement" wetlands should only be used as a last resort, and typically should only be seriously considered if it is shown that the acquired wetlands would otherwise imminently be developed or that enhancement, restoration, or creation of wetlands is infeasible.

ERP No. F–FHW–L40135–OR, Salmon R. Highway Widening, E. McMinnville Interchange to Airport Road, OR. Summary: EPA made no formal comments. EPAs review found the project to be satisfactory and the FEIS to be responsive to the comments issued on the DEIS.

Dated: April 16, 1985.

Allan Hirsch,

Office of Federal Activities.

[FR Doc. 85–9558 Filed 4–18–85; 8:45 am]

BILLING CODE 6560–50–M

[ER-FRL-2822-1]

Environmental Impact Statements; Notice of Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075. Availability of Environmental Impact Statements filed April 8, 1985 through April 12, 1985 Pursuant to 40 CFR 1506.9

EIS No. 850141, Final, COE, FL, Sarasota and Manatee Counties, Beach Erosion and Storm Protection Plan, Due: May 20, 1985, Contact: Ronnie Tapp (904) 791–1690.

EIS No. 850141, DSuppl, COE, HI, West Beach Resort Development, Construction, Permit, Hawaii County, Due: June 3, 1985, Contact: Michael T. Lee (808) 438–9258.

EIS No. 850143, Final, AFS, NM, Western Spruce Budworm Management Program, Carson National Forest, Taos County, Due: May 20, 1985, Contact: John Bedell (505) 758–6200.

EIS No. 850144, Draft, AFS, SD, MT, ND, Custer National Forest, Land and Resource Management Plan, Due: August 1, 1985, Contact: David A. Filius (406) 657–6361.

EIS No. 850145, Draft, AFS, MT, Deerlodge National Forest, Land and Resource Management Plan, Due: August 1, 1985, Contact: Frank Salomonsen (406) 496–3400.

EIS No. 850146, Draft, AFS, ID, WA, MT, Idaho Panhandle National Forest, Land and Resource Management Plan, Due: August 1, 1985, Contact: Gerry House (208) 765–7477.

EIS No. 850147, Final, COE, AL, Theodore Ship Channel, Bulk Coal and Grain Handling Facility, Construction, Permit, Mobile Bay, Mobile County, Due: May 20, 1985, Contact: C. Clay Carter (205) 694–3770.

EIS No. 850148, Draft, COE, DE, Wilmington Harbor, Federal Navigation Project, Dredged Material Disposal Area, Development and Designation, Christina River, New Castle County, Contact: John Forren (215) 597–4833.

EIS No. 850149, Draft, BIA, CA, Hoopa Valley Indian Reservation, Fishing Regulations, Modifications, Klamath River Drainage, Humboldt and Del Norte Counties, Due: June 3, 1985, Contact: George Farris (202) 343–6574.

EIS No. 850150, Final, NRC, GA, Vogtle Electric Generating Plant, Units 1 and 2, Operating License, Savannah River, Burke County, Due: May 20, 1985, Contact: Melainie Miller (301) 492–4259.

EIS No. 850151, Final, MMS, AK, 1985 St. Geroge Basin, OCS Oil and Gas Sale No. 89, Leasing Offering, Bearing Sea, Due: May 20, 1985, Contact: Richard Miller (202) 343–6264.

Amended Notices

EIS No. 850114, Draft, AFS, MT, ID, Bitterroot National Forest, Land and Resource Management Plan, Due: July 15, 1985, Published FR 3–29–85—Filing date reestablished.

EIS No. 850152 Draft, AFS, ID, MD, Blue Joint and Sapphire Montana Wilderness Study Act Area, Land and Resource Management Plan, Bitterroot, Deerlodge and Salmon National Forests, Due: July 15, 1985, Contact: Robert Morgan (406) 363–3131—Inadvertently omitted from 4–5–85 FR.

EIS No. 850137, Draft, BLM, OR, Two Rivers Planning Area, Resources Management Plan, Due: July 1, 1985, Published FR 4–12–85—Review period extended.

EIS No. 850124, Draft, BLM, CA, Chemise Mountain and King Range Wilderness Study Areas, Arcata Resource Area, Designation, Due: July 3, 1985, Published FR; 4–5–85—Review period extended.

EIS No. 850110, Final, FHW, MD, MD–43/Whitemarsh Blvd. Extension, I–695/Baltimore Beltway to I–95 and US 1 Improvements, I–695 to north of Silver Spring Rd., Baltimore County, Due: May 13, 1985, Published FR 3–29–85—Review period reestablished.

EIS No. 850115, Draft, AFS, MT, Gallatin National Forest, Land and Resource Management Plan, Due: July 15, 1985, Published FR 4–5–85—Filing date reestablished.

EIS No. 850139, Final, SFW, AK, Kenai National Wildlife Refuge, Conservation Management Plan, Due: June 7, 1985, Published FR 4–12–85—Review extended.

Dated: April 16, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85–9559 Filed 4–18–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

A&M Broadcasting and Good Christian Radio Broadcasting Inc.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. A&M Broadcasting, Whitneyville, PA.	BPH–840516IC	85–106
B. Good Christian Radio Broadcasting, Inc., Whitneyville, PA.	BPH–840723IA	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) wich can be found at 48 FR 22428, May 18, 1983. This issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B
2. Comparative, A & B
3. Ultimate, A & B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 85–9524 Filed 4–18–85; 8:45 am]

BILLING CODE 6712–01–M

Charles Ray Shinn, et al.; Hearing Designation Order; Construction Permit, Pine Bluff, AR

In re applications of Charles Ray Shinn, Robin C. Brandt, and Elmer Montgomery d/b/a Montgomery Broadcasting, MM Docket No. 85–97; File No. BPCT–840813KN; File No. BPCT–841005KQ; File No. BPCT–841005LF.

Adopted: March 28, 1985.

Released: April 5, 1985.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutally exclusive applications of Charles Ray Shinn (Shinn), Robin C. Brandt (Brandt), and Elmer Montgomery d/b/a Montgomery Boradcasting (Montgomery) for authority to construct a new commercial television station on Channel 25, Pine Bluff, Arkansas.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by each applicant indicate that there would be a significant difference in the size of the areas and populations that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Commission's Rules. They must then file proof of publication of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Brandt has done either. If he has not already done so, Brandt will be required to file a statment that he has or will comply with the public notice requirement with the Administrative Law Judge within 20 days of the release of this Order.

4. No determination has been made that the tower height and location proposed by each of the applicants would not constitute a hazard to air navigation. Accordingly, an apporpriate issue will be specified.

5. Shinn's proposed site is 50 miles from the site of co-channel station KRZB–TV, Hot Springs, Arkansas, whereas Section 73.610(c)(1) of the Commission's Rules requires a minimum separations of 55 miles. The applicant, therefore, would be short-spaced 5 miles to Station KRZB–TV. An issue will be specified to determine whether circumstances exist warranting a waiver. In assessing the circumstances to determine whether a waiver of the rule is warranted, the Administrative Law Judge will consider the fact that the other applicants in this proceeding have specified fully-spaced sites.

6. Since grant of Montgomery's application would constitute a major environmental action as defined by § 1.1305(a) of the Commission's Rules, Montgomery is required to submit the environmental impact information described in § 1.1311. Accordingly, Montgomery will be required to file, within 20 days of the release of this Order, an environmental narrative statement with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Video Services Division, who will then proceed in accordance with the provisions of § 1.1313(b). Accordingly, § 1.1317 of the Rules will be waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 F.C.C. 2d 229 (1979) *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 F.C.C. 2d 337 (1980).

7. The technical data provided by Montgomery in response to Section V–C, item 15, FCC Form 301 appears to be incorrect, thereby leading to an improper calculation of predicted contours. For example, the height above the 225 degree radial is shown to be 505 feet and the height above the 180 degree radial is shown to be 490 feet. Thus, the distance of the Grade B contour along the 225 degree radial should be greater than the distance along the 180 degree radial, but the applicant shows it to be one mile less. Additionally, the area within the proposed Grade B contour is shown to be 630 square miles, which would indicate a Grade B radius of about 14 miles. This radius is much less than the distances shown in response to Section V–C, item 15 and the applicant's Exhibit 3. Montgomery will be required to furnish proper figures by amendment submitted to the presiding Administrative Law Judge within 20 days after the date of release of this Order.[1]

8. The vertical tower sketch submitted by Montgomery is patently incorrect (two different dimensions are labeled 510 feet; heights are not identified) and does not agree with the figures appearing in Section V–C, item 5, FCC Form 301. Montgomery will be required to submit a new vertical tower sketch showing the correct height to the Administrative Law Judge within 20 days after this Order is released.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine whether the proposal of Charles Ray Shinn is consistent with the minimum mileage separation requirements of Section 73.610 of the Commission's Rules and if not, whether circumstances exist which would warrant a waiver of the Rule.

3. If a final environmental impact statement is issued with respect to Elmer Montgomery d/b/a Montgomery Broadcasting, which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by § 1.1301–1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted

11. It is further ordered, that Robin C. Brandt, shall file a certification with the presiding Administrative Law Judge, within 20 days after this Order is released, that he has or will comply with § 73.3580 of the Commission's Rules.

12. It is further ordered that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

13. It is further ordered, that § 1.1317 of the Commission's Rules IS WAIVED to the extent indicated herein. Within 20 days of the release of this Order, Elmer Montgomery d/b/a Montgomery Broadcasting, shall submit an environmental narrative statement required by § 1.1311 of the Rules to the presiding Administrative Law Judge with a copy to the Chief, Video Services Division.

14. It is further ordered, that Elmer Montgomery d/b/a Montgomery Broadcasting, shall submit an amendment to the presiding Administrative Law Judge, within 20 days after the release date of this Order correcting the information discussed in paragraphs 7 and 8 *supra*, and any other engineering information required by the correction.

15. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934 as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commision.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85–9528 Filed 4–18–85; 8:45 am]

BILLING CODE 6712–01–M

[1] The applicant should note that the corrections in item 15, Section V–C will also require adjustments in the maps required by Section V–C, item 10(b) and the area and population figures required by Section V–C, item 10(e).

FEDERAL EMERGENCY MANAGEMENT AGENCY

Anti-Arson Program Grants; Solicitation for Award of Cooperative Agreement

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

Notice of Solicitation is hereby given that the Federal Emergency Management Agency, under the Fire Prevention and Control Act of 1974, will issue a Request for Assistance (RFA), EMW–85–S–1977 on May 1, 1985 regarding the design and implementation of an anti-arson strategy program for Community-Based Anti-

Arson Programs. This program is limited to Community Based Organizations.

The purpose of this assistance is to focus on nationwide efforts to reduce the number of arson related fires that occur every year throughout this country. Some broad objectives of the program are: (a) To increase involvement and interaction between community groups and fire service organizations; (b) to build a comprehensive community anti-arson program; and, (c) to encourage community participation and responsibility in reducing arson-related fires.

Applications for Assistance must be requested in writing and addressed as follows:

Federal Emergency Managment Agency, Office of Acquisition Management, 500 C Street SW., Room 728, Washington, D.C. 20472, Attn: Victory Long, Contract Specialist, Request for Assistance No. EMW–85–S–1877.

Please include a self-addressed mailing label with the request.

Cooperative Agreements are anticipated to be awarded as a result of this request for assistance. It is anticipated that a minimum of five (5) and a maximum of thirty (30) assistance awards will be made. The anticipated funding levels for this program are between $5,000.00 to $25,000.00 based on the criteria shown in Attachment C of the solicitation package.

Edward M. Hall,

Acting Administrator, U.S. Fire Administration.

[FR Doc. 85–9476 Filed 4–18–85; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–735–DR]

Illinois; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA–735–DR), dated March 29, 1985, and related determinations.

DATE: April 11, 1985.

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

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Illinois, dated March 29, 1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 29, 1985: Bureau, Cass, Fulton, Marshall, Morgan, Peoria, Schuyler, Scott, Tazewell, Whiteside, and Will Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85–9477 Filed 4–18–85; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL RESERVE SYSTEM

First Virginia Banks, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 10, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.*, Falls Church, Virginia; to acquire 100 percent of the voting shares of the Citizens Bank, Inc., South Hill, Virginia.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Romy Hammes, Inc.*, South Bend, Indiana; to acquire an additional 9.6 percent of the voting shares of Peoples Bank Marycrest, Kankakee, Illinois.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *GCB Bancorp, Inc.*, Princeton, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Gibson County Bank, Princeton, Indiana.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Med Center Bancshares, Inc.*, Houston, Texas; to merge with United Bancshares, Inc., Rosenberg, Texas, thereby indirectly acquiring Rosenberg Bank and Trust, Rosenberg, Texas.

2. *Iowa Park Bancshares, Inc.*, Iowa Park, Texas; to acquire 100 percent of the voting shares of Windthorst National Bank, Windthorst, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, April 15, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–9478 Filed 4–18–85; 8:45 am]

BILLING CODE 6210–01–M

Valley Bancorporation; 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 (49 FR 794) 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 permissible 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 office 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 Covenors not later than May 14, 1985.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Valley Bancorporation*, Appleton, Wisconsin; to acquire 100 percent of the voting shares of United Banks of Wisconsin, Inc., Madison, Wisconsin, thereby indirectly acquiring United Bank, Madison, Wisconsin, Farmers & Citizens United Bank in Sauk City, Suak City, Wisconsin, United Bank in Menomie, Menomie, Wisconsin and United Bank in Sun Prairie, Sun Prairie, Wisconsin. In addition, Valley Bancorporation has applied to acquire United Mortgage of Wisconsin, Inc., Madison, Wisconsin, thereby engaging in making, acquiring or servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the company's account or for the account of others, such as would be made by a mortgage company. These activities will be conducted in the Madison, Wisconsin area.

Board of Governors of the Federal Reserve System, April 15, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-9479 Filed 4-18-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Deparment of Health and Human Services (HHS) publishes a list of Information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on April 12, 1985.

Human Development Services

Subject: Part IV Narrative Application Instructions-Revision (0980-0016)
Respondents: Applicants for grants from HDS programs
Subject: Interim Final Rule to Implement Provisions of the Older Americans Act as Amended-45 CFR 1321 and 1328—Revision
Respondents: States, Indian Tribes
OMB Desk Officer: Judy A. McIntosh

Health Care Financing Administration

Subject: Billing Form for the Alcoholism Services Coverage Demonstration—Extension—(0938-0259)
Respondents: Businesses or other for-profit
Subject: Modification to National (Rural) Swing-Bed Evaluation—HCFA-415-Revision (0938-0290)
Respondents: Individuals, households, State/local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations
Subject: Medicaid Quality Control Disposition List—HCFA-321—Revision (8938-0173)
Respondents: State/local governments
Subject: Request to Adjust Customary Charge Screen—HCFA-455—Reinstatement—(0938-0206)
Respondents: Businesses or other for-profit
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Report of Continuing Disability Interview—SSA-454-BK-Revision (0960-0072)
Respondents: Individuals
Subject: Request to be Selected as Payee-SSA-11BK—Extension—(0960-0014)
Respondents: Individuals
Subject: Information Collection Requirements in Regulations on Services to Non-AFDC Individuals 45 CFR 312—New
Respondents: State/local governments
OMB Desk Officer: Judy A. McIntosh

Public Health Service

Health Resources and Services Administration

Subject: Project Proposal for Provision of Sanitation Services—Extension (0915-0018)
Respondents: Indian tribes

National Institutes of Health

Subject: Piedmont Health Survey of the Elderly—New
Respondents: Individuals

Office of the Assistant Secretary for Health

Subject: President's Council on Physical Fitness and Sports School Population Survey—New
Respondents: Students
Subject: National Survey of Worksite Health Promotion Program—New
Respondents: Businesses
OMB Desk Officer: Fay S. Indicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: April 15, 1985.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-9482 Filed 4-18-85; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Dental Devices Panel

Date, time, and place. May 3, 9 a.m. to 4:30 p.m., Rm. 337A-339A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m. and 2 p.m. to 4:30 p.m.; Gregory Singleton, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia

Ave., Silver Spring, MD 20910, 301–427–7555.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 24, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for a surgical dressing material and for a wound dressing material.

Radiopharmaceutical Drugs Advisory Committee

Date, time, and place. May 10, 8:45 a.m. Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 8:45 a.m. to 11 a.m.; open public hearing, 11 a.m. to 12 m.; open committee discussion, 12:45 p.m. to 4:30 p.m.; Neil M. Abel, Center for Drugs and Biologics (HFN–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4260.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee intends to discuss: (1) The proposed labeling for Amersham's NDA 19–044 "Indium In 111 Oxine"; (2) the summary basis of approval and proposed labeling for Squibb's NDA 18–735 "Iopamidol"; (3) the review of submitted clinical data and proposed indication for use for Cadema's NDA 19–180 "Kit for the Preparation of Technetium Tc 99m Antimony Trisulfide Colloid"; and (4) pediatric dosage recommendations for radiopharmaceuticals.

Veterinary Medicine Advisory Committee

Date, time, and place. May 22, 23, and 24; May 22, 1 p.m., Conference Rm. 17–09B, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD. May 23 and 24, 8:30 a.m., Conference Rm. E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, May 22, 1 p.m. to 4:30 p.m., May 23, 8:30 a.m. to 3:45 p.m.; open public hearing, May 23, 3:45 p.m. to 4:30 p.m.; open committee discussion, May 24, 8:30 a.m. to 12 m.; Bert L. Schrivener, Center for Veterinary Medicine (HFV–400), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4557.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal diseases and increased animal production.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss: (1) The results of its internal study panels, (2) the low level antibiotics issue, (3) the sulfa residue problem, (4) grants application process, and (5) second generation and prescription guidelines.

Science Advisory Board to the National Center for Toxicological Research

Date, time, and place. May 30 and 31, 9 a.m., Director's Conference Rm., Bldg. 13, National Center for Toxicological Research, Jefferson, AR.

Type of meeting and contact person. Open pubic hearing, May 30, 9 a.m. to 10 a.m.; open committee discussion, May 30, 10 a.m. to 6 p.m., and May 31, 9 a.m. to 1 p.m., Ronald F. Coene, National Center for Toxicological Research (NCTR), Food and Drug Administration, 5600 Fishers Lane, Rm. 14–101, Rockville, MD 20857, 301–443–3155.

General function of the board. The board advises the Director, NCTR, in establishing and implementing a research program that will assist the Commissioner of Food and Drugs in fulfilling his regulatory responsibilities. The board provides the extra-agency review in ensuring that research programs and methodology development at NCTR are scientifically sound and pertinent to its stated goals and objectives.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open board discussion. The board will continue discussions on research initiatives for the NCTR in areas of the evaluation of the assumptions underlying risk assessment, and modulating factors in toxicology. Additional items are being considered for review by the board and final agenda will be available on May 15, 1985, by contacting the contact person.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of

the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: April 15, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–9451 Filed 4–18–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

Bering Land Bridge National Preserve; Availability of a Draft General Management Plan/Environmental Assessment, Land Protection Plan, and Wilderness Suitability Review

AGENCY: National Park Service, Alaska Regional Office, Interior.

ACTION: Notice.

SUMMARY: This notice announces the availability of the draft general management plan/environmental assessment, land protection plan, and wilderness suitability review for Bering Land Bridge National Preserve, Alaska. The document will be available for public review and comment for 60 days, and public meetings will be held in Anchorage, Nome, and local communities (see schedule below).

This document proposes management actions addressing issues and problems facing Bering Land Bridge National Preserve for the next 10 years. There are three major elements within this document. The first element is the draft general management plan, which includes proposals for managing natural and cultural resources and visitor uses, general development within and adjacent to the preserve, and National Park Service facilities and level of operations. The draft general management plan also includes alternatives considered and environmental consequences of the proposal and alternatives. The second element is the land protection plan, which discusses nonfederal lands and other interests in and around the unit and methods to protect the resource values for which the unit was created. The third element is the wilderness suitability review which evaluates the suitability of nonwilderness lands within the preserve for designation as wilderness.

Following consideration of public comments, a final general management plan, land protection plan, and wilderness suitability review will be developed.

DATES AND ADDRESSES: Comments on the draft document should be received no later than June 19, 1985, and should be submitted to: Regional Director, National Park Service, Alaska Regional Office, 2525 Gambell, St., Rm 107, Anchorage, Alaska 99503–3982.

Public reading copies of the draft document will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240

Alaska Resources Library, Federal Building, 701 C Street, Anchorage, AK 99502

Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, AK 99503–2892

Consortium Library, University of Alaska, 3211 Providence Ave., Anchorage, AK 99507

Loussac Library, 525 W. 6th Avenue, Anchorage, AK 99502

Northwest Areas Office, National Park Service, Eskimo Building, Kotzebue, AK

Noel Wien Library, 1215 Cowles, Fairbanks, AK

CIty Office, Shishmaref, Alaska

City Office, Deering, AK

Bering Land Bridge National Preserve Headquarters, Nome, Alaska 99762

Juneau Memorial Library, 114 W. 4th Juneau, AK

Elmer Rasmuson Library, University of Alaska, Fairbanks, AK

City Office, Wales, Ak

City Office, Buckland, AK.

Public Meetings: Public meetings will be held at the following locations:

NANA Museum, Kotzebue, AK, May 6, 1985, 7:00 p.m.

School, Wales, AK, May 9, 1985, 7:00 p.m.

City Offices, Deering, AK, May 28, 1985, 7:00 p.m.

Noel Wien Library, Fairbanks, AK, May 22, 1985, 6:30 p.m.

Community Hall, Shishmaref, AK, May 8, 1985, 7:00 p.m.

Buckland, AK, May 28, 1985, 1:00 p.m.

City Council Chambers, Nome, AK, May 29, 1985, 7:00 p.m.

Regional Office, National Park Service, 2525 Gambell St., Rm 110, Anchorage, AK, Thursday, May 23, 1985, 7:00 p.m.

Copies of a summary and a limited number of copies of the full document are available upon request from: Chief of Planning, National Park Service, Alaska Regional Office, 2525 Gambell St., Room 107, Anchorage, Alaska 99503–3892, (907) 271–4366.

For further information contact Larry Beal at the above address and telephone number.

Dated: April 8, 1985.

Roger J. Contor,

Regional Director, Alaska Region.

[FR Doc. 85–9743 Filed 4–18–85; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Land Management

[F–14929–A]

Alaska Native Claims Selection; Askinuk Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Askinuk Corporation, notice of which was published in the **Federal Register** (50 FR 6397) on February 15, 1985, is modified by deleting the Airport Lease M–186–YD third-party interest.

A notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in THE TUNDRA DRUMS. Copies of the modified DIC may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until May 20, 1985 to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given February 15, 1985, is final.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-9499 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6680-B]

Alaska Native Claims Selection; Paug-Vik Inc., Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, will be issued to Paug-Vik Incorporated, Limited for 48.42 acres. The lands involved are in the vicinity of Naknek.

Seward Meridian, Alaska (Partially Surveyed)

T. 17 S., R. 45 W.

A notice of the decision will be published once a week for four (4) consecutive weeks, in THE ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until May 20, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-9498 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-JA-M

Bureau of Land Management

Bureau of Indian Affairs

Draft Environmental Impact Statement for the Jackpile-Paguate Uranium Mine Reclamation Project; Extension of Public Comment Period and Cancellation of Public Hearings

AGENCIES: Bureau of Land Management and Bureau of Indian Affairs, Interior.

ACTION: Amendment to notice published March 18, 1985 (50 FR 10864); extension of public comment period and cancellation of public hearings.

SUMMARY: The Bureau of Land Management and the Bureau of Indian Affairs have extended the comment period on the Draft Environmental Impact Statement (DEIS) for the Jackpile-Paguate Mine Reclamation Project to October 4, 1985. The purpose of the 120-day extension is to give more time for the public, the Pueblo of Laguna, and Anaconda Minerals Company to study the reclamation proposals contained in the DEIS. The public hearings scheduled for April 23 in Albuquerque and April 24 in Laguna have been cancelled. Public hearings and/or meetings will be rescheduled for late summer. Announcement of the new dates and locations will be made later.

DATE: Written comments on the DEIS will be accepted up to and including October 4, 1985. Oral and written comments will also be received at the public hearings and/or meetings to be rescheduled at a later date.

ADDRESS: Written comments should be addressed to: Mike Pool, EIS Team Leader, Bureau of Land Management, Rio Puerco Resource Area, 3550 Pan American Freeway NE., P.O. Box 6770, Albuquerque, NM 87197-6770.

FOR FURTHER INFORMATION CONTACT: Mike Pool, Rio Puerco Resource Area, (505) 766-3114.

Dated: April 15, 1985.

L. Paul Applegate,

District Manager, Bureau of Land Management.

[FR Doc. 85-9577 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-FB-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

APP No. 692369

Applicant: William E. Hodson, Montebello, CA

The applicant requests a permit to import a sport-hunted male bontebok (*Damaliscus d. dorcas*) trophy culled from the herd of John Pohl, Shenfield, South Africa, for enhancement of propagation.

APP No. 692412

Applicant: A.T. McQueen, Livington, TX

The applicant requests a permit to import a sport-hunted male bontebok (*Damaliscus d. dorcas*) trophy culled from the captive herd of Frank Bowker, Thorn Kloof, Grahamstown, South Africa, for enhancement of propagation.

APP No. 692403

Applicant: Florida Game and Freshwater Fish Commission, Tallahassee, FL

The applicant requests a permit to take 2 female Florida panthers (*Felis concolor coryi*) from the wild (Collier Co., FL) for purposes of enhancement of of propagation through use in a captive-breeding program at the White Oak Plantation, Yulee, FL.

APP No. 692538

Applicant: USFWS/National Museum of Natural History, Washington, DC

The applicant requests a permit to reexport the preserved remains of 4 Mexican wolves (*Canis lupus baileyi)* to La Coleccion Maztozoologica de la Universidad, Mexico City, Mexico, for scientific research purposes.

APP No. 692693

Applicant: Thomas A. Gavin, Cornell University, Ithaca, NY

The applicant requests a permit to obtain small amounts of muscle tissue and/or blood for genetic analysis from captured or dead Colombian white-tailed deer (*Odocioleus virginianus leucurus*) for scientific purposes.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days

of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: April 11, 1985.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-9530 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; Conoco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 2127, Block 33, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Cameron and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 10, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coast Management Section Office located on the 10th floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rough, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 10, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-9457 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Union Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0206, Block 39, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 10, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region: Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local govenments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 10, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-9458 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-MR-M

Alaska Offshore; Reschedule of Dates of Public Hearings for Proposed Oil and Gas Lease Sale 100 in the Norton Basin Area

On March 19, 1985, a notice appeared in the **Federl Register** (Vol. 50, No. 53, Page 11016) announcing the availability of the draft environmental impact statement and the location and dates of public hearings for proposed oil and gas lease Sale 100 in the Norton Basin area.

The Alaska Legal Services Corporation, on behalf of the residents of St. Lawrence Island, has requested that the hearing scheduled for April 24, 1985, in Savoonga, Alaska, and April 25, 1985, in Gambell, Alaska, be rescheduled to a later date. The reason for a delay is that the majority of the residents of St. Lawrence Island will be engaged in subsistence activities in April and will not be available to attend the hearings.

In order to be responsive to the needs of the residents of St. Lawrence Island, the hearings in Savoogna and Gambell have been rescheduled for the following dates:

May 7, 1985:

City Hall, Savoogna, Alaska (7:00 p.m.)

May 8, 1985:

Municipal Building, Gambell, Alaska (7:00 p.m.)

The dates and times of the hearings scheduled in Emmonak, Nome, and Anchorage are not changed.

Interested individuals, representatives of organizations, and public officials wishing to testify at the hearings in Savoogna or Gambell are asked to contact the Alaska Regional Office, 949 E. 36th Avenue, Anchorage, Alaska 99510, by telephone, (907) 261–4080, by Friday, May 3, 1985. An oral statement may be supplemented by a more completed written statement which may be submitted to a hearing official at the time of oral presentation or by mail until May 14, 1985.

Dated: April 16, 1985.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 85–9509 Filed 4–18–85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Oil and Gas Leasing Program; Mid-1986 through Mid-1991; Correction

The following correction is made to **Federal Register** Vol. 50, No. 56, dated Friday, March 22, 1985.

Item 8 under Tabel 1—Description of Planning Areas on page 11592 is amended to read:

8. Southern California: West along a line extending from the territorial sea at approximately 35°47′ N. latitude to approximately 124° W. longitude thence south to approximately 34°58′ N. latitude thence east to approximately 122° W. longitude thence south to approximately 32°55′ N. latitude thence east to approximately 120°40′ W. longitude thence south to approximately 32°40′ N. latitude thence east to approximately 120°20′ W. longitude thence south to approximately 32°10′ N. latitude thence east to 120° W. longitude thence south to the U.S.-Mexico Provisional Maritime Boundary thence along the U.S.-Mexico Provisional Maritime Boundary to the territorial sea thence along the territorial sea to the point of origin.

Dated: April 15, 1985.

Wm. D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 85–9508 Filed 4–18–85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Cape Krusenstern National Monument; Availability of Draft General Management Plan

AGENCY: National Park Service, Alaska Regional Office, Interior.

ACTION: Notice of availability of a Draft General Management Plan/ Environmental Assessment, Land Protection Plan, and Wilderness Suitability Review.

SUMMARY: This notice announces the availability of the draft general management plan/environmental assessment, land protection plan, and wilderness suitability review for Cape Krusenstern National Monument. The document will be available for public review and comment for 60 days, and public meetings will be held in Anchorage, Fairbanks, and local communities (dates, locations and times to be announced locally).

This document proposes management actions addressing issues and concerns facing Cape Krusenstern National Monument for the next 10 years. There are three major elements within this document. The first element is the draft general management plan, which includes proposals for managing cultural and natural resources, subsistence and visitor uses, and for determining the National Park Service's staff, equipment and facility requirements. The second element is the land protection plan which explains options and recommendations, priorities and methods for protection of federal lands within the monument from activities that might take place on private lands, within or adjacent to the monument that could cause harm or threaten the monument's resources. The third element is the wilderness suitability review which evaluates the suitability of nonwilderness lands within the monument for inclusion in the National Wilderness System.

Following consideration of public comments, a final general management plan, land protection plan, and wilderness suitability review will be developed.

DATES AND ADDRESSES: Comments on the draft document should be received no later than June 19, 1985, and should be submitted to: Regional Director, National Park Service, Alaska Regional Office, 2525 Gambell Street Room 107, Anchorage, Alaska 99503–2892.

Public reading copies of the draft document will be available for review at the following locations:

Office of Public affairs, National Park Service, Department of the Interior, 18th and C Street NW., Washington, D.C. 20240

Alaska Resources Library, Federal Building, 701 C Street, Anchorage, Alaska 99513

Loussac Library, 524 W. 6th Avenue, Anchorage, Alaska 99502

Noel Wien Library, 1215 Cowles, Fairbanks, Alaska 99707

Juneau Memorial Library, 114 W. 4th, Juneau, Alaska 99801

City Office, Buckland, Alaska 99727

City Office, Kivalina, Alaska 99750

City Office, Kotzebue, Alaska 99752

City Office, Selawik, Alaska 99770

City Office, Noatak, Alaska 99761

City Office, Kiana, Alaska

Alaska Regional Office, National Park Service, 2525 Gambell Street, Room 101, Anchorage, Alaska 99503–2892

Consortium Library, University of Alaska, 3211 Providence Ave., Anchorage, Alaska 99507

National Park Service, Northwest Area Office, Eskimo Building, Kotzebue, Alaska 99752

Elmer Rasmuson Library, University of Alaska, Fairbanks, Alaska 99707

City Office, Ambler, Alaska 99786

City Office, Deering, Alaska 99736

City Office, Kobuk, Alaska 99751

City Office, Noorvik, Alaska 99763

City Office, Shungnak, Alaska 99773

City Office, Nome, Alaska 99762

National Park Service, Bering Land Bridge National Monument Office, Federal Building (Post Office), Nome, Alaska 99762

Sanford P. Rabinowitch, Cape Krusenstern Team Captain, Naional Park Service, Alaska Regional Office, 2525 Gambell St., Room 107, Anchorage, Alaska 99503–2892.

Dated: April 8, 1985.

Roger J. Contor,

Regional Director, Alaska Region.

[FR Doc. 85–9536 Filed 4–18–85; 8:45 am]

BILLING CODE 4310-70-M

Kobuk Valley National Park; Availability of Draft General Management Plan

AGENCY: National Park Service, Alaska Regional Office, Interior.

ACTION: Notice of availability of a Draft General Management Plan/ Environmental Assessment, Land Protection Plan, and Wilderness Suitability Review.

SUMMARY: This notice announces the availability of the draft general management plan/environmental assessment, land protection plan, and wilderness suitability review of Kabuk Valley National Park. The document will be available for public review and comment for 60 days, and public meetings will be held in Anchorage, Fairbanks, and local communities (dates, locations and times to be announced locally).

This document proposes management actions for Kobuk Valley National Park for approximately the next 10 years. There are three major elements within this document. The first element is the draft general management plan, which includes proposals for managing cultural and natural resources, subsistence and visitor uses, and for determining the National Park Service's staff and facility requirements. The second element is the land protection plan which explains options and recommendations, priorities and methods for protection of federal lands within the park from activities that might take place on private lands, within or adjacent to the monument that could cause harm or threaten the park's resources. The third element is the wilderness suitability review which evaluates the suitability of non-wilderness lands within the park for inclusion in the National Wildeness Preservation System.

Following consideration of public comments, a final general management plan, land protection plan, wilderness suitability review will be developed.

DATES AND ADDRESSES: Comments on the draft document should be received no later than June 19, 1985, and should be submitted to: Regional Director, National Park Service, Alaska Regional Office, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503–2892.

Public reading copies of the draft document will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.
Alaska Resources Library, Federal Building, 701 C Street, Anchorage, Alaska 99513.
Loussac Library, 524 W. 6th Avenue, Anchorage, Alaska 99502
Noel Wien Library, 1215 Cowles, Fairbanks, Alaska 99707
Juneau Memorial Library, 114 W. 4th, Juneau, Alaska 99801
City Office, Buckland, Alaska 99727
City Office, Kivalina, Alaska 99750
City Office, Kotzebue, Alaska 99752
City Office, Selawik, Alaska 99770
Alaska Regional Office, National Park Service, 2525 Gambell Street, Room 101, Anchorage, Alaska 99503–2892
Consortium Library, University of Alaska, 3211 Providence Avenue, Anchorage, Alaska 99507
National Park Service, Northwest Area Office, Eskimo Building, Kotzebue, Alaska 99752
Elmer Rasmuson Library, University of Alaska, Fairbanks, Alaska 99707
City Office, Ambler, Alaska 99786
City Office, Deering, Alaska 99736
City Office, Kobuk, Alaska 99751
City Office, Noorvik, Alaska 99763
City Office, Shungnak, Alaska 99773

Charles Gilbert, Kobuk Valley Team, Captain, National Park Service, Alaska Regional Office, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503–2892, (907) 271–4366.

Dated: April 8, 1985.

Roger J. Cantor,

Regional Director, Alaska Region.

[FR Doc. 85–9535 Filed 4–18–85; 8:45 am]

BILLING CODE 4310-70-M

Noatak National Preserve; Availability of Draft General Management Plan

AGENCY: National Park Service, Alaska Regional Office, Interior.

ACTION: Notice of availability of a Draft General Management Plan/ Environmental Assessment, Land Protection Plan, and Wilderness Suitability Review.

SUMMARY: This notice announces the availability of the draft general management plan/environmental assessment, land protection plan, and wilderness suitability review for Noatak National Preserve. The document will be available for public review and comment for 60 days, and public meetings will be held in Anchorage, Fairbanks, and local communities (dates, locations and times to be announced locally).

This document proposes management actions addressing issues and problems facing Noatak National Preserve for the next 10 years. There are three major elements within this document. The first element is the draft general management plan, which includes proposals for managing natural and cultural resources, subsistence and visitor uses, and for determining the National Park Service's staff and facility requirements. The draft general management plan also includes one alternative and environmental consequences of the proposal and alternative. The second element is the land protection plan which explains options and recommendations, priorities, and methods for protection of federal lands within the preserve from activities that might take place on private lands, within or adjacent to the preserve that could cause harm or threaten the preserve's resources. The third element is the wilderness suitability review which evaluates the suitability of non-wilderness lands within the preserve for inclusion in the National Wilderness System.

Following consideration of public comments, a final general management plan, land protection plan, and wilderness suitability review will be developed.

DATES AND ADDRESSES: Comments on the draft document should be received no later than June 19, 1985, and should be submitted to: Regional Director, National Park Service, Alaska Regional Office, 2525 Gambell Street Room 107, Anchorage, Alaska 99503–2892.

Public reading copies of the draft document will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.
National Park Service, Northwest Area Office, Eskimo Building, Kotzebue, Alaska 99752
Gates of the Arctic NP/P, 201 First Street, Fairbanks, Alaska 99701
Loussac Library, 524 W. 6th Avenue, Anchorage, Alaska 99502
Fairbanks Library, 1215 Cowles, Fairbanks, Alaska 99701
Juneau Memorial Library, 114 W. 4th, Juneau, Alaska 99801
City Office, Buckland, Alaska 99727
City Office, Kivalina, Alaska 99750
City Office, Kotzebue, Alaska 99752
City Office, Selawik, Alaska 99770
City Office, Noatak, Alaska 99761
Alaska Regional Office, National Park Service, 2525 Gambell Street, Room 101, Anchorage, Alaska 99503–2892
Consortium Library, University of Alaska, 3211 Providence Avenue, Anchorage, Alaska 99507
Gates of the Arctic NP/P, Bettles Ranger Station, Bettles, Alaska 99726
Alaska Resources Library, Federal Building, 701 C Street, Anchorage, Alaska 99513
Elmer Rasmuson Library, University of Alaska, Fairbanks, Alaska 99701
National Park Service, Federal Building, Nome, Alaska 99762
City Office, Deering, Alaska 99736
City Office, Kobuk, Alaska 99751
City Office, Noorvik, Alaska 99763
City Office, Shungnak, Alaska 99773
City Office, Kiana, Alaska 99749
City Office, Barrow, Alaska 99723
City Office, Ambler, Alaska 99786.

A limited number of copies of the full document are available upon request from: Linda Nebel, Chief of Planning, National Park Service, Alaska Regional Office, 2525 Gambell Street, Room 204, Anchorage, Alaska 99503–2892, (907) 271–4366.

Dated: April 8, 1985.

Roger J. Contor,

Regional Director, Alaska Region.

[FR Doc. 85-9523 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[Federal Coal Lease No. M-46292]

Availability of the Draft Environmental Impact Statement on and Intent To Hold a Public Hearing for the Proposed CX Ranch Mine, Bighorn County, MT.

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

ACTION: Notice of availability of a draft environmental impact statement and the intent to hold a public hearing (OSM-EIS-20).

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) and the Montana Department of State Lands (DSL) are making available a jointly prepared draft environmental impact statement (EIS) on the proposed CX Ranch mine. The EIS has been prepared to assist the Department of the Interior and Montana DSL in making a decision on the Consolidation Coal Company (Consol) application to surface mine coal approximately 2 miles northwest of Decker, Montana. OSM and Montana DSL are requesting that any interested party submit written comments on the draft EIS to assist with the preparation of the final EIS. OSM and Montana DSL will hold a public hearing in the vicinity of the mine to receive oral comments.

DATES: .

Comment period: Written comments on the draft EIS must be received by 4 p.m., MDT, June 11, 1985, at the location listed below, under **ADDRESSES**.

Public hearing: One public hearing on the EIS will be held at 7 p.m., May 22, 1985, at the Sheridan Junior College, Room 124, Whitney Building, Sheridan, Wyoming.

Additional hearings: Expressions of interest in additional hearings should be submitted by the public at the location listed below, under **ADDRESSES**, not later than May 3, 1985.

ADDRESSES: Written comments and/or expressions of interest for additional public hearings: Hand deliver or mail to the attention of Kit Walther, Environmental Analysis Bureau, Montana DSL, Capitol Station, Helena, Montana 59620.

Availability of copies: Copies of the draft EIS may be obtained from Allen D. Klein, Administrator, Attn: Charles Albrecht, OSM, Western Technical Center, Second Floor, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202, or from Kit Walther, Environmental Analysis Bureau, Montana DSL, Capitol Station, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht, Chief, Environmental Analysis Branch (telephone: 303-844-5656) at the Denver, Colorado, location given under **ADDRESSES**.

SUPPLEMENTARY INFORMATION: Consol's proposed CX Ranch mine would be a new surface mine located in Big Horn County, Montana, 2 miles west of Decker, Montana, and 22 miles north of Sheridan, Wyoming. The mine would lie along the lower reaches of Squirrel Creek, just north of the Tongue River.

Consol is currently seeking approval to mine 46.9 million tons of coal over a 12 year period at an average rate of approximately 8 million tons per year. It would disturb 974 acres of the 1,905-acre application area, which includes all or part of secs. 14, 15, 23, 25, and 26 of T.9 S., R.39 E., Montana principal meridian, and secs. 29, 30, and 31 of T.9 S., R.40 E., Montana principal meridian.

Should Consol acquire additional coal leases adjacent to the current application area, it would extend the life of the mine by 21 years, eventually increase production to approximately 16 million tons per year, disturb 2,200 acres more for mining, and expand the mine area by 3,720 acres. A total of 322 million tons of coal would be excavated from this 33-year, extended life-of-mine area; 3,174 acres of a total 5,694-acre mine area would be disturbed in the process.

The draft EIS analyzes the 12-yer operation proposed for the application area, the 33-year operation proposed for the life-of-mine area, and a cumulative scenario of the full development of all mines formally proposed in Montana. This scenario, analyzed to show the impacts of the maximum projected growth, assumes that development in the Decker area of Montana would include three new mines: CX Ranch, Youngs Creek/Tanner Creek (about 5 miles east of the CX Ranch mine), and Wolf Mountain (1 mile north of the CX Ranch mine). Five alternatives that treat the available range of decision are evaluated in the EIS. These include: approve the application as proposed, reject the application, selectively reject approval of the application, approve the application with special conditions, and no action. OSM and Montana DSL have identified "approve the application with special conditions" as their preferred alternative.

Dated: April 11, 1985.

Jerry R. Ennis,

Acting Assistant Director, Technical Services and Research.

[FR Doc. 85-9474 Filed 4-18-85; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, PA 15219.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

Alcoa Inter-America, Inc.—Delaware
Alcoa Recycling Company—Delaware
Alcoa Steamship Company, Inc.—New York
American Powdered Metals Company—Delaware
Buckeye Molding Company—Delaware
CNG Cylinder Corporation—California
H.C. Products Company—Delaware
Jonathan's Landing, Inc.—Delaware
Northwest Alloys, Inc.—Delaware
Penn Way Trucking Company—Delaware
Pep Industries, Inc.—Tennessee
REA Magnet Wire Company, Inc.—Delaware
The Stolle Corporation—Ohio
Tifton Aluminum Company, Inc.—Delaware
Vancouver Extrusion Company, Inc.—Delaware

1. Parent Corporation: Anheuser Busch Companies, Inc., One Busch Place, St. Louis, Missouri 63118.

2. Wholly-Owned Subsidiaries and State of Incorporation:

(1) Anheuser-Busch, Inc.—Missouri
(2) August A. Busch & Company of Massachusetts, Inc.—Massachusetts
(3) August A. Busch & Company of Florida, Inc.—Florida
(4) Busch Properties, Inc.—Delaware
(5) Consolidated Farms, Inc.—Delaware
(6) Metal Container Corporation—Delaware
(7) Kingsmill Realty, Inc.—Virginia
(8) Busch International Sales Corporation—Delaware
(9) St. Louis Refrigerator Car Company—Common Law

Massachusetts Business Trust (Unincorporated)
(10) Manufacturers Railway Company—Missouri
(11) Manfacturers Cartage Company—Missouri
(12) M.R.SA. Redevelopment Corporation—Missouri
(13) M.R.S. Transport Company—Texas
(14) Williamsburg Transport, Inc.—Virginia
(15) Fairfield Transport, Inc.—California
(16) Busch Entertainment Corporation—Delaware
(17) Kingsmill Resorts, Inc.—Delaware
(18) Container Recovery Corporation—Ohio
(19) Metal Label Corporation—Tennessee
(20) Ramtag, Inc.—Texas
(21) Busch Creative Services Corporation—Delaware
(22) Busch Agricultural Resources, Inc.—Delaware
(23) Busch Industrial Products Corporation—Delaware
(24) Anheuser-Busch International, Inc.—Delaware
(25) Golden Eagel Distributing Company—Delaware
(26) Civic Center Corporation—Missouri
(27) Anheuser-Busch Europe—Delaware
(28) Stadium Plaza Redevelopment Corporation—Missouri
(29) Broadway Redevelopment Corporation—Missouri
(30) St. Louis Sports Hall of Fame, Inc.—Missouri
(31) Suffolk-Busch Development Corporation—Massachusetts
(32) Eagle Snacks, Inc.—Delaware
(33) Anheuser-Busch Wines, Inc.—Delaware
(34) Nutri-Turf, Inc.—Delaware
(35) Anheuser-Busch Asia, Inc.—Delaware
(36) A–B Sports, Inc.—Delaware
(37) Anheuser-Busch Metal Corporation—Delaware
(38) SP Parks, Inc.—Delaware
(39) Innoven IV Corporation—Delaware
(40) BACI, Inc.—Delaware
(41) Campbell Taggart—Delaware
(42) Rainbo Baking Company of Albuquerque—Delaware
(43) Colonial Baking Company of Atlanta—Delaware
(44) Colonial Baking Company of Augusta—Delaware
(45) Rainbo Bread Company of Aurora—Delaware
(46) Rainbo Bread Company of Beaumont—Delaware
(47) Colonial Baking Company of Cedar Rapids—Delaware
(47) Colonial Baking Company of Chattanooga—Delaware
(48) Rainbo Baking Company of Cincinnati—Delaware
(49) Colonial Baking Company of Columbus—Delaware
(50) Rainbo Baking Company of Corpus Christi—Delaware
(51) Manor Baking Company of Dallas—Delaware
(52) Rainbo Bread Company—Delaware
(53) Colonial Baking Company of Des Moines—Delaware
(54) Colonial Baking Company of El Dorado—Delaware
(55) Rainbo Baking Company of El Paso—Delaware
(56) Evansville Colonial Baking Company—Delaware
(57) Rainbo Baking Company of Fort Smith—Delaware
(58) Rainbo Bakeries of San Joaquin Valley, Inc.—Delaware
(59) Rainbo Bread Company of Nebraska—Delaware
(60) Colonial Baking Company of Gulfport—Delaware
(61) Rainbo Baking Company of Harlingen—Delaware
(62) Rainbo Baking Company of Houston—Delaware
(63) Colonial Baking Company of Huntsville—Delaware
(64) Betts Baking Company—Delaware
(65) Colonial Baking Company of Indianapolis, Inc.—Delaware
(66) Colonial Baking Company of Jackson—Delaware
(67) Colonial Baking Company of Madison County—Delaware
(68) Rainbo Baking Company of Johnson City—Delaware
(69) Manor Baking Company—Delaware
(70) Rainbo Baking Company of Lexington—Delaware
(71) Colonial Baking Company of Little Rock—Delaware
(72) Rainbo Baking Company of Louisville—Delaware
(73) Rainbo Baking Company of Lubbock—Delaware
(74) Colonial Baking Company of Memphis—Delaware
(75) Colonial Baking Company of Alabama—Delaware
(76) Colonial Baking Company of Muncie, Inc.—Delaware
(77) Colonial Baking Company of Nashville—Delaware
(78) Rainbo Baking Company of Oklahoma City—Delaware
(79) Paducah Colonial Baking Company—Delaware
(80) Rainbo Baking Company of Phoenix—Delaware
(81) Rainbo Bakers, Inc. —Delaware
(82) Rainbo Bread Company of Roanoke—Delaware
(83) Rockford Baking Company of Sacramento Valley—Delaware
(84) Rainbo Bread Company of Saginaw—Delaware
(85) Rainbo Bread Company of St. Joseph—Delaware
(86) Colonial Baking Company of St. Louis—Delaware
(87) Rainbo Baking Company of San Antonio—Delaware
(88) Colonial Baking Company of Springfield—Delaware
(89) Kilpatrick's Bakeries, Inc.—Delaware
(90) Rainbo Baking Company of Tucson—Delaware
(91) Rainbo Baking Company of Tulsa—Delaware
(92) Rainbo Baking Company of Waco—Delaware
(93) Rainbo Baking Company of Wichita—Delaware
(94) El Charrito, Inc.—Delaware
(95) Bel-Art Advertising, Inc.—Texas
(96) C-Trans, Inc.—Texas
(97) Herby's Foods, Inc.—Texas
(98) Merico, Inc.—Texas

1. Parent Corporation and address of principal office: Dart & Kraft, Inc., 2211 Sanders Road, Northbrook, IL 60062.

2. Wholly-owned subsidiaries which will participate in the operations and State (s) of incorporation:

(A) Dart Industries Inc. (Delaware)
(i) Duracell Inc. (Delaware)
(ii) Duracell International Inc. (Delaware)
(iii) Precor Incorporated (Delaware)
(B) Hobart Corporation (Delaware)
(C) Kraft, Inc. (Delaware)
(i) Celestial Seasonings, Inc. (Delaware)
(ii) Celestial Transport Inc. (Colorado)
(iii) Churny Company, Inc. (Delaware)
(iv) Cosmopolitan Ice Cream Company (New York)
(v) Frusen Gladje, Ltd. (New York)
(vi) Lenders Bagel Bakery (division)

(1) Parent Corp.: Gibraltar Steel Corp., 2545 Walden Avenue, Cheektowaga, NY 14225.

and its divisions:

1. Seneca Steel, Buffalo, NY
2. Gibraltar Steel, Buffalo, NY
3. Gibraltar Blades, Buffalo, NY

(2) Subsidiary (wholly-owned) by parent which will participate in operations: GFS Transportation, Inc., 635 South Park Avenue, Buffalo, NY 14210.

State of Incorporation: New York.

1. Parent Corporation—Household International, Inc., 2700 Sanders Road, Prospect Heights, Illinois 60070.

2. Wholly-owned subsidiaries of Household International, Inc. which will participate in the operations, and the addresses of their respective principal offices and state of incorporation:

A. Household Finance Corporation (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070

B. Household Merchandising, Inc. (Ohio), 1700 S. Wolf Road, Des Plaines, Illinois 60018
C. Household Merchandising, Inc. (Ohio), Ben Franklin Division, (Ben Franklin Stores), 1700 S. Wolf Road, Des Plaines, Illinois 60018
D. Coast-to-Coast Stores (Central Organization), Incorporated (Delaware), 10801 Red Circle Drive, Minnetonka, Minnesota 55343
E. Coast-to-Coast Stores, Inc. (Delaware), 10801 Red Circle Drive, Minnetonka, Minnesota 55343
F. Total Hardware Inc. (Delaware), 10801 Red Circle Drive, Minnetonka, Minnesota 55343
G. Twenty One—Fifty Olympic, Inc. (Oregon), 10801 Red Circle Drive, Minnetonka, Minnesota 55343
H.T.D.S. Transportation, Inc. (Delaware), 1700 S. Wolf Road, Des Plaines, Illinois 60018
I. T.G. & Y. Stores Co. (Delaware), 3815 North Santa Fe, Oklahoma City, Oklahoma 73125
J. Central Fixture Manufacturing Co. (Oklahoma), 3409 South Broadway, Edmond, Oklahoma 73034
K. Central Sales Promotions, Inc. (Oklahoma), 130 N.E. 50th Street, Oklahoma City, Oklahoma 73125
L. Household Merchandising Overseas, Inc. (Delaware), 1700 S. Wolf Road, Des Plaines, Illinois 60018
M. T.D.S. Brokerage, Inc. (Delaware), 1700 S. Wolf Road, Des Plaines, Illinois 60018
N. Gosselin Stores Co., Inc. (Kansas), 1700 S. Wolf Road, Des Plaines, Illinois 60018
O. Crest Stores Company (North Carolina), 1700 S. Wolf Road, Des Plaines, Illinois 60018
P. Vons Grocery Co. (Delaware), 10150 Lower Azusa Road, El Monte, California 91731
Q. Foods, Incorporated (California), 10150 Lower Azusa Road, El Monte, California 91731
R. Household Manufacturing, Inc. (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
S. Hydrometals, Inc. (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
T. Thorsen Tool Co. (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
U. Cameron Manufacturing Co. (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
V. Peru Mining Co. (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
W. Shannon Mining Co. (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
X. United States Brass Corporation (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
Y. King-Seeley Thermos Co. (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
Z. Albion Industries (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
AA. Almco Division (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
BB. Dry Manufacturing (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
CC. Atrax Research & Development (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
DD. Eljer Plumbingware (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
EE. G.C. Electronics (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
FF. Metallized Products (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
GG. New England Carbide (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
HH. Scotsman (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
II. Selkirk Metalbestos (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
JJ. Schwitzer Industries (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
KK. Simonds Cutting Tools (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
LL. Halsey-Taylor Structo (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
MM. Thermos (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
NN. Illinois Gear (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
OO. Ohio Gear (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
PP. Richmond Gear (Delaware), 2700 Sanders Road, Prospect Heights, Illinois 60070
QQ. National Car Rental Systems, Inc. (Delaware), 7700 France Avenue South, Minneapolis, Minnesota 55435
RR. Lend Lease Transportation Services, Inc. (Delaware), 7700 France Avenue South, Minneapolis, Minnesota 55435
SS. Lend Lease, a division of National Car Rental Systems, Inc. (Delaware), 7700 France Avenue South, Minneapolis, Minnesota 55435
TT. Lend Lease Transportation Co. (Delaware), 7700 France Avenue South, Minneapolis, Minnesota 55435

1. Parent Corporation and address: ICI American Holdings Inc., Concord Pike and New Murphy Road, Wilmington, DE.

2. Wholly-owned subsidiaries which will participate in these operations and States of incorporation:

(i) ICI Americas Inc., a Delaware Corporation
(ii) ICI Specialty Chemicals Inc., a Delaware Corporation
(iii) Fiberite Holdings Inc., a Delaware Corporation
(iv) Fiberite Corporation, a Delaware Corporation
(v) Converters Ink Holdings Inc., a Delaware Corporation
(vi) Converters Ink Co., a Delaware Corporation
(vii) Dri Print Foils holding Inc., a Delaware Corporation
(viii) Dri Print Foils, Inc., a Delaware Corporation
(ix) Imperial Oil & Grease Holdings Inc., a Delaware Corporation
(x) Imperial Oil & Grease Co., a Delaware Corporation
(xi) LNP Holdings Inc., a Delaware Corporation
(xii) LNP Corporation, a Delaware Corporation
(xiii) Polyvinyl/Permathane Holdings inc., a Delaware Corporation
(xiv) Polyvinly/Permathane Co., a Delaware Corporation
(xv) Thoro System Products Holdings Inc., a Delaware Corporation
(xvi) Thoro System Products, Inc., a Delaware Corporation
(xvii) Stahl Chemical Holdings Inc., a Delaware Corporation
(xviii) Stahl Chemical Co., a Delaware Corporation

1. The parent corporation is Hasbro Bradley Incorporated, a Rhode Island corporation with a principal office at 1027 Newport Avenue, Pawtucket, Rhode Island 02862.

2. The wholly-owned subsidaries of Hasbro Bradley Incorporated which will participate in the intercorporate hauling operations are:

(i) Playskool, Inc.—a Delaware corporation with principal offices at 443 Shaker road, East Longmeadow, Massachusetts 01028
(ii) Tommee Tippee Playskool, Inc.—a New Jersey corporation with principal offices at 108 Fairway Court, Northvale, New Jersey 0467
(iii) Aviva Hasbro, Inc.—a California corporation with principal offices 1027 Newport Avenue, Pawtucket, Rhode Island 02862
(iv) Hasbro Industries Canada Limited—a Canadian corporation with principal offices at 2350 Rue de la Province, Longueuil Quebec, Canada J4G 1G2
(v) Miton Bradley Canada, Inc.—a Canadian corporation with principal offices at 7615 Bath Road,

Mississaugua Ontario, Canada L4T 3T1

(vi) Milton Bradley Company—a Massachussetts corporation with principal offices at 443 Shaker Road, East Longmeadow, Massachusetts 01028

1. Parent corporation and address of principal office:

KDI Corporation 5721 Dragon Way Cincinnati, OH 45227

2. Wholly-owned subsidaries which will participate in the corporations, and state(s) of incorporation:

(i) M.J. Daly Company, Inc., Incorporateod in the state of Delaware, 38 Elm Street, Ludlow, KY 41016

(ii) The Herbert Verkamp Calvert Chemcial Company, Incorporated in the state of Delaware, 4600 Dues, Drive, Cincinnati, OH 45246

I. Parent Corporation and Address of Principal Office

Pennzoil company, P.O. Box 2967, Pennzoil Place, 700 Milam, Houston, Texas 77001.

II. Wholly Owned Subsidaries Participating in Operations

Duval Sales Corporation, P.O. Box 2967, Houston, Texas 77001

Duval Corporation, 4715 East Ft. Lowell Road, Tucson, Arizona 85712

Atlas Processing Company, P.O. Box 3099, Shreveport, LA 71103

III. Additional Wholly Owned Subsidiaries participating in Operations

Pennzoil Sulphur Company, P.O. Box 2967, Houston, Texas 77252-2967

Potash Producers Inc., P.O. Box 2967, Houston, Texas, 77252-2967

Gold Producers Inc., P.O. Box 2967, Houston, Texas 77252-2967

Richland Development Corporation, P.O. Box 2967, Houston, Texas 77252-2967

1. Parent corporation and addrress of principal office:

Sara Lee Corporation, Three First National Plaza, Chicago, Illinois 60602.

2. Wholly owned subsidiaries which will participate in the operations, the address of their respective principal offices, and their states of incorporation:

Aris Isotoner Gloves, Inc, 417 Fifth Avenue, New York, New York 10016—Delaware

Bali Company, 3330 Healy Dr., Winston-Salem, North Carolina 27103—Delaware

Betteravia Byproducts Company, 100 Pine Street, Suite 2575, San Francisco, California 94111—Delaware

Booth Fisheries Corporation, Two North Riverside Plaza, Chicago, Illinois 60606—Delaware

Bryan Foods, Inc., 1 Churchill Road, P.O. Box 1177, West Point, Mississippi 39773—Mississippi

Chef Pierre, Inc., 2314 Sybrandt St., P.O. Box 1009, Traverse City, Michigan 49685—Delaware

Electrolux Corporation 3003 Summer Street, Stamford, Conn. 06905—Delaware

Epic Company, Inc., 222 West Adams Street, Chicago, Illinois 60606—Illinois

The Fuller Brush Company, 2800 Rockcreek Parkway, Suite 400, North Kansas City, Missouri 64117—Connecticut

Gibbon Packing Company, P.O. Box 2006, Milwaukee, Wisconsin 53201—Nebraska

Hollywood Brands, Inc., 100 S. Poplar, Centralia, Illinois 62801—Delaware

Idaho Frozen Foods Corp., 856 Russet St., P.O. Box 128, Twin Falls, Idaho 83301—Delaware

Illinois Fruit & Produce Corp., One Quality Lane, Streator, Illinois 61364—Illinois

The Jimmy Dean Meat Company, Inc., 1341 W. Mockingbird Lane, Dallas, Texas 75247—Texas

Jimmy Dean Restaurants, Inc., 1341 W. Mockingbird Lane, Dallas, Texas 75247—Texas

Jimmy Dean Trucking Co., 1341 W. Mockingbird Lane, Dallas, Texas 75247—Texas

Kitchens of Sara Lee, Inc., 500 Waukegan Road, Deerfield, Illinois 60015—Delaware

Kiwi Brands Inc., Route 662 North, Douglassville, Pennsylvania 19518—Delaware

The Lawson Company, 210 Broadway East, Cuyahoga Falls, Ohio 44222—Delaware

L'eggs Brands, Inc., P.O. Box 2495, 8025 North Point Blvd., Winston-Salem, North Carolina 27102—North Carolina

Lily Packing, Inc., P.O. Box 2006, Milwaukee, Wisconsin 53201—Wisconsin

Lyon's Restaurants, Inc., 1165 Triton Drive, Foster City, California 94404—Delaware

Lyon's Restaurants in Oregon, Inc., 1165 Triton Drive, Foster City, California 94404—Oregon

Moo-Battue, Inc., P.O. Box 2006, Milwaukee, Wisconsin 53201—Wisconsin

Peck Meat Packing Corporation, P.O. Box 2006, Milwaukee, Wisconsin 53201—Wisconsin

Popsicle Industries, Inc., P.O. Box 200, Englewood, New Jersey 07631—Delaware

Poultry Specialties, Inc., 517 E. 5th Street, Russelville, Arkansas 72801—Delaware

PYA/Monarch, Inc., 107 Frederick Street, P.O. Box 1328, Greenville, South Carolina 29602—Delaware

PYA/Monarch of Texas, Inc., 107 Frederick Street, P.O. Box 1328, Greenville, South Carolina 29602—Texas

Sav-A-Stop Incorporated, 7960 Baymeadows Way 32216, P.O. Box 19050, Jacksonville, Florida 32245-9050—Delaware

Shasta Beverages, Inc., 26901 Industrial Boulevard, Hayward, California 94545—Delaware

Sirena, Inc., 10333 Vacco Street, P.O. Box 3307, South Elmonte, California—California

Smoky Hollow Foods, 3200 S. Woodrow, P.O. Box 1007, Little Rock, Ark.—Delaware

Standard Meat Company, 3709 East First Street, Fort Worth, Texas 76111—Texas

Twin Rivers Transportation Company, 500 Armory Drive, South Holland, Illinois 60473—Delaware

Union Sugar Company, 100 Pine Street, Suite 2575, San Francisco, California 94111—Delaware

3. Wholly owned divisions which will participate in the operations:

Buring Foods division of Sara Lee Corporation, 1837 Harbor Ave., Memphis TN 38113

Direct Marketing division of Sara Lee Corporation, 2035 University Parkway, Winston-Salem, NC 27106

Gallo Salame division of Sara Lee Corporation, 250 Brannan St., San Francisco, CA 94107

Gordon County Farm Company division of Sara Lee Corporation, P.O. Box 1267, Calhoun, GA 30701

Hanes Hosiery division of Sara Lee Corporation, P.O. Box 1413, Winston Salem, NC 27105

Hanes Knitwear division of Sara Lee Corporation, 1100 South Stratford Road, Winston-Salem, NC 27103

Hanes Printables division of Sara Lee Corporation, 2000 West First St., Winston-Salem, NC 27103

Hi-Brand Foods division of Sara Lee Corporation, P.O. Box 2048, Peachtree City, GA 30269

Hillshire Farm Company division of Sara Lee Corporation, P.O. Box 227, Rte. No 4, New London, WI 54961

Kahn's and Company division of Sara Lee Corporation, 3241 Spring Grove Ave., Cincinnati Ohio 45225

Lauderdale Farm Company, division of Sara Lee Corporation, 700 S. Wood Avenue, Florence, Ala. 35630

R.B. Rice Company, division of Sara Lee Corporation, 1951 Rice Road, Lee's Summit, MO 64063

Rudy's Farm Company, division of Sara Lee Corporation, 2424 Music Valley Drive, Nashville, TN 37214
Sav-A-Stop/Hanes DSD, division of Sara Lee Corporation, 7960 Baymeadows Way, Jacksonville, Fla. 32245
Superior Coffee Company, division of Sara Lee Corporation, 990 Supreme Drive, Bensenville, IL 60106

1. Parent corporation and address of principal office: Tenneco Inc., a Delaware corporation, 1010 Milam Street, (P.O. Box 2511), Houston, TX 77001.

2. Divisions of the parent corporation which will participate in the operations, and the address of their respective principal offices:

Tennessee Gas Pipeline Company, 1010 Milam Street, (P.O. Box 2511), Houston, TX 77001
Tenneco Automotive, P.O. Box 615, Bannockburn, IL 60015
Walker Manufacturing Co., 1201 Michigan Boulevard, Racine, WI 53402

3. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Tenneco Oil Company (Exploration and Production Unit), a Delaware corporation, 1010 Milam Street (P.O. Box 2511), Houston, TX 77001
(b) Tenneco Oil Company (Production and Marketing Unit), a Delaware corporation, 1010 Milam Street (P.O. Box 2511), Houston, TX 77001
(c) Operators, Inc., a Delaware corporation, 16630 Imperial Valley Drive, Suite 147, Houston, TX 77060
(d) Blue Flame Gas Corporation, a Delaware corporation, Gal-Ham Building, Bluffton, IN 45714
(e) Direct Oil Corporation, a Delaware corporation, Highway 31 (P.O. Box 1243), Nashville, TN 37202
(f) Marlin Drilling Co., Inc., a Delaware corporation, Park Tower South, 133 West Loop South, Suite 780, Houston, TX 77027
(g) Mitchell Supreme Fuel Company, a Delaware corporation, 532 Freeman Street, Orange, NJ 07050
(h) TLC Oil Company, a Delaware corporation, 92 Walnut Street (P.O. Box 1867), Hartford, CT 06101
(i) Tennessee Gas Transmission Company, a Delaware corporation, 1010 Milam Street (P.O. Box 2511), Houston, TX 77001
(j) East Tennessee Natural Gas Company, a Tennessee corporation, Kingston Pike (P.O. Box 10245), Knoxville, TN 37919
(k) Midwestern Gas Transmission Company, a Delaware corporation, 1100 Milam Building (P.O. Box 2511), Houston, TX 77001
(l) Tenngasco Corporation, a Delaware corporation, 1010 Milam Street (P.O. Box 2511), Houston, TX 77001
(m) J.I. Case Company, a Delaware corporation, 700 State Street, Racine, WI 53404
(n) J. I. Case Canada, a division of Tenneco Canada Inc., an Ontario corporation, 17 Vickers Road, Islington, Ontario M9B 1C2 Canada
(o) Case Tractors, a division of Case Poclain Corp. Ltd., Inc., a Delaware corporation, 17 Vickers Road, Islington, Ontario M9B 1C2 Canada
(p) Pryor Foundry, Inc., an Oklahoma corporation, P.O. Box 549, Pryor, OK 74361
(q) Monroe Auto Equipment Company, a Delaware corporation, One International Drive, Monroe, MI 48161
(r) Speedy Muffler King, Inc., a Delaware corporation, P.O. Box 615, Bannockburn, IL 60015
(s) Walker Manufacturing Company, a Delaware corporation, 1201 Michigan Boulevard, Racine, WI 53402
(t) Packaging Corporation of America, a Delaware corporation, 1603 Orrington Avenue, Evanston, IL 60204
(u) ABCO Cartage Company, a Michigan corporation, P.O. Box 1408, Evanston, IL 60204
(v) Ekco Products, Inc., an Illinois corporation, P.O. Box 1408, Evanston, IL 60204
(w) Tennessee River Pulp & Paper Company, a Delaware corporation, P.O. Box 33, Counce, TN 38326
(x) Newport News Shipbuilding & Dry Dock Company, a Virginia corporation, 4101 Washington Avenue, Newport News, VA 23607
(y) Greenville Metal Manufacturing, Inc., a Virginia corporation, 4101 Washington Avenue, Newport News, VA 23607
(z) Newport News Industrial Corporation, a Virginia corporation, 230 41st Street, Newport News, VA 23607
(aa) Asheville Industries Inc., a North Carolina corporation, P.O. Box 1157, Arden, NC 28704
(bb) Tenneco West, Inc., a Delaware corporation, 10000 Ming Avenue (P.O. Box 9380), Bakersfield, CA 93389
(cc) Cal-Date Company, a California corporation, 10000 Ming Avenue (P.O. Box 9380), Bakersfield, CA 93389
(dd) California Almond Orchards, Inc., a California corporation, 10000 Ming Avenue (P.O. Box 9380), Bakersfield, CA 93389

James H. Bayne,
Secretary.

[FR Doc. 85-9561 Filed 4-18-85; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30480 (Sub-2)]

Rail Carriers; Missouri Pacific Railroad Co. & Seaboard System Railroad, Inc.—Trackage Rights Exemption—Over New Orleans Terminal Co.; Notice of Exemption

On March 5, 1985, Missouri Pacific Railroad Company (MoPac), Seaboard System Railroad, Inc. (Seaboard), and New Orleans Terminal Company (NOT) jointly filed a notice of exemption under 49 CFR 1180.4(g) for an extension of a trackage rights agreement under 49 CFR 1180.2(d)(4). The notice of exemption was supplemented by letters received March 8 and April 1, 1985, respectively.

MoPac and Seaboard maintain rail lines in New Orleans that pass through the site of the 1984 World's Fair. To avoid the use of these lines during the Fair and for a short time afterwards, MoPac and Seaboard obtained temporary trackage rights over a nearby line of NOT extending 7.14 miles between Shrewsbury and N.O. Junction, LA. Pursuant to 49 CFR 1180.2(d)(5), a notice of exemption pertaining to this temporary relocation of the lines of MoPac and Seaboard was served on May 29, 1984, in Finance Docket No. 30480. These trackage rights were extended by agreement of the parties through March 12, 1985, and, pursuant to 49 CFR 1180.2(d)(4), a notice of exemption pertaining to the extension was served on December 5, 1984, in Finance Docket No. 30480 (Sub-No. 1).

The parties now have reached an agreement for MoPac and Seaboard to gain permanent trackage rights over the same line of NOT. Although this transaction does not constitute a "renewal" or extension of trackage rights within the meaning of 49 CFR 1180.2(d)(4), it does meet the definition of a joint relocation project under 49 CFR 1180.2(d)(5) since the project will not disrupt service to shippers and the existing lines of MoPac and Seaboard are abandonable. In *D.T.&I.R.—Trackage Rights*, 363 I.C.C. 878 (1981), the Commission determined that line relocations include trackage rights in circumstances such as are involved here.

As a condition to the use of this exemption, any employees affected by the trackage rights agreement shall be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights-BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: April 16, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-9562 Filed 4-18-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Gilberto Vila-Balzac, M.D.; Denial of Application

On January 22, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Gilberto Vila-Balzac, M.D. of 8000 E. Girard Avenue, Suite 608, Denver, Colorado 80231 (Respondent), an Order to Show Cause proposing to deny his application for a DEA Certificate of Registration, executed on November 30, 1984, for registration as a practitioner under 21 U.S.C. 823(f). The statutory predicate for the proposed action is that granting such a registration would be inconsistent with the public interest as defined in 21 U.S.C. 823(f) as amended by Pub. L. 98-473. In a correspondence dated February 5, 1985, Respondent specifically waived his opportunity for a hearing and instead, filed a written statement regarding his position on the matters of fact and law involved. 21 CFR 1301.54(c). The Acting Administrator has considered the entire record in this matter, including Respondent's written statement, and hereby issues this final order based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Adminstrator finds that Respondent previously possessed DEA Certificate of Registration AV8789452 issued to him at a Georgia address. Effective June 21, 1984, the Composite State Board of Medical Examiners of the State of Georgia suspended Dr. Vila-Balzac's license to practice medicine in the State of Georgia for a period of three years to be followed by a period of probation of three years during which the doctor will not be allowed to possess, dispense, distribute, order or prescribe any controlled susbstances. This action was taken after a hearing before a hearing officer for the Board found that Dr. Vila-Balzac excessively dispensed Schedule II controlled substances outside the scope of legitimate medical practice. As a result of this suspension, DEA issued an Order to Show Cause on October 24, 1984, seeking to revoke Respondent's DEA Certificate of Registration at his Georgia address, based upon Respondent's lack of authority to prescribe, administer or dispense controlled substances in the State of Georgia. Respondent waived his right to a hearing in the matter. As a result, the then Administrator of DEA entered a final order revoking DEA Certificate of Registration AV8789452 previously issued to Dr. Vila-Balzac in the State of Georgia. The final order was printed in the **Federal Register** on December 14, 1984. (49 FR 48815).

Respondent now wants to be registered by DEA to possess, dispense, distribute, order and prescribe controlled susbstances in the State of Colorado where he presently possesses a valid medical license. The Acting Administrator finds that the magnitude of Respondent's past illicit prescribing practices in Georgia was so great that to register him anywhere at this time would be a threat to the public health and safety and therefore would not be consistent with the public interest.

The Acting Administrator finds that Respondent practiced medicine at Physicians Consulting Services, P.C., also known as Physical Examinations, P.C. in Atlanta, Georgia. This practice was a stress clinic through which substantial quantities of controlled substances were prescribed. A review of prescription records at three pharmacies in the area around the clinic at which Respondent practiced revealed that during the period January 1982 to November 1982, Dr. Vila-Balzac issued 1,870 prescriptions for methaqualone, then a Schedule II controlled substance but since transferred to Schedule I. The same review revealed 853 prescriptions written by Dr. Vila-Balzac for the Schedule II drug Tuinal for the period January 1982 to June 1983.

At the hearing which resulted in the suspension of Respondent's Georgia medical license, the Hearing Officer for the Composite Board of Medical Examiners for the State of Georgia concluded that there was a pattern and practice to the prescribing of controlled substances outside of the scope of legitimate medical practice. The Board also found in its final decision that "even questionable psychological testing, physical examinations and lab analysis cannot mask the fact that one-half of Dr. Vila-Balzac's patients received prescriptions for methaqualone or Tuinal from January to June, 1983." The Acting Administrator concurs in these findings.

In Respondent's correspondence dated February 5, 1985, in which he waived his right to a hearing in this matter, Dr. Vila-Balzac presented certain issues for the consideration of the Acting Administrator. The Respondent indicated that the action of the Georgia Composite State Board of Medical Examiners suspending his medical license in that state is currently under appeal to the Superior Court of Fulton County, Georgia. The Acting Administrator notes that in spite of the appeal, Respondent has been without a medical license in the State of Georgia since June of 1984, and that since July 5, 1983 he has been without authority to prescribe controlled substances in Georgia. The suspension of Respondent's medical license in the State of Georgia was based entirely upon Respondent's prescribing of controlled substances. Respondent further contends that the Georgia Medical Board disregarded his evidence and based its decision upon only five patients. The Acting Administrator has reviewed the lengthy record which was before the Georgia Board and notes that the Board found a pattern and practice of prescribing "highly abused drugs for willng users" under the guise of treatment of stress. The Respondent indicated in his letter that, "under no circumstances will I prescribe any medication to any patient except if the medication is actually needed by the patient." The Acting Administrator is not assured by Respondent's statement. The Georgia Medical Board concluded that Dr. Vila-Balzac had a practice of prescribing methaqualone and Tuinal to patients for no legitimate medical purpose. The Acting Administrator agrees with the conclusion of the Georgia Board. Respondent apparently does not believe that his activity in Georgia was outside the scope of medical practice and therefore that those patients needed the methaqualone and Tuinal. The Respondent contends that he has a new practice in Colorado with a different type of patient than he treated in the past, and that he needs a DEA number in order to practice. The Acting Administrator notes that if Respondent had a DEA registration his practice might again change to one such as he had in Georgia. The Acting Administrator finds Respondent's arguments to be unpersuasive in light of his past conduct.

Unlike the preceding revocation action against Dr. Vila-Balzac, in the matter now before the Acting Administrator, Respondent *is* licensed to practice medicine and authorized to handle controlled substances by the State of Colorado where he is currently practicing medicine. However, the facts clearly indicate that Dr. Vila-Balzac was willing to ignore his professional responsibility to protect the public health and safety and instead, directed large quantities of controlled substances

into the illicit market. The Administrator of DEA is charged with protecting the public health and safety. Conduct such as that exhibited by Respondent is precisely what Congress sought to address by adding public interest as a ground for the revocation or denial of a DEA Certificate of Registration in Public Law 98–473. The extent of Respondent's prescription-writing practices in Georgia leads the Acting Administrator to conclude that registration of Dr. Vila-Balzac would be contrary to the public interest wherever he may practice medicine.

In consideration of the foregoing, and having a lawful basis for such action, (21 U.S.C. 823(f) as amended by Public Law 98–473), it is the decision of the Acting Administrator that Dr. Vila-Balzac's application for registration should be denied. Accordingly, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b), the Acting Administrator hereby orders that the application for a DEA Certificate of Registration executed on November 30, 1984 by Gilberto Vila-Balzac, M.D., and any other applications executed by Respondent which may exist, be, and are hereby denied.

Dated: April 11, 1985.

John C. Lawn,

Acting Administrator.

[FR Doc. 85–9497 Filed 4–18–85; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 84–52]

Registration Applications: Thomas W. Moore, Jr., M.D.; Hearing

Notice is herby given that on December 12, 1984, the Drug Enforcement Administration, Department of Justice, issued to Thomas W. Moore, Jr., M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not deny his application executed on June 20, 1984, for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. Thursday, May 9, 1985, in Courtroom No. 10, Room 309, U.S. Claims Court, 717 Madison Place NW., Washington, D.C.

Dated: April 12, 1985.

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85–9494 Filed 4–18–85; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 84–31]

Registration Applications: John W. Fitzhugh, M.D.; Hearing

Notice is hereby given that on July 25, 1984, the Drug Enforcement Administration, Department of Justice, issued to John W. Fitzhugh, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AF2436461, as a practitioner, issued under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. Tuesday, May 7, 1985, in Courtroom No. Room 309, U.S. Claims Court, 717 Madison Place NW., Washington, D.C.

Dated: April 12, 1985.

John C. Lawn,

Acting Administrator Drug, Enforcement Administration.

[FR Doc. 85–9495 Filed 4–18–85; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 84–45]

Registration Applications: Harold Lloyd Wright, M.D.; Hearing

Notice is hereby given that on October 1, 1984, the Drug Enforcement Administration, Department of Justice, issued to Harold Lloyd Wright, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AW5441287, and deny his application, executed on March 25, 1984, for registration as a practitioner, under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. Wednesday, May 8, 1985, in Courtroom No. 10, Room 309, U.S. Claims Court, 717 Madison Place NW., Washington, D.C.

Dated: April 12, 1985.

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85–9496 Filed 4–18–85; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council Committees; Meetings and Agenda

The regular spring meetings of committees of the Labor Research Advisory Council will be held on May 15, 16, and 17. The meetings will be held in Room N–5437, B&C, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

Wednesday, May 15

9:30 a.m.—Committee on Productivity, Technology and Economic Growth

1. Discussion of the update of the 1995 projections of economic growth.
2. Extension of multifactor productivity measures to two-digit manufacturing industries.
3. Impact of R and D on productivity.
4. Capacity utilization change and productivity change.
5. Current results of survey of hours worked and hours paid.

11:15 a.m.—Committee on Foreign Labor and Trade

1. Alternative unemployment rates abroad—U1 through U7.
2. International comparisons of employment by sector.
3. New GNP benchmarks for international comparisons.

1:30 p.m.—Committee on Occupational Safety and Health Statistics

1. Recordkeeping guidelines.
2. Work injury reports and the development of standards.
3. National Academy of Sciences, Committee on National. Statistics: study of survey quality.
4. Recordkeeping case studies project.

Thursday, May 16

9:30 a.m.—Committee on Wages and Industrial Relations

1. Review of work in progress.
2. Special research from the Professional, Administrative, Technical, and Clerical pay survey.
3. New data on collective bargaining settlements for State and local governments.
4. New data on labor organizations membership.
5. Comparison of union/nonunion earnings data derived from Current Population Survey.
6. Status report on treatment of lump-sum payments.

1:30 p.m.—Committee on Prices and Living Conditions

1. Review of Consumer Expenditure Surveys, 1980/81.
2. Status report on International Price Program.
3. Status report on Consumer Price Indexes and Consumer Price Index Revision.
4. Other business.

Friday, May 17

9:30 a.m.—Committee on Employment Structure and Analysis

1. Status reports on:

(a) Local area unemployment statistics methodology review.

(b) Establishment survey modernization program.

2. Discussion of:

(a) Dislocated worker/mass layoff data system.

(b) Census/BLS report on trade and employment.

(c) Report of earnings of workers and their families.

3. Review of:

(a) May 1985 CPS supplement on work schedules.

(b) Statistics on temporary help industry.

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523–0001.

Signed at Washington, D.C. this 10th day of April 1985.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 85–9544 Filed 4–18–85; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA–W–15,214 and 15,215]

Amax Specialty Metals Corp., Newark, NJ, Florham Park, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 17, 1984, applicable to all workers at Amax Specialty Metals Corporation, Newark, New Jersey and Florham Park, New Jersey. The Notice of Certification was published in the **Federal Register** on July 31, 1984 (49 FR 30607).

On the basis of additional information, furnished by a corporate official on the scheduled closure of the Florham Park plant, the Office of Trade Adjustment Assistance reviewed the termination date in the subject certification. The May 3, 1984 termination date in the certification was predicated upon the scheduled purchase of the company by another firm. Because the purchase never materialized as scheduled, workers were retained at Florham Park until July 31, 1984 to close down the plant. It was the Department's intent to include all workers as eligible to apply for adjustment assistance who were laid off from the Amax Specialty Metals Corporation plant in Florham Park, New Jersey.

The amended certification for TA–W–15,214 and 15,215 is hereby issued as follows:

All workers of the Newark, New Jersey plant of Amax Specialty Metals Corporation who became totally or partially separated from employment on or after February 6, 1983 and before May 4, 1984 and all workers of the Florham Park, New Jersey plant who became totally or partially separated from employment on or after February 6, 1983 and before September 1, 1984 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of April 1985.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 85–9547 Filed 4–18–85; 8:45 am]

BILLING CODE 4510-30-M

[TA–W–15,598]

The Biltrite Corp., Chelsea, MA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 15, 1985, applicable to all workers of the Chelsea, Massachusetts plant of The Biltrite Corporation. The Notice of Certification was published in the **Federal Register** on March 28, 1985 (50 FR 11951).

The certification document issued in response to this worker petition improperly reported the impact date as November 9, 1984. The certification document is amended to show the correct impact date of November 8, 1983.

The amended notice applicable to TA–W–15,598 is hereby issued as follows:

All workers of the Chelsea, Massachusetts plant of The Biltrite Corporation who became totally or partially separated from employment on or after November 8, 1983 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of April 1985.

Robert A. Schaerfl,

Director, Office of Program Management, UIS.

[FR Doc. 85–9545 Filed 4–12–85; 8:45 am]

BILLING CODE 4510-30-M

[TA–W–15,738]

Tecumseh Products, Marion, OH; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 4, 1985 in response to a petition received on January 25, 1985 which was filed by the United Auto Workers of America on behalf of workers at Tecumseh Products, Marion, Ohio.

The production workers at the subject plant were laid off when the plant closed in July 1984. Workers were certified for trade adjustment assistance under an earlier certification (TA–W–13,435) wich expired on February 17, 1985. Since all production workers were covered by this certification and since the maintenance workers at the Marion plant have not been laid off yet, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 9th day of April 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-9548 Filed 4-18-85; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administation, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 29, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 29, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 8th day of April 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Avondale Mills, Lafayette Plant (co.)	Lafayette, AL	4/01/85	3/26/85	TA-W-15,880	100% acrylic yarn.
Boyd Lumber Corp. (workers)	Tonasket, WA	3/05/85	2/26/85	TA-W-15,881	Lumber.
Eastland Shoe Mfg. (workers)	Lewiston, ME	3/29/85	3/20/85	TA-W-15,882	Stitched casual shoes.
Ellen Tracy, Inc. (ILGWU)	Carlstadt, NJ	2/22/85	2/07/85	TA-W-15,883	Warehouse ladies' sportswear.
George J. Meyer Co. (USWA)	Cudahy, WI	3/14/85	3/11/85	TA-W-15,884	High speed packing equipment.
Hoover NSK Bearing Co. (UAW)	Wayne, NJ	3/22/85	3/11/85	TA-W-15,885	Bearings.
Jack Winter, Inc. (ACTWU)	LaCrosse, WI	4/03/85	3/28/85	TA-W-15,886	Ladies' sportswear.
Northland Shoe Manufacturing (workers)	Fryeburg, ME	4/01/85	3/26/85	TA-W-15,887	Cut and stitched casual shoes.
Snappy Garments (ILGWU)	East Newark, NJ	3/12/85	3/06/85	TA-W-15,888	Ladies' coats.
Weyerhaeuser Co., Green Mountain Mill (IWA)	Tautle, WA	3/19/85	3/12/85	TA-W-15,889	Douglas fir lumber—sawmill.
Weyerhaeuser Co. (IWA)	Longview, WA	3/19/85	3/12/85	TA-W-15,890	Lumber transporting, logging operation, sawmill.
Wilkin Brothers Co., Inc. (workers)	McKenzie, TN	4/01/85	3/28/85	TA-W-15,891	Ladies, men's and boys' pajamas and robes.
Alta Products Corp. (UTWA)	Wilkes Barre, PA	4/01/85	3/27/85	TA-W-15,892	Women's slippers.
Formfit Rogers, Inc. (workers)	McMinnville, TN	4/01/85	3/25/85	TA-W-15,893	Bras.
General Electric Corp., Cathode Ray Tube Operation (IUE)	Syracuse, NY	3/29/85	3/25/85	TA-W-15,894	Cathode ray tubes/television picture tubes.
Mid-Atlantic Precision Steel (USWA)	Atco, NJ	4/01/85	3/19/85	TA-W-15,895	Cold bar finishing.
Morton Salt Co. (workers)	Marysville, MI	3/29/85	3/25/85	TA-W-15,896	Salt water softener pellets and pellens.
Pester Refining Co. (OCAW)	El Dorado, KS	3/29/85	3/18/85	TA-W-15,897	Petroleum products—gasoline, kerosene and asphalt.
Rowker Manufacturing Co. (ILGWU)	Tunkhannock, PA	3/29/85	3/26/85	TA-W-15,898	Ladies' sportswear and dresses.
Teledyne Amco (workers)	Mohnton, PA	4/01/85	3/27/85	TA-W-15,899	Sewing machine motors and positioning devices.
Tennessee Chemcial Co. (ICWU)	Copperhill, TN	4/03/85	3/15/85	TA-W-15,900	Copper mine.
Waverly Sportswear Inc. (ILGWU)	New York, NY	2/19/85	2/08/85	TA-W-15,901	Ladies' skirts and pants.
Wilson Sporting Goods Co., Caribbean Service Operation (company).	Cookeville, TN	3/29/85	3/22/85	TA-W-15,902	Leather and vinyl baseball and softballs covers, basebal bases, body protectors, leather baseball gloves.
Zenith Electronics Corp. of Texas (workers)	McAllen, TX	4/01/85	3/14/85	TA-W-15,903	Warehouse, income quality control.

[FR Doc. 85-9546 Filed 4-18-85; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

[V-85-3]

St. Regis Corp.; Application for Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of application for variance and interim order; Grant of interim order.

SUMMARY: The notice announces the application of St. Regis Corporation for a variance from the part of 29 CFR 1910.261(c)(9)(i) which requires that the flagman must always remain in sight of the operator when the crane or locomotive is in motion. It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATE: The effective date of the interim order is April 19, 1985. The last date for affected employers and employees to request a hearing on the application is May 20, 1985.

ADDRESSES: Send comments and requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street & Constitution Avenue NW., Room N-3656, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination at the above address, Telephone: 202-523-7193

or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, Federal Building, Room 1554, 1961 Stout Street, Denver, Colorado 80294

U.S. Department of Labor—OSHA, Petroleum Building, Suite 210, 2812 1st Avenue North, Billings, Montana 59101.

I. Notice of Application

Notice is hereby given that St. Regis Corporation, Post Office Box V-X, Libby, Montana 59923-1284, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1590; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the part of 29 CFR 1910.261(c)(9)(i) which requires that the flagman must always remain in sight of the operator when the crane or locomotive is in motion.

The place of employment that will be affected by the application is the plant of the applicant.

The applicant certifies that employees who would be affected by the variance have been notified of the application by presenting a copy of it to the authorized employee repesentative and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that the radio communications between the railroad crew is as safe and healthful as visual contact between the railroad crew as required by § 1910.261(c)(9)(i). The applicant proposes that their railroad crew use portable radios to relay verbal instructions in directing movement of the locomotives rather than using visual observation of hand signals. The railroad crew would thus be able to maintain voice contact when throwing switches, coupling, uncoupling or spotting rail cars within the applicant's railroad system. The applicant contends that constant visual contact while the locomotive is in motion is not the exclusive means of achieving the safe operation.

This variance is requested from St. Regis Corporation, Lumber and Plywood Division, Plywood/Sawmill Complex, Libby, Montana. The applicant contends that products in its railroad operations are lumber, plywood and wood chips.

The applicant further states that the operating area of the locomotive encompasses approximately two miles of track, all within the confines of the company's property. The applicant has submitted written operations procedures for its employees involved in railroad duties.

The applicant maintains that a variance from the requirement that the railroad crew be in visual contact with the locomotive engineer at all times should be granted because the use of radios in conjunction with written operations procedures provides an operation which is as safe as, or safer than the outdated method of hand signals.

Specifically,

(a) Without the visual contact requirement, crew members' mobility will be enhanced and will be able to position themselves at the safest possible location during train movement;

(b) Radios will provide a means of communication instantaneously, whereas hand signals must await visual contact between the parties; and

(c) Radios improve communication under adverse weather conditions and after nightfall.

The applicant contends that its request for a variance should be granted because the OSHA requirement for visual contact applies only to the pulp and paper and paperboard mill industry. Locomotives routinely operate in other industries using radio communication in lieu of visual contact. There is nothing unique about the pulp, paper and paperboard mill industry which justifies a visual contact requirement.

The applicant contends that it has taken the following steps to assure that the system of radio communication will work safely and efficiently:

(a) The applicant has purchased a sufficient number of radios and microphones to supply all required employees;

(b) The radios purchased are a 2 watt FM system providing a clear and audible signal;

(c) The applicant has obtained a separate radio frequency from the Federal Communications Commission. The frequency will be used solely among members of the train crew to direct the movement of the locomotive.

(d) The radios, when not in use, will be maintained in a secure place under the control of St. Regis Corporation supervision; employees will be responsible for the security of radios which have been issued to them;

(e) The radios will be checked regularly and recharged when appropriate; and,

(f) Employees will be trained in the use of the radios as well as in the operational procedures which apply during the use of radios. The locomotive engineer will be under instruction not to move the train until given a radio signal from the crew. Should radio failure or interference occur after an order to move has been given, the locomotive engineer will stop. The engineer will not move the train again until radios are repaired, replaced or until interference has cleared. Established operational procedures will be followed.

The Occupational Safety and Health Administration conducted an onsite variance investigation at the applicant's facility on December 18, 1984 to examine plant and railroad operations and procedures. The conditions at the facility were found to be as stated in the variance application.

The applicant also contends that its alternative method as described above is as safe and healthful as the requirements of the standard from which a variance is sought.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance, are invited to submit written data, views, and arguments relating to the pertinent application no later than May 20, 1985. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than May 20, 1985, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Interim Order

The applicant also requested an interim order to be effective until a decision is made on the application for variance.

It has been determined that an interim order from 29 CFR 1910.26(c)(9)(i) shall be issued. Therefore, it is ordered, pursuant to the authority in section (6)(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 9–83 (48 FR 35736) that St. Regis Corporation is hereby subject to the following conditions in lieu of complying with 29 CFR 1910.261(c)(9)(i) of the Occupational Safety and Health standards:

(a) Institute a radio control program for assignment, storage, security, recharging and periodic maintenance of the radio equipment.

(b) Clearly designate the area where the two-way radio communications may be conducted.

(c) Develop safe operating procedures in the use of the radio communications system and provide a copy to each employee required to work with a two-way radio.

(d) Instruct and thoroughly train each employee who is authorized to use the two-way radio in the proper methods for using the radio communications.

(e) Assure testing of the radio before and at least once during each railroad crew shift to verify that the radio is operating properly. The test at a minimum shall consist of an exchange of voice transmissions.

(f) Immediately remove from service all improperly functioning radios until they have been repaired.

(g) Assure that when radio communication is used in lieu of hand signals in connection with the switching, backing or pushing of a train, engine, or car, the employee directing the movement shall give complete instructions or keep continuous radio contact with the employees receiving

the instructions. When backing or pushing a train, engine or cars, the distance of the movement must be specified, and the movement must stop in one-half the remaining distance unless additional instructions are received. If the instructions are not understood or continuous radio contact is not maintained, the movement shall be stopped immediately and may not be resumed until the misunderstanding has been resolved, radio contact has been restored, or communication has been achieved by hand signals.

(h) Assure that a traffic pattern across and on the railroad tracks be well defined and a safe operating procedure established.

(i) Install and maintain appropriate and practical warning signs at each vehicular and pedestrian crossing of the railroad track and the blind areas of the track.

(j) Require that an audible signal be given when approaching a crossing. The sound of the engine whistle or horn shall be distinct, with intensity and duration proportionate to the distance the signal is to be conveyed.

(k) Assure that when outside railroad company operators are on the premises, operations of the applicant's crew shall be fully coordinated with those of the outside railroad company to assure a safe joint operation. Crews of one company shall be informed of the operating procedures of the other company.

(l) Allow OSHA to inspect its premises in connection with this order.

This interim order becomes effective on April 19, 1985, and shall remain in effect until a decision is rendered on the application for a variance.

Signed at Washington, D.C. this 10th day of April 1985.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 85-9549 Filed 4-18-85; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 85-69; Exemption Application No. D-4990 et al.]

Grant of Individual Exemptions; San Francisco Photographers Supply, Inc., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

San Francisco Photographers Supply, Inc. Defined Benefit Pension Plan and San Francisco Photographers Supply, Inc. Money Purchase Pension Plan (the Plans) Located in San Francisco, California

[Prohibited Transaction Exemption 85-69; Exemption Application No. D-4990 and D-4991]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, for a period of five years, to the proposed loans by the Plans of up to 25% of each Plan's assets to San Francisco Photographers Supply, Inc., provided that the terms of the transactions are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of each transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 2, 1985 at 50 FR 189.

Temporary Nature of Exemption

This exemption is temporary and will expire five years after the date of grant with respect to the making of any loan.

Subsequent to the expiration of this exemption, the Plans may hold loans originated during this five year period for an additional five years. Should the applicant wish to continue entering into loan transactions beyond the five year period, that applicant may submit another application for exemption.

For Further Information Contact: Mr. Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Bryce Corporation Pension Plan and Trust and Bryce Corporation Profit Sharing Plan and Trust (Together, the Plans) Located in Memphis, Tennessee

[Prohibited Transaction Exemption 85-70; Exemption Application Nos. D-5123 and D-5124]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the

Code, shall not apply to (1) the lease by the Plans to Bryce Corporation (Bryce) of certain real property (the Land) located at 3861 Delp Street, Memphis, Tennessee, which was entered into on August 1, 1974, provided the terms of the lease were not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party; and (2) the sale of the Land by the Plans to Bryce or parties related to Bryce for $98,000 in cash, or the fair market value of the Land on the date of sale, whichever amount is greater.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 11, 1985 at 50 FR 5689.

Effective Date: The exemption for the lease is effective from January 1, 1975 through June 30, 1984.

For Further Information Contact: Mr. Gary Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Midelfort Clinic, Ltd. Profit Sharing Plan (the Plan) Located in Eau Claire, Wisconsin

[Prohibitied Transaction Exemption 85–71; Exemption Application No. D–5163]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proportionate distribution of the assets of a corporation (Building, Inc.) to parties in interest with respect to the Plan, in connection with the liquidation and dissolution of Building, Inc., provided that the terms and conditions of the transaction are at least as favorable to the Plan as those obtainable in similar transactions between unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 11, 1985, at 50 FR 5690.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8882. (This is not a toll-free number.)

Lone Star Company Profit Sharing Trust and the Lone Star Company Pension Plan (the Pension Plan; Collectively, the Plans) Located in Dallas, Texas

[Prohibited Transaction Exemption 85–72; Exemption Application Nos. D–5208 and D–5209]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continuation, past June 30, 1984, of: (1) A loan (the New Loan) in the amount of $3,042,000 by the Plans to Lone Star Company (the Employer); and (2) a lease (the New Lease) of certain improved real property (the Real Property) by the Pension Plan to the Employer, provided the terms and conditions of the New Loan and the New Lease are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 11, 1985 at 50 FR 5692.

Effective Date: This exemption is efective July 1, 1984.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Mid-Continent Mud Sales, Inc. Pension Plan and Profit-Sharing Plan (the Plans) Located in Oklahoma City, Oklahoma

[Prohibited Transaction Exemption 85–73; Exemption Application No. D–5374]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan of $100,000 by the Plans to B&N Development Company, a party in interest with respect to the Plans, provided the terms of this transaction are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party at the time of the consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 11, 1985 at 50 FR 5694.

For Further Information Contract: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Kerr Glass Manufacturing Corporation Retirement Trust Fund (the Plans) Located in Los Angeles, California

[Prohibited Transaction Exemption 85–74; Exemption Application No. D–5454]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continuation, past June 30, 1984, of a lease (the Amended Lease) of certain improved real property (the Real Property) between the Plans and Kerr Glass Manufacturing Corporation (the Employer), provided the terms and conditions of the Amended Lease are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party.

Effective Date of Exemption: If granted, this exemption will be effective July 1, 1984.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 14, 1984 at 49 FR 48824.

Written Comments: The Department received three written comments to the proposed exemption which were submitted by certain participants of the Plans. Two participants, who questioned whether the proposed transactions would adversely affect their pensions, withdrew their comments after a Department representative explained that the exemption would have no detrimental effect on the participant's pensions. The third participant objected to the proposed exemption as not being in the best interests of employees participating in the Plans. The commentator requested that the Department deny the exemption for two reasons. Firstly, the participant felt that the proposed exemption represented an attempt by the Employer to abrogate the leasing of the Real Property for its sole benefit and not for the benefit of those retirees or future retirees under the Plans. Secondly, the participant thought that the proceeds obtained from a potential sale of the Real Property to unrelated parties could not be invested at a return equal to the rate of return obtained by the Plans from the Amended Lease.

The applicant responded to the first issue raised by the objecting participant by stating that the Employer's obligations under the Amended Lease would continue until its expiration thereof in 1990 or until the trustee of the

Plans, Fulton Bank of Lancaster, Pennsylvania (Fulton), terminated the lease. The applicant explained that the Employer would have no right to terminate the Amended Lease and its obligations thereunder at any time prior to the expiration date of the lease. Thus, the applicant concluded, instead of being an attempt by the Employer to abrogate its rights to lease the Real Property, the Amended Lease would continue to obligate the Employer for the remainder of the lease term.

With respect to the second issue raised by the objecting participant, the appplicant thought the proposed sale of the Real Property by the Plans to unrelated parties was of no relevance to the subject exemption inasmuch as it related to the continued leasing of the Real Property. However, if the Real Property were sold by Fulton, either in its own discretion or upon the direction of a committee for the Plans, the applicant noted that the decision would have to be made in accordance with Fulton's fiduciary duties and obligations under the Act. The applicant asserted that Fulton would have to consider such factors as the sales price for the Real Property, the return it obtained, its appreciation in value while held by the Plans and the return anticipated to be received by the Plans from the sale proceeds.

After consideration of the entire record, the Department has made a decision to grant the requested exemption.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Retirement Plan for Employees of National Bank of Commerce (the Plan) Located in Memphis, Tennessee

[Prohibited Transaction Exemption 85–75; Exemption Application No. D–5564]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the lease of real property by the Plan to the National Bank of Commerce, a party in interest with respect to the Plan, provided that such lease is on terms and conditions at least as favorable to the Plan as those obtainable by the Plan in an arm's-length transaction with an unrelated person.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 11, 1985 at 50 FR 5695.

For Further Information Contact: Mr. Alan Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Shelly's Tall Girl Shops, Inc. Defined Benefit Pension Plan (the Plan) Located in Los Angeles, CA

[Prohibited Transaction Exemption 85–76; Exemption Application No. D–5587]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan by the Plan of amounts not to exceed 25% of its total assets to Shelly's Tall Girl Shops, Inc., the sponsor of the Plan, on a recurring basis over a five-year period, and the guarantee of repayment of those loans by Messrs. Sheldon Kort, Irving Kellogg, and Sherman Andelson, parties in interest with respect to the Plan, provided the terms of the loans are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Temporary Nature of Exemption: This exemption will be effective for five years from the date a grant of an individual exemption is published in the **Federal Register** on behalf of the transaction. Subsequent to the expiration of the exemption, the Plan may hold the loans provided they were made during the five-year period.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 29, 1985 at 50 FR 3999.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

McKay of California, Inc. Defined Benefit Pension Plan (the Plan) Located in Los Angeles, California

[Prohibited Transaction Exemption 85–77; Exemption Application No. D–5602]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan by the Plan of amounts not to exceed 25% of its total assets to McKay of California, the sponsor of the Plan, on a recurring basis over a five-year period, and the guarantee of repayment of these loans by Messrs. Sherman L. Andelson, Irving Kellogg, and Sherman Kort, parties in interest with respect to the Plan, provided the terms of the loans are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Temporary Nature of Exemption: This exemption will be effective for five years from the date a grant of an individual exemption is published in the **Federal Register** on behalf of the transactions. Subsequent to the expiration of the exemption, the Plan may hold the loans provided they were made during the five-year period.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 29, 1985 at 50 FR 4000.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Drs. Meara and Pansino, Oral and Maxillofacial Surgery, P.C. Employees' Pension Plan (the Plan) Located in Lansing, Michigan

[Prohibited Transaction Exemption 85–78; Exemption Application No. D–5799]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase of a diamond (the Diamond) by Dr. John W. Meara, Jr. (Dr. Meara), for the cash consideration of $11,200 plus carrying costs, from Dr. Meara's individual account in the Plan, provided the price paid for the Diamond is not less than its fair market value at the time the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 11, 1985 at 50 FR 5701.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a

fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 16th day of April, 1985.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-9553 Filed 4-18-85; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-5151 et al.]

Proposed Exemptions; University Avenue Orthopaedic Medical Group, Inc., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code.)

Written Comments and Hearing Requests.

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for complete statement of the facts and representations.

University Avenue Orthopaedic Medical Group, Inc. Profit Sharing Plan (the Profit Sharing Plan) and University Avenue Orthopaedic Medical Group, Inc. Money Purchase Pension Plan (the Pension Plan; Together, the Plans) Located in San Diego, California

[Application Nos. D-5151 and D-5152]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase from James E. Schultz, M.D. (Dr. Schultz) by his individual accounts (the Accounts) in the Plans of a farm located in Harrison County, Iowa (the Property), for $144,000 in cash, provided such amount is not greater than the fair market value of the Property at the time of its acquisition, and the lease of the Property to Dr. Schultz by the Accounts under the terms set forth in this notice of proposed exemption, provided such terms are not less favorable to the Accounts than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plans are defined contribution plans which provide for individually directed accounts. The Plans each have approximately 20 participants. Dr. Schultz is the President and a director of University Avenue Orthopaedic Medical Group, Inc. (the Employer), the Plans' sponsor. Dr. Schultz is also a 25% shareholder of the Employer. Dr. Schultz currently has total assets in the Accounts of approximately $671,570, of which $274,740 is in his Account in the Pension Plan, and $396,830 is in his Account in the Profit Sharing Plan.

2. The Property consists of a 160 acre farm located in Harrison County, Iowa. Dr. Schultz believes that the Property should appreciate and provide a good investment for the Accounts. The investment will provide diversification since the Accounts currently hold no real estate. In addition, the lease will provide a good return to the Accounts. The investment will be earmarked for the Accounts of Dr. Schultz and thus no other participant in the Plans will be affected. The sale will be for cash, and an existing mortgage on the Property,

held by an unrelated party, will be paid off as part of the transaction.

3. The sales price for the Property to the Accounts will be $144,000. Mr. Kenneth L. Beckstrom (Mr. Beckstrom) of Farmers National Company, an independent appraiser in Omaha, Nebraska, has appraised the Property as having a fair market value of $144,000 as of January 30, 1985. The Account in the Pension Plan will acquire a 41% interest in the Property for $59,040, and the Account in the Profit Sharing Plan will acquire a 59% interest in the Property for $84,960. The Property will thus represent approximately 21% of the assets of each of the Accounts.

4. Dr. Schultz then proposes to lease the Property from the Accounts. The lease will be for a period of 10 years. Mr. Beckstrom has appraised the Property, as of January 30, 1985, as having a fair market rental value of $15,100 per year, and that will be the initial rental which Dr. Schultz will pay to the Accounts. The proposed lease provides that on the last day of each calendar year during the term of the lease, the annual rental will be adjusted by a percentage equal to the percentage increase from the base period of the Department's Consumer Price Index. The Index published for the calendar year in which the Property is initially leased shall be the base period. The annual rental for the Property will not fall below $15,100. The Accounts shall have the right to terminate the lease upon 90 days notice to Dr. Schultz or at any time during the term of the lease if the Accounts dispose of their interests in the Property.

5. In summary, the applicant represents that the proposed transactions satisfy the criteria contained in section 408(a) of the Act because: (1) The Property represents approximately 21% of each of the Accounts' assets; (2) the purchase price of the Property and the annual rental amount for the Property have both been determined by a qualified, independent appraiser; and (3) Dr. Schultz is the only participant in the Plans to be affected by the proposed transactions, and he has determined that the transactions are in the best interests of the Accounts.

Notice to Interested Persons: Because Dr. Schultz is the only participant in the Plans to be affected by the proposed transactions, it has been determined that there is no need to notify interested persons. Comments and requests for a public hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register.**

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a tool-free number.)

Littonian Shoe Company Profit Sharing and Retirement Plan (the Littonian Plan) and the Employees Retirement Income Plan of the Community National Bank of Southern Pennsylvania (the Community Plan; Collectively, the Plans) Located in Gettysburg, PA

[Application No. D–5837]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The sale, on June 8, 1984, by the Littoinian Plan and the Community Plan of certain real estate mortgage participations (the Participation Interests) to Community National Bank (Community); and (2) the proposed sale by the Community Plan to Community of two other Participation Interests, provided the total price paid for the participation Interests was not or will not be less than their fair market value at the time of sale.

Effective Date: This exemption, if granted, will be effective June 8, 1984.

Summary of Facts and Representations

1. The Plans consist of the Littonian Plan and the Community Plan, both of which were administered by Community, as trustee, prior to June 8, 1984. At that time, Littonian Shoe Company (Littonian), the sponsor of the Littonian Plan, decided to change trustees and liquidate that Plan's assets. On March 30, 1984, the last date for which a full financial report is available, the Littonian Plan had total assets of $1,363,561 and approximately 80 participants. On June 28, 1984, the Community Plan had total assets of $607,377 and an estimated 38 participants. Until the liquidation, Community made investment decisions for the Littonian Plan. It continues to make them for the Community plan.

2. Community, the sponsor of the Community Plan, is a national banking association chartered under the laws of the State of Pennsylvania. Community maintains its principal place of business in Littletown, Pennsylvania. Littonian, the sponsor of the Littonian Plan, is a manufacturer of baby shoes. Its principal place of business is also located in Littletown, Pennsylvania.

3. Among the assets of the Plans were twelve participation interests in ten real estate mortgages (the Mortgages) that were originated by Community between August 2, 1973 and August 29, 1979 in the ordinary course of its business.[1] The Mortgages were "new" mortgages representing first lien interests on residential property. The Mortgages carried interest at fixed rates ranging between 8 percent and 10.75 percent per annum and the loan amounts were between $9,322 and $30,698. All were for a 20 year term. None of the Mortgagors were parties in interest with respect to either Plan.

4. Littonian Plan acquired ten Participation Interests in the Mortgages during the six year origination period. It paid a total purchase price of $142,100. The Community Plan acquired two Participation Interests in the Mortgages, also during the origination period. The Community Plan paid a total of $11,700 for the participation Interests. On June 8, 1984, the Participation Interests held by the Littonian Plan and the Community Plan had outstanding principal balances of $105,277 and $11,700, respectively. The exemption application states that the Participation Interests held by the Community Plan were not amortized because of Community's policy against amortizing more than one Participation Interest at a time. However, the Community Plan received interest payments based on the full amount of each Participation Interest for the entire period these interests were held by the Community Plan.

5. In May 1984, Littonian notified Community that it wished to terminate the Littonian Plan's account and liquidate certain of the Plan's assets in order to facilitate a transfer to a successor trustee. To comply with this request, Community decided to purchase the Participation Interests held by the Littonian Plan. Community also decided to purchase the Participation Interests held by its own Plan. The Participation Interests were then purchased for their total par value or total outstanding principal balance as of June 8, 1984, the date of sale. (These amounts are noted above.) Community paid cash for the Participation Interests.

6. According to Community, the Participation Interests, if sold to a third party, would have been sold at a

[1] In this proposed exemption, the Department expresses no opinion on whether the acquisition and holding by the Plans of the Participation Interests violated any provision of Part 4 of Title I of the Act.

discount because of the increase in prevailing interest rates since the Mortgages were originated. To support these facts, Community obtained documentation from three independent competitor banks as to the going rate of interest for the Participation Interests on the date of transfer. On January 21, 1985, Mr. Jeffrey K. Dice (Mr. Dice), Assistant Vice President of Bank of Hanover and Trust Company of Hanover, Pennsylvania (Hanover), provided information on the interest rate for fixed and one year adjustable rate mortgages as of June 5, 1984. Depending on the loan duration, Mr. Dice represented that fixed interest rates ranged between 13.5 percent and 14.5 percent while the interest for an adjustable rate mortgage of 1–30 year's duration was 11.5 percent. Mr. Dice further asserted that the loans would be subject to service fees of 2–3 points, again depending on the loan duration.

Also on January 21, 1985, Mr. John E. Kashner (Mr. Kashner), Assistant Vice President of the Commercial Loan Department of Hamilton Bank (Hamilton) of Hanover, Pennsylvania, stated that Hamilton's interest rate for residential mortgages was 14.75 percent for loan of up to 30 years' duration.

Finally, on January 24, 1985, Mr. William H. Kiick (Mr. Kiick), Executive Vice President of Farmers Bank and Trust Company (Farmers) of Hanover, Pennsylvania stated that Farmer's interest rate for a fixed mortgage loan as of June 8, 1984 was between 14.75 percent and 15 percent for a period not exceeding 30 years. Mr. Kiick also represented that the loan would be subject to a 3 point service fee.

7. In addition to the transactions described above, Community requests an exemption in order to purchase two other Participation Interests held by the Community Plan for cash for their total outstanding principal balance. The Participation Interests were also acquired by the Community Plan at the time Community originated the underlying first Mortgages.[2] The Mortgages were made to unrelated parties in 1973 and 1976 for $17,083 and $79,930. They carry interest at the fixed rates of 8 percent to 9.5 percent per annum and they are of 20 years' duration.

8. The Community Plan paid $7,000 for one Participation Interest and $23,000 for other. As of December 12, 1984, the Participation Interests had a total outstanding principal balance of approximately $29,026 or $6,383 and $22,643 individually. In their January 1985 appraisals, Messrs. Kashner and Kiick represented that the two Participation Interests would also be subject to discounted purchase prices.

9. In summary, it is represented that the transactions satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sales were or will be one-time transactions for cash; (b) the Participation Interests were or will be sold at their aggregate outstanding principal balance or par value which would be in excess of their fair market value as established by independent appraisers; and (c) the Littonian Plan and the Community Plan were or will be able to divest themselves of mortgage investments generating little income.

Notice to Interested Persons: Notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 30 days of the date of publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and/or to request a hearing. Comments are due within 60 days of the date of publication of the proposed exemption.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory of administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describe all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 16th day of April 1985.

Elliott I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85–9554 Filed 4–18–85; 8:45 am]

BILLING CODE 4510–29–M

[2] Supra, note 1.

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–317]

Baltimore Gas and Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–53 issued to Baltimore Gas and Electric Company (the licensee), for operation of the Calvert Cliffs Nuclear Plant Unit No. 1 located in Calvert County, Maryland.

The amendment would revise provisions in Technical Specification (TS) 4.10.1.2 "Shutdown Margin" to allow an increase from 24 hours to 7 days for the time period within which a scram test must be performed prior to reducing the shutdown margin below specified limits during preoperational testing at 5% power or less. This proposed action is in response to the licensee's application for amendment dated February 26, 1985.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The purpose of TS 4.10.1.2 is to assure the reliability of the reactor control rod insertion capability (reactor trip verification) prior to reducing the shutdown margin below specified levels during preoperational testing or when the plant is operating at 5% power or less. This reduction in shutdown margin is required to perform special tests that are normally performed following a refueling outage at power levels less than or equal to 5% power (Mode 2). At the present time, TS 4.10.1.2 requires a reactor trip verification within 24 hours prior to reducing the shutdown margin below specified levels. The licensee has requested that the reactor trip verification be performed within 7 days in order to achieve a more expeditious startup following a refueling outage.

In Chapter 14 of the Calvert Cliffs FSAR, the licensee has considered all potential accidents where control rods (CEAs) fail to insert. The only accidents impacted by a stuck CEA are those that may result in positive reactivity addition after a reactor trip (i.e., an overcooling event) and thus no new types of accidents will be created by the proposed change. Based on probabilistic risk assessment analysis performed by the licensee the probability of an overcooling event with a stuck CEA increases insignificantly (1.1×10^{-7} to 4.8×10^{-7}), when the requirement for trip verification is increased from 24 hours to seven (7) days during low power testing. Finally, since no system modifications, operating modes, or safety system setpoints have been changed, the consequences of previously analyzed accident will not be increased and no reduction in a margin of safety will result from the proposed TS change.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By May 20, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the result of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceedings, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice is issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a peition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may

be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by toll-free telephone call to Western Union at (800) 325—6000 (Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to D.A. Brune, Jr., General Council, G&E Building, Charles Center, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 26, 1985 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland, this 15th day of April 1985.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Branch Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85–9540 Filed 4–18–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–461]

Illinois Power Co. et. al.; Preparation of Environmental Assessment and Findings of No Significant Impact

The U.S. Nuclear Regulatory Commission (The Commission) is considering issuance of an amendment to Construction Permit CPPR–137 to Illinios Power Company, (the permittee) on behalf of itself and as agent for Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc. for the Clinton Power Station Unit 1, located in DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

The NRC staff has prepared an Environmental Assessment dated April 15, 1985, supporting the proposed amendment of Construction Permit No. CPPR–137 for Clinton Power Station, Unit 1. The amendment would modify two conditions in section 3E (conditions 3E(1) and 3E(3)) of the Construction Permit (CP) and delete six conditions in section 3E (conditions 3E (2), (4), (5), (6), *7) and (8)) of the CP. The modifications and deletions update the CP to reflect changes related to environmental programs that have been approved by various agencies since the CP was originally granted, and to reflect the current policies of agencies responsible for the various aspects of environmental protection addressed by the CP.

Summary of Environmental Assessment

As described in the environmental Assessment the proposed wording change in paragraph 3E(1) would delete (1) the requirement for the permittee to conduct peroperational environmental monitoring programs; (2) the restrictions on the use of herbicides during the establishment and maintenance of transmission line rights-of-way; and (3) the requirement for additional monthly wather chemistry sampling in the preoperational phase.

Based on the assessments of the staff contained in an expedited review sent to the permittee on April 30, 1980 and in the FES–OL dated May 1982, the change in the requirements for preoperational monitoring that would result from the proposed rewording of paragraph 3E(1) of Construction Permit CPPR–137 will not result in any significant additional environmental impact. The staff concludes that the environmental impacts associated with construction of the station described in the FES–CP and FES–OL are not affected by the proposed rewording of paragraph 3E(1).

The wording change proposed for paragraph 3E(3) would make this requirement coincide with that of the Illinois Pollution Control Board (IPCB) as approved for Clinton Power Station Unit 1 on May 28, 1981. Based on the assessments by the staff in the FES–OL it is concluded that the proposed rewording of paragraph 3E(3) of Construction Permit CPPR–137 will not result in any additional environmental impact or result in environmental impacts not already considered. Additionally, the staff concludes that the environmental impacts associated with construction of the station as described in the FES–CP and FES–OL are not affected by the proposed rewording of paragraph 3E(3).

The proposed deletion of paragraph 3E(2) will not cause additional environmental impact, either as related to cooling lake or downstream Salt Creek water quality or as related to aquatic biota. The staff has assessed the likely environmental impact associated with the alternate thermal standards approved by the Illinois Pollution Control Board (IPCB).

The approval of the alternate thermal standards by the IPCB supercedes the specification of thermal limits and supplemental cooling by the NRC in paragraph 3E(2). Therefore the staff concludes that the environmental impacts associated with the construction and operation of the station as described in the FES–Cp and the FES–OL are not affected by the proposed deletion of paragraphs 3E(2).

The proposed deletion of paragraphs 3E(4), 3E(5), 3L(6), 3E(7), and 3E(8) are not likely to result in additional environmental impacts as a result of Clinton Power Station Unit 1 construction or operation because the provisions of these paragraphs remain as conditions to the Water Quality Certification pursuant ot section 401 of the Clean Water Act issued to Illinois Power Company on August 25, 1975 (FES–OL Section 1.2); these same requirements are included in Part IV.B of the National Pollutant Discharge Elimination System Permit No. IL–0036919, issued to Illinois Power Company for Clinton power Station on October 21, 1977. Water quality limitations and monitoring programs are under the jurisdiction of the U.S. Environmental Protection Agency.

Based on the above considerations regarding the permittee's NPDES permit, and the staff's assessments in the FES–OL, the Environmental Assessment concluded that the proposed deletion of paragraphs 3E(4) through 3E(8) of Construction Permit CPPR–137 will not result in any additional environmental impact nor will the environmental impacts associated with construction and operation for the station as described in the FES–CP and FES–OL be affected by the proposed deletions of these paragraphs.

Findings of No Significant Impact

The staff has reviewed the proposed amendment to Construction Permit CPPR–137. Based upon the environmental assessment, the staff has

concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed CP amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see: (1) The application for amendment by Illinois Power Company by letters dated August 31, 1981, March 29, 1982, and August 22, 1984 and subsequently modified by letters dated October 29, 1984 and December 4, 1984. (2) the Final Environmental Statement for the Construction Permit (FES–CP) dated October 1974, (3) the Final Environmental Statement for the Operating License (FES–OL) dated May 1982, (4) the expedited staff review of monitoring inspectional programs dated April 30, 1980, and (5) the Environmental Assessment dated April 15, 1985.

These documents are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. 20555 and at the Warner Vespasian Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Bethesda, Maryland, this 15th day of April 1985.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Assistant Director for Licensing, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85–9541 Filed 4–18–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–387]

Pennsylvania Power and Light Co.; Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–14 issued to Pennsylvania Power and Light Company (the licensee) for operation of the Susquehanna Steam Electric Station, Unit 1 located in Luzerne County, Pennsylvania.

The proposed amendment change to the Technical Specifications would permit Susquehanna SES refueling operations (fuel loading and unloading) to take place without using Fuel Loading Chambers (FLCs). This change would allow up to eight fuel assemblies to be loaded in order to attain the required Technical Specification count rate on the source range monitors (SRMs) without creating any safety concern. Another Technical Specification change currently before the NRC (proposed Amendment 43 to NPF–14) would reduce Unit 1's required count rate from 3.0 to 0.7 counts per second (cps) (Section 3.9.2 and Table 3.3.6–2), which will make Unit 1 Technical Specifications consistent with Unit 2.

During the Susquehanna SES Unit 1 end-of-cycle defueling the FLCs, which were being used to provide neutron monitoring, produced anomalous readings which were attributed to a detector saturation condition caused by the high gamma flux from the irradiated fuel. The FLCs are B–10 lined proportional detectors which are connected to the SRM circuitry, while the SRMs are miniature fission chambers. The B–10 lined detectors are prone to degraded and unpredictable response in a high gamma flux, whereas the SRMs are not as susceptible to the same phenomena. Furthermore, although the energy deposited by a gamma in a B–10 detector is less than that deposited by a neutron, in a large gamma flux a pulse "pile-up" condition occurs which results in several gammas being counted together thereby producing about the same signal as a neutron; and if the detector electronics are set to reduce the pulse pile-up effect, a reduction in neutron detection efficiency occurs. In comparison the energy deposited by a neutron in a fission chamber is much greater than that of a gamma, thus making the neutron counts easily distinguished from the gammas. Therefore the SRM circuitry can more easily discriminate the gamma flux and thus the SRMs provide a more reliable, well characterized signal than the FLCs in a high gamma environment (i.e., in the presence of irradiated nuclear fuel).

The licensee has stated that based on previous SRM response calculations one irradiated fuel assembly adjacent to a SRM should provide at least 0.7 cps, and two assemblies around a SRM would assure at least 0.7 cps. Therefore although the proposed Technical Specification changes will allow loading of up to eight fuel assemblies before requiring the necessary SRM counts, no loss of neutron monitoring capability is expected to occur.

In order to assure a safe subcritical condition during the loading of the first eight fuel assemblies the licensee performed calculations assuming maximum reactivity conditions (i.e., cold, clustered, uncontrolled, peak reactivity) which concluded that eight fuel assemblies, as analyzed, would remain subcritical. These calculations were bounding for all the fuel to be used during Susquehanna SES Unit 1 Cycle 2.

The licensee has stated that during a typical core reloading, two irradiated fuel assemblies will be loaded around each SRM to produce greater than the minimum required count rate. In addition the loading schemes will be selected to provide for a continuous multiplying medium to be established between the required operable SRMs and the location of the core alteration to enhance the ability of the SRMs to respond to the loading of each fuel assembly. During a core unloading, the last fuel to be removed is that fuel adjacent to the SRMs.

These revisions to the technical specifications would be made in response to the licensee's application for amendment dated April 9, 1985. Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

A review of the licensee's submittal dated April 9, 1985 in accordance with the standard of 10 CFR 50.92 provides sufficient information to conclude that the proposed amendment to allow up to eight fuel assemblies to be loaded to attain the requested Technical Specification count rate on the SRMs does not involve a significant hazards consideration. Based on the above safety assessment the Commission agrees with the licensee that the proposed Technical Specification change will result in improved safety because: the SRMs are more reliable in detecting neutrons than the FLCs in the presence of irradiated nuclear fuel; conservative analyses have shown that criticality is not a problem during the loading of the first eight fuel assemblies; and the risk of dropping loose objects into the reactor is reduced by eliminating the use of the FLCs. The proposed change does not involve a significant increase in the probability of consequences of a previously analyzed accident, does not create the possibility

of a new or different kind of accident from any accident previously evaluated, and does not significantly reduce a safety margin. Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission has determined that failure to act on this license amendment request in a timely way would result in extending the shutdown of the facility. In addition, the Commission finds that the licensee has adequately explained the reason for the exigency and why the licensee could not avoid it. Specifically, the condition which prompted the requested Technical Specification change was first discovered by licensee in early March 1985, and the licensee's investigation and analysis to provide a basis for the proposed change was promptly completed and submitted. Therefore, because of this exigency and in order to avoid extending the shutdown of the facility, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to A. Schwencer, Chief of Licensing Branch No. 2, by collect call to 301–492–7435 or submitted in writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch. All comments received at least 15 days after the notice is published in the **Federal Register** will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland, this 17th day of April 1985.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 85–9659 Filed 4–18–85; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–23663; 31–810]

Cuivre River Electric Cooperative, Inc., Application for Exemption Pursuant to Section 3(a)(1)

April 15, 1985.

Cuivre River Electric Cooperative, Inc. ("Cooperative"), P.O. Box 160, Troy, Missouri 63379, a Missouri rural electric distribution cooperative, has filed an application for exemption pursuant to section 3(a)(1) of the Public Utility Holding Company Act of 1935 ("Act").

Cooperative is incorporated under the Missouri Rural Electric Cooperative Act and is a non-profit rural electric cooperative, serving approximately 19,000 retail customers. Its operations are confined to Lincoln, Warren, Pike and St. Charles counties, all in Missouri. It is a REA financed cooperative designated, MISSOURI 57 Lincoln. It sells electric energy to its consumer members. It generates no power of its own, purchasing power from Central Electric Power Cooperative, Jefferson City, Missouri. It owns 100% of the stock in its subsidiary, Cuivre River Electric Service Company ("Service"). Service, a Missouri, corporation, is an "electric utility company" under section 2(a)(3) of the Act.

Missouri law limits the service area of rural electric cooperatives to communities having a population of less than 1500 persons. Cooperative constructed electric facilities in Lincoln, Warren, Pike, and St. Charles counties in Missouri which were annexed by municipalities that have populations in excess of 1500. Service was created as a wholly owned subsidiary of Cooperative to quality under Missouri law to serve Cooperative member in these annexed areas. Cooperative intends, subject to approval of the Missouri Public Service Commission, and the Rural Electrification Administration ("REA"), to transfer to Service facilities and members of Cooperative which are in the areas annexed by municipalities. Service will generate no power. Cooperative will be its sole power supplier. All of its sales will be made to consumers within the State of Missouri.

Cooperative states that the public interest does not demand its registration as a "holding company". Cooperative is owned by the several thousand consumer members of the rural electric cooperative. These consumer members elect from their own members those persons who serve on the Board of Directors of Cooperative. In turn the Board of Directors of Cooperative elect the persons who serve on the Board of Directors of Service. The election of directors, and the management of the affairs of the Cooperative and Service are effectively audited and regulated by REA. Cooperative has also requested that it not be required to make the annual filings required by 17 CFR 250.2.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 9, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be authorized.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Bollis,

Assistant Secretary.

[FR Doc. 85–9486 Filed 4–18–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23664; 70–7100]

Massachusetts Electric Co.; Notice of Proposed Increase in Authorized Short-Term Unsecured Indebtedness and Order Authorizing Solicitation of Proxies in Connection Therewith

April 15, 1985.

Massachusetts Electric Company ("Mass Electric"), 25 Research Drive, Westborough, Massachusetts 01582, an electric utility subsidiary company of New England Electric System, a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 promulgated thereunder.

The terms of Mass Electric's Cumulative Preferred Stock, as set forth in the By-Laws, provide that, without the vote of the holders of a majority of said stock, the short-term unsecured indebtedness of the company shall not exceed 10% of total capitalization. At special meetings of the holders of the company's Cumulative Preferred Stock held on August 1, 1975, and August 1, 1980, the stockholders approved a proposal authorizing Mass Electric to incur short-term unsecured indebtedness not exceeding 20% of total capitalization. (See HCAR No. 19097 (July 29, 1975) and HCAR No. 21663 (July 22, 1980).) The most recent of these authorizations expires on July 31, 1985.

Mass Electric proposes to submit to its preferred stockholders at a special meeting scheduled to be held on June 27, 1985, a proposal to extend until July 31, 1992, its authority to issue short-term unsecured debt up to 20% of its total capitalization. The continuation of the 20% permitted amount of short-term unsecured debt requires the favorable vote at a meeting called for that purpose of a majority of the Cumulative Preferred Stock of all series now outstanding, voting as a single class. In connection therewith, Mass Electric proposes to solicit proxies from the holders of such stock. The favorable vote would renew the authorization for Mass Electric to issue short-term unsecured indebtedness in excess of the 10% limitation provided (i) such indebtedness shall be issued not later than July 31, 1982, (ii) such indebtedness shall have a maturity not later than July 31, 1993, and (iii) all unsecured indebtedness of the company not exceed 20% of total capitalization.

Mass Electric states that it is seeking this authorization to finance initially construction expenditures, estimated at $253 million for 1985–1989, and to be prepared for unforeseen events.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 13, 1985, to the Secretary, Securities and exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

It appearing to the Commission that the declaration, insofar as it relates to the proposed solicitation of proxies, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–9485 Filed 4–18–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No 34–21947; SR–MSRB–85–4]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Rule Change

The Municipal Securities Rulemaking Board, ("MSRB") Suite 800, 1818 N. Street, NW., Washington, D.C. 20036–2491 on February 5, 1985 submitted copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 and rule 19b–4 thereunder. This rule change is intended to indicate clearly that good delivery of a municipal security for which a notice of call applicable to the entire issue of securities has been published on or prior to the trade date has not been effected unless the security was identified as called at the time of trade.

At present, MSRB rules G–12 and G–15 provide that a delivery of a municipal security that has been called under an "in part" call published on or before the delivery date does not constitute good delivery if the certificate was not identified as called at the time of trade. The MSRB is of the view that a seller should not be allowed to deliver "called" securities in satisfaction of a contract if the bond's called status is not satisfied at the time of the trade. MSRB rules G–12 and G–15 at present provide that delivery of a municipal security subject to an "in whole" call notice (applicable to the entire issue) published on or prior to the delivery date is a good delivery. The MSRB believes that the risk of ownership passes to the purchaser as the time of trade, and thus the risk of an "in whole" called announced after the trade date but prior to delivery should be borne by the purchaser. The proposed rule change is designed to make clear, however, that where an "in whole" call for an issue of municipal securities has taken place on or before the trade date, the security must be identified as "called" at the time of the trade for there to be good delivery. A similar clarification is made in the parallel reclamation provisions of rule G–12(g).

Notice of the proposed rule change was given in Securities Exchange Act Release No. 21746, published in the **Federal Register** (50 FR 9923, March 12, 1985). No comments on the proposed rule change were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3(a)(12).

Shirley E.Hollis,

Assistant Secretary.

April 15, 1985.

[FR Doc. 85–9539 Filed 4–18–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Exemption or Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration has received requests for an exemption from or waiver of compliance with certain requirements of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate Docket Number (e.g., waiver petition Docket Number HS–85–2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Wahington, D.C. 20590. Communications received before June 4, 1985, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

Petition for Exemption From the Hours of Service Act

Petitioners' name	Waiver petition docket No
Texas South-Eastern Railroad Company	HS–85–2
The Cape Cod and Hyannis Railroad, Inc.	HS–85–3

Grand Trunk Western Railroad Company

Waiver Petition Docket Number RSOR–85–1

Blue Signal Protection for Workmen

The Grand Trunk Western Railroad Company (GT) has petitioned the FRA seeking relief from the requirements of 49 CFR § 218.29(c). Section 218.29(c), in part, requires a minimum of 150 feet distance to clear equipment for the installation of a derail mechanism. Because of the very constricted area of the two loading tracks at the reactivated General Motors Plant at Pontiac, Michigan, the GT cannot comply with this distance requirement, given the five car per track placement need. The GT believes that placement of the derails at a reduced distance of 50 feet from the protected equipment will provide the desired level of protection. Other factors that improve the level of protection at this location include: (1) the fact that the tracks are stub ended; (2) only one crew is working at any given time; and (3) operating speed is limited to five mph.

Issued in Washington, D.C. on April 8, 1985.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 85–9534 Filed 4–18–85; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 16, 1985.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: New
Form Number: None
Type of Review: New
Title: Appeals Taxpayer Attitude Survey
Clearance Officer: Garrick Shear, (202) 566–6150, Room 5571, 1111 Constitution Avenue NW., Washington, D.C. 20224
OMB Reviewer; Milo Sunderhauf, (202) 395–6880, Office of Mangement and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Office of the Secretary

OMB Number: 1505–0025
Form Number: RS–9B, and RS–9D
Type of Review: Extension
Title: Annual Survey of State and Local Government Finances
Clearance Officer: Joseph Maty, (202) 535–6020, Office of the Secretary, Room 7221, ICC Building, 1201 Constitution Avenue NW., Washington, DC 20220
OMB Reviewer: Judy McIntosh, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

James V. Nasche, Jr.,

Departmental Reports, Management Office.

[FR Doc. 85–9461 Filed 4–18–85; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 15, 1985.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0046
Form Number: IRS Form 982
Type of Review: Revision
Title: Reduction of Tax Attributes Due to Discharge of Indebtedness
OMB Number: 1546–0430
Form Number: IRS Form 4810
Type of Review: Reinstatement
Title: Request for Prompt Assessment Under Internal Revenue Code Section 6501(d)
Clearance Officer: Garrick Shear, (202) 566–6150, Room 5571, 1111 Constitution Avenue NW., Washington, D.C. 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Bureau of the Public Debt

OMB Number: 1535–0021
Form Number: PD 4632–1, PD 4632–2 and PD 4632–3
Type of Review: Extension
Title: Tender for Treasury Bills in Book-Entry Form at the Department of the Treasury
Clearance Officer: Peter Lougesen, (202) 376–4902, Bureau of the Public Debt, Room 445, 999 E. Street NW., Washington, D.C. 20226
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

U.S. Customs Service

OMB Number: 1515–0097
Form Number: None
Type of Review: Revision
Title: Proposed Customs Regulations Amendments Relating to Copyrights
Clearance Officer: Vince Olive, (202) 566–9181, U.S. Customs Service, Room 2130, 1301 Constitution Avenue NW., Washington, D.C. 20229
OMB Reviewer: Judy McIntosh, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive

Office Building, Washington, D.C. 20503.

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 85-9462 Filed 4-18-85; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Health Services Research and Development Scientific Review and Evaluation Board; Availability of Annual Report

Under section 10(d) of Public Law 92-463 (Federal Advisory Committee Act), notice is hereby given that the Annual Report of the Veterans Administration Health Services Research and Development Service Scientific Review and Evaluation Board for calendar year 1984 has been issued.

This report summarizes activities of the Board on matters related to the review of health services research and development proposals submitted by VA field staff. It is available for inspection at two locations:

Library of Congress, Serial and Government Publications, Reading Room, LM 133, Madison Building, Washington, DC 20540

and

Veterans Administration, Office of the Director, Health Services Research and Development Service, Room 653, 810 Vermont Avenue NW., Washington, DC 20420

Dated: April 12, 1985.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85-9483 Filed 4-18-85; 8:45 am]

BILLING CODE 8320-01-M

Veterans Administration Cooperative Studies Evaluation Committee; Availability of Annual Report

Under Section 10(d) of Public Law 92-463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report for calendar year 1984 has been issued for the Veterans Administration Cooperative Studies Evaluation Committee.

The report summarizes activities of the Committee on matters related to the review and evaluation of new and ongoing cooperative studies. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications Reading Room LM 133, Madison Building, Washington, DC. 20540,

and

Veterans Administration, Medical Research Service, Cooperative Studies Program, Room 748, 810 Vermont Avenue, NW., Washington, DC. 20420

Dated: April 12, 1985.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85-9484 Filed 4-18-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 76
Friday, April 19, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, April 29, 1985, 2:00 p.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Closed to the public.

MATTER TO BE CONSIDERED:

Closed

1. Litigation Authorization: GC Recommendations
2. Proposed Commission Decision

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634–6748.

Dated: April 17, 1985.

Cynthia C. Matthews,

Executive Officer.

This notice Issued April 17, 1985.

[FR Doc. 85–9622 Filed 4–17–85; 3:12 pm]

BILLING CODE 6750–06–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, April 30, 1985, 9:30 a.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaze Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Implementation of the Decisions from the Bench Program for Federal Sector Hearings
4. Revised Procedures for Issuance of Opinion Letters
5. Request for an Opinion Letter Concerning Commission Procedures for Documenting Receipt of Right-To-Sue Letters by Charging Parties
6. Proposed Change in Procedures for Circulation of Decision Documents to the Commission

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Proposed Commission Decision

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634–6748.

Dated: April 17, 1985.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued April 17, 1985.

[FR Doc. 85–9623 Filed 4–17–85; 3:12 pm]

BILLING CODE 6750–06–M

3

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: 10:00 a.m., April 24, 1985.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 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, 812th Meeting—April 24, 1985, Regular meeting (10:00 a.m.)

CAP–1.
Project No. 8848–001, Sawyer-Bellamy Mill Associates

CAP–2.
Project No. 8704–000, Gregory B. and Pernina P. Ryan

CAP–3.
Docket No. EL78–24–031 (Phase II), Municipal Electric Utilities Association of New York State v. Power Authority of the State of New York
Docket No. EL78–37–004 (Phase II), village of Ilion, New York v. Power Authority of the State of New York

CAP–4.
Project No. 8287–002, Western Power, Inc.
Project No. 8314–002, town of Index, Washington

CAP–5.
Project No. 6923–001, John C. Simmons

CAP–6.
Project Nos. 5865–012, 002, 003, 004, 005 and 007, David Cereghino

CAP–7.
Project Nos. 6879–001 and 002, Southeastern Hydro-Power Inc.

CAP–8.
Project No. 8763–001, Power Mining, Inc.

CAP–9.
Project No. 5927–002, Goose Creek Hydro Associates

CAP–10.
Project No. 6119–001, Michael Russo

CAP–11.
Project No. 6434–005, Thomas A. Nelson

CAP–12.
Project Nos. 7439–002, 7440–003 and 7441–002, Michael Arkoosh
Project No. 8044–002, Enertech, Inc.

CAP–13.
Project No. 6727–001, Northwest Power Company, Inc.

CAP–14.
Omitted

CAP–15.
Project No. 4044–003, Minnesota Department of Natural Resources

CAP–16.
Docket No. HB05–84–1–000, Montana Power Company

CAP–17.
Docket No. ER85–300–000, Vermont Yankee Nuclear Power Corporation

CAP–18.
Docket Nos. ER82–462–000, ER82–539–000, ER82–734–000, ER82–810–000, ER83–127–000, ER83–540–000, ER83–573–000, ER83–748–000, ER84–163–000, ER84–042–000,

ER84-347-000 and ER84-403-000, Portland General Electric Company
Docket Nos. ER82-448-000, ER82-715-000, ER83-044-000, ER83-045-000, ER83-046-000, ER83-187-000, ER83-334-000, ER83-541-000, ER83-567-000, ER83-706-000, ER84-040-000, ER84-198-000, ER84-305-000, Puget Sound Power and Light Company
Docket Nos. ER82-618-000, ER82-622-000, ER83-661-000, ER83-241-003, ER83-687-000 and ER83-712-000, Idaho Power Company
Docket Nos. ER83-382-000, ER84-026-000 and ER83-156-000, Montana Power Company

CAP-19.
Docket No. ER84-679-000, Flordia Power Corporation

CAP-20.
Docket No. EL85-11-000, City of Vernon and the cities of Anaheim, Riverside, Banning, Colton, and Azusa, California v. Southern California Edison Company

CAP-21.
(A) Docket No. QF85-233-000, Northwest Power Company
(B) Docket No. QF85-232-000, Northwest Power Company

Consent Miscellaneous Agenda

CAM-1.
Docket No. RM85-14-000, suspension of filing requirements for FERC Form No. 80

CAM-2.
Omitted

CAM-3.
Omitted

CAM-4.
Docket No. R079-13-001, Glenn Martin Heller d/b/a Beacon Hill Gulf

Consent Gas Agenda

CAG-1.
Docket Nos. OR79-1-024 and 025 (Phase II), Williams Pipe Line Company

CAG-2.
Docket No. RP85-69-001, Penn-York Energy Corporation

CAG-3.
Docket No. RP85-60-001, Overthrust Pipeline Company

CAG-4.
Docket Nos. RP85-58-000, 001 and 003, el Paso Natural Gas Company

CAG-5.
Docket No. RP85-122-000, Colorado Interstate Gas Company

CAG-6.
Docket No. RP85-125-000, Distrigas of Massachusetts Corporation

CAG-7.
Docket Nos. RP85-129-000 and RP85-130-000, El Paso Natural Gas Company

CAG-8.
Docket Nos. TA85-2-50-000 and 001, Valley Gas Transmission, Inc.

CAG-9.
Docket Nos. TA85-4-51-000 and 001 (PGA85-4), Great Lakes Gas Transmission Company

CAG-10.
Docket No. RP85-110-000, Northern Natural Gas Company

CAG-11.
Omitted

CAG-12.
Docket No. RP85-126-000, Northern Border Pipeline Company

CAG-13.
Docket No. TA85-2-49-003 (PGA85-2a), Williston Basin Interstate Pipeline Company

CAG-14.
Docket No. TA84-2-48-000 (PGA84-2 and IPR84-2), ANR Pipeline Company

CAG-15.
Omitted

CAG-16.
Omitted

CAG-17.
Docket No. TA85-2-62-000, Pacific Offshore Pipeline Company

CAG-18.
Docket No. TA85-1-16-000, National Fuel Gas Supply Corporation

CAG-19.
Docket Nos. ST83-429-002, ST81-106-001, ST82-193-001, ST82-194-001, ST82-195-000, ST83-50-001, ST83-327-001, ST83-481-000, ST83-634-000, ST84-101-000, ST84-218-000, ST84-219-000, ST84-524-000, ST84-1138-000, ST85-70-000 and ST85-71-000, Producer's Gas Company

CAG-20.
Docket Nos. ST83-265-000, 001, ST82-76-000 and 001, Producer's Gas Company

CAG-21.
Docket No. ST84-1104-000, Exxon Gas System, Inc.

CAG-22.
Docket Nos. ST80-94-000, 001, 002, ST80-109-000, 001, 002, ST83-395-000, ST83-396-000, ST83-599-000, ST83-694-000, ST84-713-000, ST84-910-000 and ST84-1137-000, Cranberry Pipeline Corporation

CAG-23.
Docket No. RI84-5-000, N.C. Ginther, et al.

CAG-24.
Docket Nos. RI74-188-050 and RI75-21-045, Independent Oil & Gas Association of West Virginia

CAG-25.
Docket No. CI73-629-001, Mobil Oil Corporation

CAG-26.
Docket No. CP80-346-005, Consolidated Gas Supply Corporation and Consolidated Gas Transmission Corporation

CAG-27.
Docket No. CP85-180-000, Columbia Gas Transmission Corporation

CAG-28.
Docket No. CP66-112-007 and CP71-223-003, Great Lakes Gas Transmission Company

CAG-29.
Docket No. CP81-409-001, Louisiana Intrastate Gas, a division of Celeron Corporation

CAG-30.
Docket No. CP85-21-001, Transcontinental Gas Pipe Line Corporation

I. Licensed Project Matters

P-1.
Project Nos. 2840-010, 2849-008 and 3295-003, East Columbia Basin Irrigation District, Quincy-Columbia Basin Irrigation District and South Columbia Basin Irrigation District

P-2.
Docket No. EL85-19-000, Hydropower Projects clustered in River Basins

II. Electric Rate Matters

ER-1.
Omitted

Miscellaneous Agenda

M-1.
Omitted

M-2.
Omitted

M-3.
Docket No. RM85-12-000, amendments to FERC Form No. 1, addition of rule requiring filing of Form No. EIA-714, and elimination of rule concerning FERC Form No. 12

M-4.
Reserved

M-5.
Reserved

M-6.
Docket No. RM85-13-000, revisions to FPC Form No. 8, "Underground Gas Storage Report," and FERC Form No. 16 "Report of Gas Supply and Requirements

M-7.
Omitted

I. Pipeline Rate Matters

RP-1.
Docket Nos. TA85-3-29-000 and 001 (PGA85-3), Transcontinental Gas Pipe Line Corporation

RP-2.
Docket Nos. TA85-3-37-000 and 001, Northwest Pipeline Corporation

RP-3.
Docket Nos. TA85-2-45-000, 001 and 003 (PGA85-2), Inter-City Minnesota Pipelines, Ltd., Inc.

RP-4.
Docket Nos. TA85-2-46-000 and 001 (PGA85-1 and IPR85-2), Kentucky-West Virginia Gas Company

RP-5.
Docket Nos. TA85-2-47-000 and 001, MIGC, Inc.

RP-6.
Docket Nos. TA85-2-48-000 and 001 (PGA85-2 and IPR85-2), ANR Pipeline Company

RP-7.
Docket Nos. TA85-2-49-000 and 001 (PGA85-3), Williston Basin Interstate Pipeline Company

RP-8.
Docket Nos. TA85-3-51-000 and 001 (PGA85-3), Great Lakes Gas Transmission Company

RP-9.
Docket Nos. RP80-55-000, RP80-118-000, RP81-73-000, RP82-32-000, RP80-55-008, RP80-118-010, RP80-55-009 and RP80-118-011, Sea Robin Pipeline Company

II. Producer Matters

CI-1.
Reserved

III. Pipeline Certificate Matters

CP-1.

Docket Nos. CP84–348–001, 002 and 003, Mississippi River Transmission Corporation
CP–2.
Docket Nos. CP84–543–000, CP85–150–000 and CP85–151–000, Equitable Gas Company, a division of Equitable Resources, Inc.

Kenneth F. Plumb,

Secretary.

April 17, 1985.

[FR Doc. 85–9627 Filed 4–17–85; 3:40 pm]

BILLING CODE 6717–01–M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 50, Page No. 14486, Date Published—Friday, April 12, 1985.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202–377–6677).

CHANGES IN THE MEETING: The Bank Board meeting Scheduled Wednesday, April 17, 1985, at 9:00 a.m., have been changed to 10:00 a.m.
No. 5, April 16, 1985.

Jeff Sconyers,

Secretary.

[FR Doc. 85–9550 Filed 4–16–85; 4:33 pm]

BILLING CODE 6720–01–M

5

FEDERAL TRADE COMMISSION

TIME AND DATE: 3:00 p.m., Monday, April 29, 1985.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of Proposed Refinement of Commission Voting Procedures.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 532–1892; Recorded Message: (202) 523–3806.

Emily H. Rock,

Secretary.

[FR Doc. 85–9592 Filed 4–17–85; 1:31 pm]

BILLING CODE 6750–01–M

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, April 25, 1985.

PLACE: Suite 410, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller, (202) 634–4015.

Dated: April 17, 1985.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 85–9590 Filed 4–17–85; 8:45 am]

BILLING CODE 7600–01–M

7

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 15526, APRIL 18, 1985.

SUMMARY: Interested members of the public are advised that the previously noticed agenda of the meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held on Monday, April 22, 1985 has been amended as follows:

The meeting will commence in Room 503.

Portions of the Board's review of the status of the Great Plains Project will be conducted during the open session of the meeting.

The open session of the meeting also will include Board review of new solicitation options.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. March Coleman, Assistant Secretary, at (202) 822–6571.

United States Synthetic Fuels Corporation.

Len Rawicz,

Vice President, General Counsel and Secretary.

April 17, 1985.

[FR Doc. 85–9620 Filed 4–17–85; 2:43 pm]

BILLING CODE 0000–00–M

8

TENNESSEE VALLEY AUTHORITY

Meeting No. 1348

TIME AND DATE: 10:15 a.m. (EST), Tuesday, April 23, 1985.

PLACE: TVA West Tower Auditorium 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on April 3, 1985.

Discussion Item

1. Progress report on the first-year implementation of the Valley-wide Existing Industries Program.

Action Items

Purchase Awards

B1. Proposal J3–716522—Conversion of lease contract with Control Data Corporation to a purchase contract for hardware and services.

B2. Proposal 56–942518—Total ash management program at Bull Run Fossil Plant.

C—Power Items

C1. Letter agreement with Department of Energy covering arrangements for satisfaction of obligations under construction power contract for the Clinch River Breeder Reactor project.

E—Real Property Transactions

E1. Sale of permanent sewerline easement to the Metropolitan Government of Nashville and Davidson County to accommodate the installation of 324 feet of a 15-inch sanitary sewerline affecting 0.2 acre of TVA's Cockrill Bend property located in Nashville, Tennessee—Tract No. XNTPSC–1S.

E2. Sale of permanent easement to the Georgia Department of Transportation to accommodate an extension of State Route 2A affecting 6.68 acres of the Oglethorpe 161-kV Substation spur track property located in Walker County, Georgia—Tract No. OPSS–6.

E3. Sale of permanent highway easement to the Kentucky Department of Transportation to accommodate a highway improvement project affecting a 0.28 acre portion of the Summer Shade 161-kV Substation site located in Metcalfe County, Kentucky—Tract No. XSSSS–1H.

E4. Grant of permanent easement to Bedford County, Tennessee, for the construction, operation, and maintenance of a highway and appurtenances affecting approximately 0.68 acre of land acquired for Normandy Reservoir downstream from the dam located in Bedford County, Tennessee—Tract No. XTNRMRD–1E.

E5. Grant of permanent easement to the State of Alabama for the construction, operation, and maintenance of a highway affecting approximately 0.4 acre of Wheeler Reservoir land in Limestone County, Alabama—Tract No. XTWR–93H.

E6. Proposed abandonment of certain rights affecting 0.10 acre of Chickamauga Reservoir land located in Rhea County, Tennessee—Tract No. XCR–170.

E7. Filing of condemnation cases.

F—Unclassified

F1. Supplement to Memorandum of Understanding No. TV–56700A with the State of Tennessee renewing the recognition of TVA as a water quality management agency as defined under the Clean Water Act.

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: April 16, 1985.

W.F. Willis,

General Manager.

[FR Doc. 85–9591 Filed 4–17–85; 1:31 pm]

BILLING CODE 8120–01–M

federal register

Friday
April 19, 1985

Part II

Reader Aids

List of Libraries That Have Announced Availability of Federal Register and Code of Federal Regulations

LIST OF LIBRARIES THAT HAVE ANNOUNCED AVAILABILITY OF FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

In order to better serve the public the Office of the Federal Register is publishing a list of libraries where the *Federal Register* and *Code of Federal Regulations* are available for examination free of charge. This list contains only those Government depository libraries and other libraries that specifically have chosen to be included. A complete listing of *Government Depository Libraries* is available without charge from The Library, U.S. Government Printing Office, 5236 Eisenhower Avenue, Alexandria, VA 22304.

The Office of the Federal Register's list will be updated annually unless public interest requires more frequent publication. Any library that maintains these publications, makes them available to the public, and wishes to be included on future lists should write to the Director of the Federal Register, National Archives and Records Service, GSA, Washington, DC 20408, or phone (202) 523–5227 giving the name and address of the library. (*FR only. †CFR only.)

ALABAMA

Birmingham:
Government Documents Department
Birmingham Public Library
2020 Park Place
Birmingham, AL 35203
(205) 254–2551

Gadsden:
Gadsden Public Library
254 College Street
Gadsden, AL 35901
(205) 547–1611

Mobile:
Governmental Information Division
Mobile Public Library
564 Davis Avenue
Mobile, AL 36603
(205) 438–7092

Government Documents Department
University of South Alabama Library
Mobile, AL 36688
(205) 460–7024

Montgomery:
Alabama Public Library Service
6030 Monticello Drive
Montgomery, AL 36130
(205) 277–7330

Tuscaloosa:
University of Alabama Library
Reference Department
Box S
University, AL 35486
(205) 348–6046

ALASKA

Anchorage:
Alaska Resources Library
U.S. Department of the Interior
701 C Street, Box 36
Anchorage, AK 85513

Office of the Solicitor, Law Library
U.S. Department of the Interior
510 L Street, Suite 408
Anchorage, AK 99501

Fairbanks:
Bureau of Land Management
Library
Fairbanks District Office
P.O. Box 1150
North Post of Ft. Waynewright
Fairbanks, AK 99707

Rasmuson Library
Government Documents Section
University of Alaska
Fairbanks, AK 99701

Juneau:
Alaska State Library
8th Floor, New State Office Bldg.
Pouch G
Juneau, AK 99811
(907) 465–2920

ARIZONA

Flagstaff:
Government Documents Department
Northern Arizona University Library
Flagstaff, AZ 86011
(602) 523–2171

Glendale:
Velma Teague Library
7010 N. 58th Avenue
Glendale, AZ 85301
(602) 931–5576

Phoenix:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
Valley Bank Center, Suite 2080
201 North Central Avenue
Phoenix, AZ 85073

Phoenix Public Library
Business, Science & Technology—Documents
12 E. McDowell Road
Phoenix, AZ 85004
(602) 262–6451

Tempe:
Arizona State University
College of Law Library
Government Documents
Tempe, AZ 85281

Government Documents Department
Arizona State University Library
Tempe, AZ 85281

Window Rock:
Field Solicitor, Law Library
U.S. Department of the Interior
Window Rock, AZ 86515

ARKANSAS

Little Rock
Government Documents Department
UALR Library
University of Arkansas at Little Rock
33rd and University Avenue
Little Rock, AR 72204
(501) 569–3120

Searcy:
Beaumont Memorial Library
Harding University
P.O. Box 928
Searcy, AR 72143
(501) 268–6161

CALIFORNIA

Anaheim:
Anaheim Public Library
500 W. Broadway Avenue
Anaheim, CA 92805
(714) 999–1880

Arcata:
Documents Department
The Library
Humboldt State University
Arcata, CA 95521

Burlingame:
The San Mateo Foundation*
1204 Burlingame Avenue
P.O. Box 627
Burlingame, CA 94010
(415) 342–2477

Glendale:
City of Glendale
Glendale Public Library
222 East Harvard Street
Glendale, CA 91205

La Jolla:
Government Documents, Maps, Microforms Department
Central University Library C–075–P
University of California, San Diego
La Jolla, CA 92093
(714) 452–3338

Lakewood:
Angelo M. Iacoboni Library
5020 Clark Avenue
Lakewood, CA 90712
(213) 866–1777

Long Beach:
Government Publications
Long Beach Public Library and Information Center
101 Pacific Avenue
Long Beach, CA 90802
(213) 437–2949, ext. 40

Long Beach Safety Council Library
121 Linden Avenue
Long Beach, CA 90802

Menlo Park:
U.S. Geological Survey Library
345 Middlefield Road
Menlo Park, CA 94025

CALIFORNIA—Continued
Oakland:
Holy Names College Library
3500 Mountain Blvd.
Oakland, CA 94619
Orange:
Thurmond Clarke Memorial Library
Chapman College
333 North Glassell Street
Orange, CA 92666
Pasadena:
City of Pasadena
Pasadena Public Library
285 E. Walnut Street
Pasadena, CA 91101
(213) 577–4054
Redwood City:
Redwood City Public Library
881 Jefferson Avenue
Redwood City, CA 94063
(415) 369–6251, ext. 288
San Mateo County Superintendent of Schools Office
Educational Resources Center
333 Main Street
Redwood City, CA 94063
(415) 364–5600
Richmond:
Richmond Public Library
Civic Center Plaza
Richmond, CA 94804
Riverside:
Field Solicitor, Law Library
U.S. Department of the Interior
3610 Center Avenue, Suite 104
Riverside, CA 92506
Riverside City and County Public Library
(Current CFR only)
3581 Seventh Street
P.O. Box 468
Riverside, CA 92502
(714) 787–7203
Sacramento:
Law Library
California State Library
P.O. Box 2037
Sacramento, CA 95809
(916) 445–8833
Regional Solicitor, Law Library
U.S. Department of the Interior
Room E–2753
2800 Cottage Way
Sacramento, CA 95825
San Bernardino:
San Bernardino County Library
104 West Fourth Street
San Bernardino, CA 92415
San Diego:
Western State University
College of Law
1333 Front Street
San Diego, CA 92101
(714) 231–0300
San Francisco:
Field Solicitor, Law Library
U.S. Department of the Interior
450 Golden Gate Avenue
Box 36064
San Francisco, CA 94102
University of California
Hastings College of the Law
Library
198 McAllister Street
San Francisco, CA 94102
San Rafael:
Marin County Free Library
Civic Center Administration Building
San Rafael, CA 94903
(415) 499–6051
Vallejo:
California Maritime Academy*
P.O. Box 1392
Vallejo, CA 94590
(707) 644–5601

COLORADO

Denver:
Bureau of Land Management
Denver Service Center Library
Building 50
Denver Federal Center
Denver, CO 80225
Bureau of Reclamation Library
Engineering and Research Center
P.O. Box 25007, Denver Federal Center
Denver, CO 80225
Colorado State Library
1362 Lincoln Street
Denver, CO 80203
Regional Solicitor, Law Library
U.S. Department of the Interior
Room 1400, Bldg. 67, Denver Federal Center
P.O. Box 25007
Denver, CO 80225
Rocky Mountain Regional Office Library
National Park Service
655 Parfect Street
P.O. Box 25287
Denver, CO 80225
Fort Collins:
Documents Department
The Libraries
Colorado State University
Fort Collins, CO 80523
Greeley:
James A. Michener Library
Government Publications Service
University of Northern Colorado
Greeley, CO 80639
Lakewood:
Villa Library*
455 South Pierce Street
Lakewood, CO 80226
(303) 936–7407
Pueblo:
Pueblo Regional Planning Commission Library*
No. 1 City Hall Place
Pueblo, CO 81003
(303) 543–6006

CONNECTICUT

Bloomfield:
Prosser Public Library
1 Tunxis Avenue
Bloomfield, CT 06002
Danielson:
Quinebaug Valley Community College
P.O. Box 59
Danielson, CT 06239
774–1130
East Haven:
Hagaman Memorial Library*
227 Main Street
East Haven, CT 06512
(203) 468–3223
Fairfield:
Nyselius Library
Fairfield University
North Benson Road
Fairfield, CT 06430
(203) 255–5411, Ext. 2451
Hartford:
The Stanley Osborne Library*
Third Floor
The Connecticut State Department of Health Services
79 Elm Street
Hartford, CT 06115
(203) 566–2198
Middletown:
Olin Library
Wesleyan University
Middletown, CT 06457
Stamford:
Ferguson Library
96 Broad Street
Stamford, CT 06901
Storrs:
Government Publications Department
University of Connecticut Library
University of Connecticut
Storrs, CT 06268
Waterbury:
Silas Bronson Public Library
Business, Industry & Technology Department
267 Grand Street
Waterbury, CT 06702
Wethersfield:
Wethersfield Public Library
515 Silas Deane Highway
Wethersfield, CT 06109

DELAWARE

Wilmington:
The Delaware Law School Library
Widener University
P.O. Box 7475 Concord Pike
Wilmington, DE 19803
(302) 478–5280
Ext. 247

DISTRICT OF COLUMBIA

Natural Resources Library
U.S. Department of the Interior
Washington, DC 20240
Office of the Federal Register
1100 L Street, N.W.
Room 8301
Washington, DC 20408
(202) 523–4986

FLORIDA

Clearwater:
Clearwater Public Library
100 North Osceola Avenue
Clearwater, FL 33515

Melbourne:
Government Documents Department
Florida Institute of Technology Library
University Blvd.
Melbourne, FL 32901
(305) 723–3701

Orlando:
Orange County Library System
General Information Department
10 N. Rosalind Avenue
Orlando, FL 32801
(305) 425–4694

Sarasota:
The University of Sarasota
2080 Ringling Blvd.
Sarasota, FL 33577
(813) 955–4228

Tallahassee:
Documents Section
State Library of Florida
R. A. Gray Building
Tallahassee, FL 32301
(904) 487–2651

Tampa:
Tampa–Hillsborough County Public Library
900 North Ashley Street
Tampa, FL 33602
(813) 223–8969

GEORGIA

Athens:
University of Georgia Libraries
Government Reference Department
Athens, GA 30602

Atlanta:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
148 Cain Street, N.E., Suite 405
Atlanta, GA 30303

Dublin:
Laurens County Library
801 Bellevue Ave.
Dublin, GA 31021

Elberton:
Southeastern Power Administration
Law Library
U.S. Department of Energy
Samuel Elbert Building
Elberton, GA 30635

Savannah:
Chatham–Effingham–Liberty Regional Library
2002 Bull Street
Savannah, GA 31499
(912) 234–5127

IDAHO

Boise:
Field Solicitor, Law Library
U.S. Department of the Interior
Federal Building, U.S. Courthouse
Box 20
Boise, ID 83724

Pocatello:
The Library
Idaho State University
Pocatello, ID 83209

ILLINOIS

Bloomington:
Illinois Wesleyan University Library
Bloomington, IL 61701

Chicago:
Government Publications Department
Chicago Public Library
425 N. Michigan Avenue
Chicago, IL 60611
(312) 269–3002

University of Chicago Law Library
1121 East 60th Street
Chicago, IL 60637

Documents Department
University of Illinois at Chicago Circle
The Library, P.O. Box 8198
Chicago, IL 60680
(312) 996–2716/996–2738

Dekalb:
Government Publications Department
Northern Illinois University
Founders Library
Dekalb, IL 60115
(815) 753–1932

Lake Forest:
Lake Forest College Library
Lake Forest, IL 60045
(312) 234–3100, ext. 410

Lockport:
Lewis University
Route 53
Lockport, IL 60441
(815) 838–0500

Macomb:
Government Publications and Legal Reference Library
Western Illinois University
Macomb, IL 61455
(309) 298–2411

Niles:
Niles Public Library District
6960 Oakton Street
Niles, IL 60648
(312) 967–8554

Normal:
Milner Library
Illinois State University
Normal, IL 61761

Oak Park:
Oak Park Public Library
834 Lake Street
Oak Park, IL 60301
(312) 383–8200

Rockford:
Rockford Public Library
215 North Wyman Street
Rockford, IL 61101
(815) 965–6731

Springfield:
Energy Information Library
Illinois Institute of Natural Resources, Room 300
325 W. Adams Street
Springfield, IL 62706

Waukegan:
County of Lake
Law Library
18 North County Street
Waukegan, IL 60085
(312) 689–6654

INDIANA

Fort Wayne:
The Public Library of Fort Wayne and Allen County
900 Webster Street
Fort Wayne, IN 46802
(219) 424–7241

Indianapolis:
Reference and Loan Division
Indiana State Library
140 N. Senate Ave.
Indianapolis, IN 46204
(317) 232–3675

Muncie:
Ball State University Library
Government Publications Service
Muncie, IN 47305
(317) 285–6195

South Bend:
Indiana University at South Bend
1700 Mishawaka Avenue
South Bend, IN 46615
(219) 237–4440

IOWA

Ames:
Library—Government Publications Department
Iowa State University
Ames, IA 50010
(515) 294–2834

Des Moines:
State Library Commission of Iowa
Law Library
Capitol Building
Des Moines, IA 50319
(515) 281–5125

State Library Commission of Iowa
Historical Building
East 12th & Grand
Des Moines, IA 50319

Dubuque:
Carnegie–Stout Public Library
Eleventh and Bluff Streets
Dubuque, IA 52001
(319) 583–9197

Wahlert Memorial Library
Loras College
1450 Alta Vista
Dubuque, IA 52001

KANSAS

Colby:
H. F. Davis Memorial Library
Colby Community College
1255 South Range
Colby, KS 67701
(913) 462–3984

KANSAS—Continued

Lawrence:
University of Kansas Law Library
Green Hall
Lawrence, KS 66045
(913) 864–3025

Pittsburg:
Leonard H. Axe Library
Pittsburg State University
Pittsburg, KS 66762
(316) 231–7000, ext. 4889

Salina:
Memorial Library
Kansas Wesleyan
100 East Claflin
Salina, KS 67401–6196
(913) 827–5541, ext. 298

Topeka:
Washburn University of Topeka
School of Law Library
Topeka, KS 66621
(913) 295–6660

KENTUCKY

Bowling Green:
Western Kentucky University
Helm–Cravens Library
Bowling Green, KY 42101

Frankfort:
Government Document Section
State Library Division
Kentucky Department of Library & Archives
Berry Hill
Frankfort, KY 40602
(502) 564–2480

Highland Heights
Northern Kentucky University Library
Government Documents Department
Highland Heights, KY 41076

Lexington:
University of Kentucky Libraries
Government Publications Department
Lexington, KY 40506

Law Library
University of Kentucky
Lexington, KY 40506

Louisville:
University of Louisville
The Library
Louisville, KY 40208

Pikeville:
CITAC Library
Pikeville College
Armington Science Center
Pikeville, KY 41501
(606) 432–9396

LOUISIANA

Baton Rouge:
Library, Department of Urban & Community Affairs
5790 Florida Boulevard
Baton Rouge, LA 70806

Louisiana State Library
P.O. Box 131
760 N. Riverside Mall
Baton Rouge, LA 70821
(504) 389–6651

Lafayette:
University of Southwestern Louisiana
University Libraries
Lafayette, LA 70501

New Orleans:
U.S. Court of Appeals Library
5th Circuit
600 Camp Street
Room 106
New Orleans, LA 70130
(504) 589–6510

MAINE

Lewiston:
George and Helen Ladd Library
Bates College
Lewiston, ME 04240

Portland:
Donald L. Garbrecht Law Library
246 Deering Avenue
Portland, ME 04102
(207) 780–4350

MARYLAND

Aberdeen:
Department of the Army
U.S. Army Environmental Hygiene Agency
ATTN: Librarian, Bldg. E–2100
Aberdeen Proving Ground, MD 21010

Annapolis:
Maryland State Law Library
Courts of Appeal Building
361 Rowe Boulevard
Annapolis, MD 21401

Baltimore:
Enoch Pratt Free Library
400 Cathedral Street
Baltimore, MD 21201

Cumberland:
Allegany Community College Library
Willow Brook Road
P.O. Box 1695
Cumberland, MD 21502
(301) 724–7700, ext. 36

Oakland:
Garrett County Planning Office*
323 East Oak Street
Oakland, MD 21550
(301) 334–4200

Rockville:
Medical Library
Food & Drug Administration
5600 Fishers Lane
Room 11B40
Rockville, MD 20857

Department of Public Libraries
Montgomery County
99 Maryland Avenue
Rockville, MD 20850
(301) 279–1966

MASSACHUSETTS

Boston:
Government Documents Department
Boston Public Library
Copley Square
Boston, MA 02117

Gloucester:
Gloucester Lyceum and Sawyer Free Library*
General Reference Section
2 Dale Avenue
Gloucester, MA 01930
(617) 283–0376

Newton Corner:
Office of the Regional Solicitor, Law Library
Suite 306
1 Gateway Center
Newton Corner, MA 02156

Springfield:
The City Library
Central Library
220 State Street
Springfield, MA 01103

Woburn:
Commonwealth of Massachusetts
Trial Court of the Commonwealth
District Court Department
Fourth Eastern Middlesex Division
Woburn, MA 01801
(617) 935–4000

MICHIGAN

Ann Arbor:
Washtenaw Community College
4800 East Huron River Drive
Ann Arbor, MI 48106
(313) 973–3300

Detroit:
Downtown Library*
Detroit Public Library
121 Gratiot
Detroit, MI 48226

Detroit Public Library
5201 Woodward Avenue
Detroit, MI 48202

Municipal Reference Library
Detroit Public Library
1004 City–County Building
Detroit, MI 48226

Arthur Neef Law Library
Wayne State University
468 W. Ferry Mall
Detroit, MI 48202
(313) 577–3925

East Lansing:
Documents Department
Michigan State University Library
East Lansing, MI 48824

Flint:
Flint Public Library
General Reference Department
1026 E. Kearsley Street
Flint, MI 48502
(313) 232–7111

MICHIGAN—Continued

Lansing:
Thomas M. Cooley Law School Library
U.S. Documents Collection
217 South Capitol Avenue
Lansing, MI 48901
(517) 371–5140

Marquette:
Government Documents Department
Olson Library
Northern Michigan University
Marquette, MI 49855
(906) 227–2112

Mount Clemens:
Macomb County Library
16480 Hall Road
Mount Clemens, MI 48044
469–5300

Mt. Pleasant:
Library – Documents Department
Central Michigan University
Mt. Pleasant, MI 48859
(517) 774–3414

Pontiac:
Adams–Pratt Oakland County Law Library
1200 N. Telegraph Road
Pontiac, MI 48053

Oakland Schools Library*
2100 Pontiac Lake Road
Pontiac, MI 48054

Rochester:
Kresge Library
Documents Department
Oakland University
Squirrel/Walton
Rochester, MI 48063
(313) 377–2476

Saginaw:
Public Libraries of Saginaw
505 Janes
Saginaw, MI 48605
(517) 755–0904

Traverse City:
Mark Osterlin Library
Documents Department
Northwestern Michigan College
1701 East Front Street
Traverse City, MI 49684
(616) 946–5650, ext. 540

University Center:
Learning Resources Center
Delta College
University Center, MI 48710

MINNESOTA

Bemidji:
Documents Section
A. C. Clark Library
Bemidji State University
Bemidji, MN 56601
(218) 755–2958

Blaine:
Anoka County Library
707 Highway 10
Blaine, MN 55434

Cambridge:
East Central Regional Library*
Cambridge, MN 55008

Duluth:
Duluth Public Library
520 W. Superior Street
Duluth, MN 55802
(218) 723–3804

Edina:
Southdale–Hennepin Area Library
7001 York Avenue South
Edina, MN 55435
(612) 830–4900

Mankato:
Memorial Library
Mankato State University
Box 19
Mankato, MN 56001
(507) 389–6201

Minneapolis:
Minnesota Hospital Association Library
2333 University Ave. S.E.
Minneapolis, MN 55414
(612) 331–5571

Government Publications Division
409 Wilson Library
University of Minnesota
Minneapolis, MN 55455
(612) 373–7813

St. Paul:
Minnesota State Law Library
117 University Avenue
St. Paul, MN 55155
(612) 296–2775

Government Publications Office
St. Paul Public Library
90 West Fourth Street
St. Paul, MN 55102
292–6178

Stillwater:
Stillwater Public Library
223 North Fourth Street
Stillwater, MN 55082
439–1675

Twin Cities:
Field Solicitor, Law Library
U.S. Department of the Interior
686 Federal Building, Fort Snelling
Twin Cities, MN 55111

Winona:
Maxwell Library
Government Documents
Winona State University
Winona, MN 55987
(507) 457–5148

MISSISSIPPI

Gulfport:
Harrison County Law Library
1st Judicial Courthouse
1801 23rd Avenue
Gulfport, MS 39501
(601) 864–5161 ext. 336

Jackson:
H. T. Sampson Library
Jackson State University
Jackson, MS 39217

MISSOURI

Columbia:
Ellis Library
University of Missouri–Columbia
Columbia, MO 65201
(314) 882–6733

Fulton:
Reeves Library
Westminster College
Fulton, MO 65251
(314) 642–3361

Jefferson City:
Missouri State Library
308 E. High Street
P.O. Box 387
Jefferson City, MO 65102
(314) 751–4552

Kansas City:
Kansas City Public Library
311 East 12th Street
Kansas City, MO 64106
(816) 221–2685

Liberty:
Charles F. Curry Library
Government Documents
William Jewell College
Liberty, MO 64068
(816) 781–3806, ext. 293

St. Louis:
Missouri Botanical Garden*
(back issues held 1 year)
2345 Tower Grove Avenue
St. Louis, MO 63110
(314) 772–7600

St. Louis County Library
1640 S. Lindbergh Blvd.
St. Louis, MO 63131
(314) 994–3300

Documents Department
St. Louis Public Library
1301 Olive Street
St. Louis, MO 63103
(314) 241–2288, ext. 375

Thomas Jefferson Library
University of Missouri–St. Louis
8001 Natural Bridge Road
St. Louis, MO 63144
(314) 453–5954

Sedalia:
State Fair Community College Library
1900 Clarendon Road
Sedalia, MO 65301

Springfield:
Walker Library
Drury College
Springfield, MO 65802

Southwest Missouri State University
The Library
Springfield, MO 65802
(417) 831–1561

MONTANA

Billings:
Bureau of Land Management
Library
P.O. Box 30157
Billings, MT 59107

MONTANA, Billings—Continued

Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1538
Billings, MT 59103

NEBRASKA

Kearney:
Calvin T. Ryan Library
Kearney State College
Kearney, NE 68847

Lincoln:
Nebraska Library Commission
1420 P Street
Lincoln, NE 68508
(402) 471–2045

University of Nebraska–Lincoln Libraries
Lincoln, NE 68588

Norfolk:
Northeast Technical Community College
801 E. Benjamin Avenue
Norfolk, NE 68701
(402) 371–2020

Wayne
U. S. Conn Library
Wayne State College
Wayne, NE 68787
(402) 375–2200, ext. 213

NEVADA

Boulder City:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 427, Park Street
Boulder City, NV 89005

Carson City:
Nevada State Library
Capitol Complex
Carson City, NV 89710
(702) 885–5160

Reno:
Government Publications Department
University of Nevada Library
Reno, NV 89557
(702) 784–6579

NEW HAMPSHIRE

Concord:
Law Division, State Library
Supreme Court Building
Loudon Road
Concord, NH 03301
(603) 271–3777

New London:
Fernald Library
Colby–Sawyer College
New London, NH 03257

NEW JERSEY

Bloomfield:
Bloomfield Public Library
90 Broad Street
Bloomfield, NJ 07003
(201) 429–9292

Bridgeton:
Cumberland County Library
800 East Commerce Street
Bridgeton, NJ 08302

Elmer:
Arthur P. Schalick High School
Elmer–Centerton Road
R.D. 1
Elmer, NJ 08318

Hackensack:
Johnson Free Public Library
Hackensack Area Reference Library
275 Moore Street
Hackensack, NJ 07601

Jersey City:
Hudson Health Systems Agency Library
871 Berger Avenue
Jersey City, NJ 07306

Lawrenceville:
Franklin F. Moore Library
Rider College
Lawrenceville, NJ 08648
(609) 896–5115

Mahwah:
Ramapo College Library
505 Ramapo Valley Road
Mahwah, NJ 07430

Newark:
Newark Public Library
5 Washington Street
P.O. Box 630
Newark, NJ 07101
(201) 733–7782

Paterson:
Paterson Free Public Library
250 Broadway
Paterson, NJ 07501
(201) 881–3750

Pomona:
Stockton State College
Pomona, NJ 08240
(609) 652–1776, ext. 266

Toms River:
Ocean County College
Learning Resources Center
College Drive
Toms River, NJ 08753
(201) 255–4000 ext. 385

Trenton:
New Jersey State Law Library
185 West State Street
P.O. Box 1898
Trenton, NJ 08625
(609) 292–6230

Voorhees:
Camden County Library
Echelon Urban Center
Laurel Road
Voorhees, NJ 08043
(609) 772–1636

Wayne:
Wayne Public Library
475 Valley Road
Wayne, NJ 07470
(201) 694–4272

NEW MEXICO

Albuquerque:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1696
Albuquerque, NM 87103

The University of New Mexico
General Library
Albuquerque, NM 87131
(505) 277–4241 and 277–5441

The University of New Mexico
School of Law Library
1117 Stanford NE
Albuquerque, NM 87131
(505) 277–6236

Las Vegas:
New Mexico Highlands University
Donnelly Library
Las Vegas, NM 87701

Portales:
Golden Library
Documents Department
Eastern New Mexico University
Portales, NM 88130

Santa Fe:
New Mexico State Library
300 Don Gaspar
Santa Fe, NM 87503
(505) 827–2033

Office of the Solicitor, Law Library
U.S. Department of the Interior
U.S. Courthouse, Room 224
P.O. Box 1042
Santa Fe, NM 87501

Silver City:
Miller Library
Western New Mexico University
Silver City, NM 88061

NEW YORK

Albany:
The New York State Library
The State Education Department
Cultural Education Center
Empire State Plaza
Albany, NY 12230

Brooklyn:
Brooklyn Public Library
Business Library
280 Cadman Plaza West
Brooklyn, NY 11201
(212) 780–7800

Corning:
The Arthur A. Houghton, Jr. Library
Corning Community College
Corning, NY 14830
(607) 962–9251

Garden City:
Adelphi University
Swirbul Library
South Avenue
Garden City, NY 11530
(516) 294–8700 ext. 7345

NEW YORK—Continued

Geneseo:
State University of New York at Geneseo
Milne Library
Government Documents
Geneseo, NY 14454

Greenvale:
C. W. Post Center—Long Island University
B. Davis Schwartz Memorial Library
Greenvale, NY 11548

New Paltz:
Government Documents Department
Sojourner Truth Library
State University College
New Paltz, NY 12561
(914) 257–2252

Niagara Falls:
Niagara Falls Public Library
1425 Main Street
Niagara Falls, NY 14305
(716) 278–8113

Oswego:
State University of New York at Oswego
Oswego, NY 13126
(315) 341–4267

Rochester:
Rochester Public Library
Business and Social Science Division
115 South Avenue
Rochester, NY 14604
(716) 428–7342

Schenectady:
Schenectady County Public Library
Liberty and Clinton Streets
Schenectady, NY 12305

Syracuse:
Reference Department
Onondaga County Public Library
335 Montgomery Street
Syracuse, NY 13202
475–8458

Uniondale:
Nassau Library System
900 Jerusalem Avenue
Uniondale, NY 11553
(516) 292–8920

NORTH CAROLINA

Asheboro:
Asheboro Public Library
201 Worth Street
Asheboro, NC 27203
(919) 629–3329

Boone:
Regional Information Center
Region D Council of Governments
P.O. Box 1820
Boone, NC 28607

Charlotte:
Public Librarty of Charlotte and Mecklenburg County
310 N. Tryon Street
Charlotte, NC 28202
(704) 374–2540

Durham:
William Perkins Library
Public Documents Department
Duke University
Durham, NC 27706
(919) 684–2380

Gastonia:
Gaston County Public Library*
Headquarters: Gaston–Lincoln Regional Library
1555 East Garrison Boulevard
Gastonia, NC 28052
(704) 865–3418

Greenville:
J. Y. Joyner Library
East Carolina University
Greenville, NC 27834

Raleigh:
Documents Department
The D. H. Hill Library
North Carolina State University
Box 5007
Raleigh, NC 27650

North Carolina Supreme Court Library
2 East Morgan Street
P.O. Box 28006
Raleigh, NC 27611
(919) 733–3425

Winston–Salem:
Forsyth County Public Library
660 West Fifth Street
Winston–Salem, NC 27101
(919) 727–2220

NORTH DAKOTA

Bismarck:
Bismarck Junior College*
Schafer Heights
Bismarck, ND 58501

North Dakota State Library
Highway 83 North
Bismarck, ND 58505
224–2490

Office of Program Planning*
All Nations Circle – Bldg. 35
United Tribes Educational Technical Center
3315 South Airport Road
Bismarck, ND 58501

OHIO

Athens:
Government Documents Department
Ohio University Library
Athens, OH 45701
(614) 594–5604

Cincinnati:
Municipal Reference Library
224 City Hall
Cincinnati, OH 45202

National Institute for Occupational Safety and Health
Division of Technical Services
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, OH 45226

Cleveland:
Cleveland Public Library
325 Superior Avenue
Cleveland, OH 44114

Cleveland Regional Sewer District*
Library
Administrative Offices
801 Rockwell Avenue
Cleveland, OH 44114
(216) 781–6600 ext. 219

Cleveland Heights:
Cleveland Heights—University Heights Public Library
2345 Lee Road
Cleveland Heights, OH 44118
(216) 932–3600

Columbus
The State Library of Ohio
65 South Front Street
Columbus, OH 43215
(614) 466–2694

Dayton:
University Library
Wright State University
Dayton, OH 45435

Findlay:
Marathon Oil Company
Law Library, Room 854–M
539 South Main Street
Findlay, OH 45840
(419) 422–2121 ext. 3376

Shafer Library
Findlay College
1000 N. Main Street
Findlay, OH 45840
(419) 422–8313

Marion:
Marion Public Library*
445 E. Church Street
Marion, OH 43302
(614) 387–0992

Toledo:
Toledo–Lucas County Public Library
Social Science Department
325 Michigan Street
Toledo, OH 43624
(419) 255–7055 ext. 221

Wooster:
Andrews Library
The College of Wooster
Wooster, OH 44691

OKLAHOMA

Aradarko:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 397
Aradarko, OK 73005

Muskogee:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1508
Muskogee, OK 74401

OKLAHOMA—Continued

Norman:
Law Library
University of Oklahoma
300 Timberdell
Norman, OK 73019

Oklahoma City:
Metropolitan Library System
Main Library
131 Dean A. McGee Avenue
Oklahoma City, OK 73102
(405) 631–1149

Oklahoma Department of Libraries
U.S. Documents Regional Depository
200 N.E. 18th Street
Oklahoma City, OK 73105
(405) 521–2502

Pawhuska:
Field Solicitor, Law Library
U.S. Department of the Interior
c/o Osage Agency
Pawhuska, OK 74056

Stillwater:
Documents Department
Edmon Low Library
Oklahoma State University
Stillwater, OK 74074
(405) 624–6546

Tulsa:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 3156
Tulsa, OK 74101

OREGON

Eugene:
University of Oregon Library
Government Documents Section
Eugene, OR 97403
(503) 686–3070

Portland:
Library Association of Portland
(Multnomah County Library)
801 S.W. 10th Avenue
Portland, OR 97205
223–7201

Salem:
Oregon State Library
State Library Building
Salem, OR 97310
(503) 378–4276

PENNSYLVANIA

Aliquippa:
B.F. Jones Memorial Library*
Aliquippa District Center
663 Franklin Avenue
Aliquippa, PA 15001
(412) 375–7174

Allentown:
The John A. W. Haas Library
Muhlenberg College
Allentown, PA 18104

Dallas:
Library
College Misericordia
Dallas, PA 18612

Harmony:
Library
Seneca Valley Senior High School*
Southwest Butler County School District
R.D. 2
Harmony, PA 16037

Harrisburg:
State Library of Pennsylvania
Box 1601
Harrisburg, PA 17126
(717) 787–7343

Hazleton:
Hazleton Area Public Library
Church and Maple Streets
Hazleton, PA 18201
454–2961/454–0244

Johnstown:
Cambria County Library System
248 Main Street
Johnstown, PA 15901
(814) 536–5131

Lancaster:
Fackenthal Library
Franklin and Marshall College
P.O. Box 3003
Lancaster, PA 17604
(717) 291–4210

Loretto:
Pius XII Memorial Library
Saint Francis College
Loretto, PA 15940

Millersville:
Millersville State College
Millersville, PA 17551

Vein
Stayer R & L Center
Millersville State College
Millersville, PA 17551
(717) 872–5411 ext. 552, 542

Newtown:
The Library
Bucks County Community College
Newtown, PA 18940

Philadelphia:
Government Publications Department
Free Library of Philadelphia
Logan Square
Philadelphia, PA 19103

Pittsburgh:
Baldwin Borough Public Library
3344 Churchview Avenue
Pittsburgh, PA 15227

U.S. Bureau of Mines
Library
4800 Forbes Avenue
Pittsburgh, PA 15213

Shippensburg:
Ezra Lehman Memorial Library
Shippensburg State College
Shippensburg, PA 17257

Somerset:
Somerset State Hospital Library
Box 631
Somerset, PA 15501
(814) 445–6501, ext. 216

Swarthmore:
The Swarthmore College Library
The McCabe Library
Swarthmore, PA 19081
(215) KI 4–7900

Warren:
Warren Library Association
205 Market Street
Warren, PA 16365

Washington:
Washington County Law Library
Courthouse
Washington, PA 15301
(412) 228–6747

West Chester:
Francis Harvey Green Library*
West Chester State College
West Chester, PA 19380
(215) 436–2869

Wilkes–Barre:
Institute of Regional Affairs*
Wilkes College
Wilkes–Barre, PA 18703

RHODE ISLAND

Kingston:
Government Publications Office
University of Rhode Island
Library
Kingston, RI 02881
(401) 792–2602

Providence:
Brown University Library
Documents Department
Providence, RI 02912
(401) 863–2522

Providence Public Library
150 Empire Street
Providence, RI 02903
(401) 521–7722

Rhode Island College
James P. Adams Library
Documents Department
600 Mt. Pleasant Avenue
Providence, RI 02908
(401) 274–4900 ext. 331

Warwick:
Warwick Public Library
600 Sandy Lane
Warwick, RI 02886
(401) 739–5440

SOUTH CAROLINA

Charleston:
Baptist College of Charleston
P. O. Box 10087
Charleston, SC 29411

Charleston County Library
404 King Street
Charleston, SC 29403

Citadel
Charleston, SC 29409

College of Charleston
66 George Street
Charleston, SC 29401

Clemson:
Clemson University
Clemson, SC 29631

SOUTH CAROLINA—Continued

Columbia:
Benedict College
Blanding & Harden Streets
Columbia, SC 29204

Richland County Public Library
1400 Sumter Street
Columbia, SC 29201

South Carolina State Library
1500 Senate Street
Columbia, SC 29201

University of South Carolina
Columbia, SC 29208

Conway:
Coastal Carolina (of University of SC)
Route 6
Conway, SC 29526

Due West:
Erskine College*
Due West, SC 29639

Florence:
Florence County Library
319 S. Irby Street
Florence, SC 29501

Francis Marion College
Florence, SC 29501

Greenville:
Furman University
Greenville, SC 29613

Greenville County Library
300 College Street
Greenville, SC 29601

Greenwood:
Larry A. Jackson Library
Lander College
Greenwood, SC 29646

Orangeburg:
South Carolina State College
College Avenue
Orangeburg, SC 29117

Rock Hill:
Winthrop College
Rock Hill, SC 29733

Spartanburg:
Spartanburg County Library
P. O. Box 2409
333 S. Pine Street
Spartanburg, SC 29304

Sumter:
Sumter County Library
111 North Harvin Street
Sumter, SC 29150
773–7273

SOUTH DAKOTA

Aberdeen:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 549
Aberdeen, SD 57401

Brookings:
H. M. Briggs Library
South Dakota State University
Brookings, SD 57007
(605) 688–5106

Rapid City:
Devereaux Library
South Dakota School of Mines & Technology
Rapid City, SD 57701
(605) 394–2418

Sioux Falls:
Sioux Falls Public Library
201 N. Main Avenue
Sioux Falls, SD 57101

TENNESSEE

Chattanooga:
Hamilton County Bicentennial Library
Business, Science and Technology Department
1001 Broad Street
Chattanooga, TN 37402
(615) 757–5312

Clarksville:
Woodward Library
Austin Peay State University
Clarksville, TN 37040
(615) 648–7346

Martin:
Paul Meek Library
University of Tennessee at Martin
Martin, TN 38238
(901) 587–7065

Nashville:
Documents Unit
Joint University Libraries
Nashville, TN 37203

Tennessee State Library
Tennessee State Library and Archives
403 Seventh Avenue North
Nashville, TN 37219
(615) 741–2451

TEXAS

Amarillo:
Amarillo Public Library*
City of Amarillo
P.O. Box 2171
413 E. 4th
Amarillo, TX 79189

Field Solicitor
U.S. Department of the Interior
P.O. Box H–4393, Herring Plaza
Amarillo, TX 79101

Austin:
The State Law Library
Supreme Court Building
P.O. Box 12367, Capitol Station
Austin, TX 78711
(512) 475–3807

College Station:
Documents Division
University Libraries
Texas A & M University
College Station, TX 77843

Dallas:
Dallas County Law Library
Government Center
Dallas, TX 75202
749–8481

U.S. Environmental Protection Agency
Region VI
1201 Elm Street
Dallas, TX 75270

Denton:
Texas Woman's University Library
Box 23715, TWU Station
Denton, TX 76204
(817) 566–6415

El Paso:
El Paso Public Library
Documents Section
501 North Oregon Street
El Paso, TX 79901
(915) 543–3808

Hurst:
Hurst Public Library
901 Precinct Line Road
Hurst, TX 76053
(817) 485–5320

Lubbock:
School of Law Library
Texas Tech University
Lubbock, TX 79409

Victoria:
Documents Department
VC/UHVC Library
2602 N. Ben Jordan
Victoria, TX 77901
(512) 576–3151, ext. 201
(512) 573–3291

UTAH

Cedar City:
Southern Utah State College Library
Cedar City, UT 84720

Ephraim:
Lucy A. Phillips Library
Snow College
Ephraim, UT 84627

Logan:
Documents Department
Merrill Library, UMC 30
Utah State University
Logan, UT 84322

Ogden:
Weber State College Library
Ogden, UT 84403

Provo:
Harold B. Lee Library
Documents and Maps Section
Brigham Young University
Provo, UT 84602

Law Library
Brigham Young University
Provo, UT 84602

Salt Lake City:
Regional Solicitor
U.S. Department of the Interior
Suite 6201, Federal Building
125 South State Street
Salt Lake City, UT 84138

Supreme Court Library
State Capitol
Salt Lake City, UT 84114

College of Law Library
University of Utah
Salt Lake City, UT 84112

UTAH, Salt Lake City—Continued

Government Documents
Eccles Health Sciences Library
University of Utah, Bldg. 89
Salt Lake City, UT 84112

Government Documents Division
Marriott Library
University of Utah
Salt Lake City, UT 84112

Utah State Library Commission
2150 South 300 West, Suite 16
Salt Lake City, UT 84115

VERMONT

Burlington:
Bailey/Howe Library
Documents Department
University of Vermont
Burlington, VT 05405

Middlebury:
Egbert Starr Library
Government Documents Department
Middlebury College
Middlebury, VT 05753

South Royalton:
Law Library
Vermont Law School
South Royalton, VT 05068
(802) 763–8303

VIRGINIA

Alexandria:
Alexandria Library*
717 Queen Street
Alexandria, Va. 22314
(703) 750–6351

Arlington:
Office of Hearings and Appeals Library
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, VA 22203

Chesapeake:
Chesapeake Public Library
300 Cedar Road
Chesapeake, VA 23320
(804) 547–6591

Danville:
Danville Community College Library
1009 Bonner Avenue
Danville, VA 24541
(804) 797–3553

Fairfax:
Fairfax City Central Library
3915 Chain Bridge Road
Fairfax, VA 22030
(703) 691–2741

Fenwick Library
George Mason University
4400 University Drive
Fairfax, VA 22030

Lynchburg
The Library
Lynchburg College
Lynchburg, VA 24501

Norfolk:
Norfolk Public Library System
301 East City Hall Avenue
Norfolk, VA 23510

Reston:
U.S. Geological Survey Library
National Center, Mail Stop 950
Reston, VA 22092

Richmond:
Learning Resources Center
Parham Road Campus
J. Sargeant Reynolds Community College
P.O. Box 12084
Richmond, VA 23241
(804) 264–3220

Municipal Library
County of Henrico
Hungary Springs & Parham Roads
Richmond, VA 23228

Virginia State Library
11th & Capitol Streets
Richmond, VA 23219

Roanoke:
Roanoke Law Library
210 Campbell Avenue, SW
Roanoke, VA 24011

Virginia Beach:
Public Law Library
Municipal Center
City of Virginia Beach
Virginia Beach, VA 23456

Williamsburg:
Documents Department
Earl Gregg Swem Library
College of William and Mary
Williamsburg, VA 23185

WASHINGTON

Bellingham:
Documents Division, Wilson Library
Western Washington University
516 High Street
Bellingham, WA 98225
(206) 676–3075

Cheney:
Eastern Washington University
The Library
Cheney, WA 99004
(509) 359–2475

Everett:
Everett Public Library
2702 Hoyt Avenue
Everett, WA 98201
(206) 259–8857

Snohomish County Law Library
County Courthouse
Everett, WA 98201
(206) 259–5326

Midway:
Highline Community College
Library 25–2
Midway, WA 98032
(206) 878–3710, ext. 232

Olympia:
Washington State Law Library
Temple of Justice
Olympia, WA 98504

Port Angeles:
North Olympic Library System
207 So. Lincoln
Port Angeles, WA 98362

Seattle:
NW Federal Regional Council Library
Room 1023 Arcade Plaza Building
1321 Second Avenue
Seattle, WA 98101
(206) 442–5554

Spokane:
Gonzaga University Law Library
E. 600 Sharp Avenue
P.O. Box 3528
Spokane, WA 99220

WEST VIRGINIA

Beckley:
National Mine Health and Safety Academy
Learning Resources Center
P.O. Box 1166
Beckley, WV 25801

Charleston:
Kanawha County Public Library
123 Capitol Street
Charleston, WV 25301
(304) 343–4646

Montgomery:
Vining Library
West Virginia Institute of Technology
Montgomery, WV 25136

Weirton:
Mary H. Weir Public Library
3442 Main Street
Weirton, WV 26062
(304) 748–7070

WISCONSIN

Appleton:
Appleton Public Library
121 South Oneida Street
Appleton, WI 54911
734–7171

Green Bay:
University of Wisconsin—Green Bay
Library Learning Center
Government Publications
Green Bay, WI 54302

Kenosha:
Library/Learning Center
University of Wisconsin–Parkside
Wood Road
Kenosha, WI 53141

Ladysmith:
Mount Senario College Library
Ladysmith, WI 54848

Madison:
Madison Public Library
201 W. Mifflin Street
Madison, WI 53703
(608) 266–6363

WISCONSIN—Continued

Milwaukee:
Milwaukee County
Law Library
Courthouse, Room 307
901 North 9th Street
Milwaukee, WI 53233
278–4322

WYOMING

Gillette:
George Amos Memorial Library
412 S. Gillette Avenue
Gillette, WY 82716
(307) 682–3223

Laramie:
Coe Library—Documents Division
University of Wyoming
Box 3334, University Station
Laramie, WY 82071
(307) 766–2174

federal register

Friday
April 19, 1985

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alaska: AK82–5125	Oct. 22, 1982.
Arkansas: AR84–4111	Dec. 28, 1984.
California: CA84–5007	May 18, 1984.
Connecticut: CT84–3016	June 8, 1984.
Illinois:	
IL83–2035	Apr. 8, 1983.
IL85–5020	Apr. 5, 1985.
Kansas: KS84–4053	Aug. 24, 1984.
Massachusetts:	
MA85–3014	Mar. 15, 1985.
MA85–3015	Do.
MA85–3013	Do.
Nevada:	
NV84–5014	June 8, 1984.
NV83–5121	Sept. 23, 1983.
New York: NY84–3014	July 6, 1984.
North Dakota:	
ND84–5032	Oct. 19, 1984.
ND85–5009	Mar. 1, 1985.
Ohio:	
OH83–5123	Dec. 2, 1983.
OH83–5125	Dec. 23, 1983.
Pennsylvania: PA84–3017	June 15, 1984.
Virginia: VA81–3015	Mar. 6, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Delaware: DE82–3015 (DE85–3021)	June 4, 1982.
Georgia: GA83–1002 (GA85–3022)	Jan. 21, 1983.

Signed at Washington, D.C., this 12th day of April 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510–27–M

DECISION NO. AK82-5125 - Mod. #9
(47 FR 47150 - October 22, 1982)
Statewide, Alaska

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$28.37	4.88
Boilermakers	25.69	4.25
Cement Masons:		
Area 1	22.05	6.45
Area 2	21.80	6.45
Electricians; Technicians	25.82	6.15 +3%
Cable Splicers	27.57	6.15 +3%
Elevator Constructors:		
Mechanics	27.12	3.29+a
Helpers	18.98	3.29+a
Probationary Helpers	13.56	
Glaziers:		
Areas 2 and 3	22.77	3.80
Ironworkers:		
Bender Operator; Bridge; Fence Erector; Machinery Mover; Ornamental; Reinforcing; Sheeter; Structural	24.25	5.75
Line Construction:		
Groundman	18.00	5.82+ 3%
Equipment Operators; Linemen; Technicians	26.15	5.82+ 3%
Cable Splicers	27.90	5.82+ 3%
Powderman	24.15	5.82+ 3%
Marble Setters; Terrazzo Workers	22.64	7.72
Painters:		
Areas 2 and 3:		
Brush; Roller; Sign Paper & Vinyl; Swing stage; Taper/Drywall; Structural Steel	24.45	3.80
Spray; Sandblast; Pot tender	24.85	3.80
Epoxy and Tar Applicator	25.25	3.80
Steeplejack and Tower	26.25	3.80
Plasterers:		
Area 1	$23.53	6.45
Area 2	23.28	6.45
Roofer:		
Area 1	22.90	5.75
Areas 2 & 3	22.60	5.75
Sheet Metal Workers:		
Area 1	26.84	3.89
Soft Floor Layers:		
Areas 2 & 3	24.00	5.05
Tile Setters	21.81	7.72
POWER EQUIPMENT OPERATORS:		
Group 1	24.47	6.50
Group 1A	26.01	6.50
Group 2	23.80	6.50
Group 3	23.17	6.50
Group 4	17.75	6.50
TRUCK DRIVERS:		
Building, Heavy and Highway:		
Group 1	24.31	6.99
Group 1A	25.56	6.99
Group 2	23.46	6.99
Group 3	22.76	6.99
Group 4	22.47	6.99
Group 5	21.76	6.99
Bricklayers; Blocklayers Stonemasons	22.34	7.72

DECISION NO. AR84-4111
MOD # 1 (49 FR 50556-
December 28, 1984)
Sebastian, Crawford and
Washington Counties,
Arkansas

CHANGE

Sebastian & Crawford Counties

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits
Group I	$14.55	$1.40
Group II	13.18	1.40
Group III	12.56	1.40
Group IV	10.32	1.40

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floorand handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine andpressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

DECISION NO. CA84-5007 - MOD #9 (49 FR 21245 - May 18, 1984) Imperial, Inyo, Kern, etc., Counties, California	Basic Hourly Rates	Fringe Benefits
OMIT:		
Drywall Installers/ Lathers	$18.53	$7.06
Drywall Stocker, Scrapper + Clean-up Man	9.31	2.25
Residential Drywall Installer/Lather	18.53	5.06
ADD:		
Drywall Installer/Lathers: Inyo, Kern and Mono Counties:		
Drywall Installer	18.53	7.06
Drywall Stocker, Scrapper and Clean-up Man	9.31	2.25
Residential Drywall	18.53	5.06
Lather	16.66	5.05
Remainder of Counties:		
Drywall Installer/Lather	18.53	7.06
Drywall Stocker, Scrapper and Clean-up Man	9.31	2.25
Residential Drywall/ Lather	18.53	5.06

DECISION NO. CT84-3016 - MOD. #13 (49 FR 23980 June 8, 1984) Statewide Connecticut	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; LATHERS; RESILIENT FLOOR LAYERS: (BUILDING CONSTRUCTION)		
Area 1		
Carpenters	15.75	2.25
Millwrights	16.50	2.30
Area 2		
Carpenters	15.47	2.25
Millwrights	16.50	2.30
Area 3		
Carpenters	16.20	1.90
Area 4		
Carpenters	15.05	3.15
Area 5		
Carpenters	15.15	3.80
Area 6		
Carpenters	16.35	2.43
Millwrights	16.85	2.43

DECISION NO. IL83-2035 - Mod# 4 (48 FR 15413 - April 8, 1983) Bureau, Carroll, Henry, Jo-Daviess, Lee, Ogle, Rock Island Stephenson, Whiteside & Winnebago Counties, Illinois	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS:		
Area 2	$17.52	$2.49
CEMENT MASONS:		
Area 2	15.13	3.70
Area 3	15.25	1.75
LINE CONSTRUCTION:		
Area 2:		
Lineman	17.92	1.00+ 11½%+a
Equipment Operators	15.22	1.00+ 11½%+a
Truck Drivers	12.13	1.00+ 11½%+a
Groundman	11.73	1.00+ 11½%+a
PAINTERS:		
Area 2:		
Brush, Roller	14.47	3.49
Spray, Structural Steel	14.97	3.49
Area 5:		
Brush, Roller	15.97	2.55
Open Structural Steel	16.22	2.55
Spray	16.47	2.55
Sandblasting	16.97	2.55
LABORERS:		
AREA 1:		
Unskilled	13.52	2.70
Semi-skilled	13.72	2.70
Skilled	13.92	2.70
AREA 2:		
Group 1	14.84	2.115
Group 2	15.09	2.115
AREA 3:		
Group 1	13.39	3.515
Group 2	13.64	3.515
AREA 4:		
Group 1	13.44	3.515
Group 2	13.69	3.515
AREA 5:		
Unskilled	13.92	3.05
Semiskilled	14.12	3.05
Skilled	14.32	3.05
POWER EQUIPMENT OPERATORS:		
AREA 1:		
Group 1	17.09	2.95
Group 2	15.94	2.95
Group 3	14.23	2.95
AREA 2:		
Group 1	18.05	5.25
Group 2	17.50	5.25
Group 3	16.35	5.25
Group 4	14.95	5.25
Group 5	13.75	5.25
Area 3:		
Change fringes all groups		3.28
TRUCK DRIVERS:		
Area 3:		
2-3Axles	15.70	c
4 Axles	15.85	c
5 Axles	16.06	c
6 Axles	16.25	c

DECISION NO. IL85-5020 - Mod# 1 (50 FR 13699 - April 5, 1985) Cook County, Illinois	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS (Bldg & Residential):		
Group 1	$13.90	$2.62
Group 2	13.975	2.62
Group 3	14.00	2.62
Group 4	14.05	2.62
Group 5	14.10	2.62
Group 6	14.125	2.62
Gropp 7	14.225	2.62
Group 8	14.25	2.62
Group 9	14.35	2.62
Group 10	14.475	2.62

DECISION NO. MA85-3014 - MOD. #2 (50 FR 10594 - March 15, 1985) Worcester County, Massachusetts	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS		
Area 1	16.53	4.05+ 3%
Area 3		
Residential (Single Family Housing)	12.00	2.34+ 3%
ELEVATOR CONSTRUCTORS	17.565	3.29+ b+c
ELEVATOR CONSTRUCTORS HELPERS	12.295	3.29+ b+c
ELEVATOR CONSTRUCTORS HELPERS (Probationary)	8.78	
SHEET METAL WORKERS		
Area 2	16.31	5.09

DECISION NO. MA85-3015 - MOD. #2 (50 FR 10600 - March 15, 1985) Berkshire, Franklin, Hampden, and Hampshire Counties, Massachusetts	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	18.23	5.03
ELECTRICIANS		
Area 3	16.53	4.05+ 3%
PLUMBERS & STEAMFITTERS		
Area 1	15.08	3.70
SHEET METAL WORKERS	16.31	5.09

Decision No. KS84-4053 MOD #1 (49FR33784- August 24, 1984) Leavenworth County, Kansas	Basic Hourly Rates	Fringe Benefits
ADD		
SOUNDMEN	$12.59	$1.33+ 8.7%

DECISION NO. MA85-3013 - MOD. #2 (50 FR 10587 - March 15, 1985) Essex, Sussex, Middlesex, Norfolk, Bristol, Plymouth, Barnstable, Dukes, Nantucket Counties, Massachusetts	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS		
Area 3		
Residential (Single Family Housing)	12.00	2.95+ 3%
Area 5		
Residential (Single Family Housing)	12.00	2.34+ 3%
Area 10		
Residential	9.85	21%

DECISION NO. NV84-5014 - MOD #10 (49 FR 23988-June 8, 1984) Statewide (does not include the Nevada Test Site and Tonopah Test Range, or Building construction in Churchill, Lyon and Mineral Counties, or Highway construction in Douglas County), Nevada	Basic Hourly Rates	Fringe Benefits
OMIT:		
Glaziers:		
Area 1		
ADD:		
Glaziers:		
Area 1:		
Glaziers	$22.12	$2.80
Automatic Door Mechanic	17.25	2.80

DECISION NO. NV83-5121 - MOD. #8 (49 FR 43532-September 23, 1983) Clark County (does not (include the Nevada Test Site), Nevada	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Glaziers	9.32	2.80

DECISION NO. NY84-3018 - MOD. #1	Basic Hourly Rates	Fringe Benefits
(49 FR 27899 - July 6, 1984)		
CATTARAUGUS, CHAUTAUQUA & ERIE COUNTIES, NEW YORK		
OMIT:		
POWER EQUIPMENT OPERATORS: Rates and classifications		
ADD:		
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):		
Group 1	16.325	6.01+e
Group 2	16.17	6.01+e
Group 3	16.13	6.01+e
Group 4	16.045	6.01+e
Group 5	15.89	6.01+e
Group 6	15.735	6.01+e
Group 7	15.275	6.01+e
Group 8	13.395	6.01+e
Group 9	13.24	6.01+e
Group 10	13.225	5.61+e
Group 11	13.17	5.61+e
Group 12	13.025	5.61+e
Group 13	16.825	6.01+e
Group 14	17.325	6.01+e
Group 15	17.825	6.01+e
POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY):		
Class A	15.80	6.01+f
Class B	15.30	6.01+f
Class C	14.23	6.01+f
Class D	12.05	6.01+f
Class E	16.55	6.01+f
Class F	16.80	6.01+f
Class G	17.30	6.01+f

ADD:

CLASSIFICATION DESCRIPTIONS

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)

GROUP 1: All boom type equipment (100 ft. or less), all pan and carry-all operators, archer hoist, back and pull hoe operator, blast or rotary drill (track or cat mounted), boiler (when used for power, boom trucks, cableway operator, concrete paver machine, crane operator, derrick operator, dragline, elevating grader (self-propelled), head tower operator, hot roller (finish course), hydraulic booms, hydro crane, maintenance engineer, mucking machine operator, multiple drum hoist (more than 1 drum in use), Peine crane, pile driving machine operator, power grader machine operator, scoopmobile, shovel operator, skimmer operator, test core drill machine, tractor shovel operator, vertical caisson auger drill, well drilling machine.

GROUP 2: Back filing machine operator, Kolman loader, roller machine operator, snatch and pusher cats, stone crusher, towed or self-propelled rollers, trenching machine operator.

GROUP 3: Air hoist operator, cage hoist operator, conveyor operator, conveyor system (belt-crete or similar), hoisting engine operator, house elevator (when used for hoisting), industrial tractor, locomotive operator (irrespective of power), push button hoist operator, Strato tower, tractors (when using winch power).

GROUP 4: Concrete mixer operator (½ c.y. or over), gasoline driven boring machine, hydraulic system pumps, hydro hammer, finishing machine operator (asphalt spreader), finishing machine operator, bulldozer (over 50 h.p.), monorail.

DECISION NO. NY84-3018 -
MOD. #1 (CONT'D)

CLASS B: Air hoist, asphalt curb and gutter machines, automatic fine grade machine (CMI and similar type) (second operator), backhoe and pullhoe (tractor mounted, rubber-tired), back filling machine, bending machine (pipe), bituminous spreader and mixer, blacktop plant (non-automated), blower for burning brush, boiler (when used for power), boom truck, boring machine, cage hoist, cherry picker (5 tons and under), chipping machine and chip spreader, concrete curb and gutter machine, concrete curing machine, concrete mixer (over ½ cu. yd.), concrete pavement spreader and finishers, concrete paver, concrete pump, conveyor, core drill, crusher, drill rig (tractor mounted), electric pump used in conjunction with well point systems, elevator, farm tractor with accessories, fine grade machine, forklift, grout or gunite machine, hoist (one drum), hoisting engine, hydraulic hammer (self-propelled), hydraulic pipe jack machine (or similar type machine), hydraulic rock expander (or similar type machine), Hydraulic system pumps, hydro hammer (or similar type), industrial tractor, jersey spreader, Kolman plant loader (and similar type loaders), locomotive, mixer for stabilized base (self-propelled), monorail, mortorized hydraulic pin puller, motorized hydraulic seeder, mulching machine, plant engineer, pneumatic mixer, post hole digger and post driver, pump crete, push button hoist, road widener, rock bit sharpener (all types), roller (all above sub-grade), roller (grade and fill), rolling machine (pipe), side boom, slip form paver (CMI and similar type) (second operator), snorkel, srato-tower, stump chipping machine, towed roller, tractor with towed accessories, tractors (using winch power), trencher, tube finisher (CMI and similar type) vibratory compactor, vibro tamp, well drilling machine, well point, winch, winch truck with A frame.

CLASS C: Aggregate bin, aggregate plant, boiler (used in conjunction with production, cement bin, concrete mixer (½ cu. yd. and under), concrete saw (self-propelled), fireman, form tamper, fuel truck, heating boiler (used for temporary heat), jeep trencher, power broom, Revinius Widener, steam cleaner, tractor.

CLASS D: Compressors (4 or less), helper on lubrication unit or truck, power heaterman, power plant in excess of 10 K.W., pump (4" or over), welding machine (1 machine over 300 amps or 2 or 3 machines regardless of amps).

CLASS E: Crane with boom over 100 ft.

CLASS F: Crane with boom over 200 ft.

CLASS G: Crane with boom over 300 ft.

DECISION NO. NY84-3018 -
MOD. #1 (CONT'D)

GROUP 5: Grout machine operator, heating boiler operator (used for temporary heat), lubrication units on truck, pneumatic mixer operator.

GROUP 6: Bulldozer & tractor (50 h.p., drawbar or under), jeep trencher, mulchers, power brooms and rakes, seeders.

GROUP 7: Aggregate bin operator, cement bin operator, concrete mixer operator (under ½ c.y.), tractor machines.

GROUP 8: Pump operator (4" or over), pump operator (2-3 in a battery).

GROUP 9: Air compressor operator, generator, mechanical heater (when 3 are in a battery), power plant (in excess of 10KW), welding machine operator (to and including 3 machines).

GROUP 10: Fireman.

GROUP 11: Truck crane driver.

GROUP 12: Oiler, mechanical heaters (when 1 or 2 are used), pump operators (one inch), pump operators (2 inches), pump operators (3 inches).

GROUP 13: Crane with boom over 100 feet.

GROUP 14: Crane with boom over 200 feet.

GROUP 15: Crane with boom over 300 feet.

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION)

CLASS A: All boom type equipment, all pans and carry-alls, asphalt roller, asphalt spreader or paver, automatic fine grade machine, (CMI and similar type), backhoe and pullhoe, belt palcer (CMI and similar type), black top plant (automated), blast or rotary drill (truck or track mounted), bull-dozer, cableway, caisson auger, central mix plant (and all concrete batching plants), cherry picker (over 5 tons capacity), crane, derrick, dragline, dredge, dual drum paver, elevating grader (self-propelled or towed), excavator (all purpose, hydraulically operated), front end loader, gradall, grader, head tower, hydraulic boom, hydro crane, maintenance engineer, maintenance lubrication unit or truck, mine hoist, mucking machine, multiple drum hoist (more than 1 drum in use), overhead crane, Paine crane (or similar type), pile driver, push or snatch cat, quarry master or equivalent, scoopmoble, shovel, skimmer, slip form paver (CMI and similar type), tire truck & repair, tractor drawn belt-type grader/loader, tractor shovel, truck crane, tunnel shovel.

DECISION NO. ND84-5032 - Mod. # 2
(49 FR 41136 - October 19, 1984)
Statewide, North Dakota

	Basic Hourly Rates	Fringe Benefits
Change:		
Description of Work to read: Heavy & Highway Projects	*	
Omit:		
Ironworkers; Structural Steel:		
Mercer County	$14.63	$3.96
Laborers:		
Group 4:		
Reinforcing Steel setter/tiers	6.10	
Add:		
Ironworkers:		
Heavy Construction:		
Structural, Ornamental and Reinforcing:		
Burleigh, Cass, Grand Forks, Mercer, Morton and Ward Cos.	$14.63	3.96
Laborers:		
Group 4:		
Highway Construction Only:		
Reinforcing Steel setter/Tiers	6.10	
Ironworkers:		
Highway Construction Only:		
Structural Steel:		
Mercer Co.	14.63	3.96

DECISION NO. ND85-5009 - Mod. #2
(50 FR 8570 - March 1, 1985)
Burleigh, Morton and Ward Counties, North Dakota

	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers:		
Structural, Ornamental & Reinforcing	$14.63	3.96

DECISION NUMBER OH83-5123 - MOD. #3
(48 FR 54419 - December 2, 1983)
Mahoning & Trumbull Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Area 2	$17.14	$3.10

DECISION NUMBER OH83-5125 - MOD. #4
(48 FR 56898 - December 23, 1983)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 5:		
Family Residences, Inclu. Mobile Home Parks, Residences not to exceed 12 units	10.98	1.65 + 4%
Sheet Metal Workers:		
Area 2:		
Commercial Building	17.18	3.32
Residential	10.31	2.48

DECISION NO. VA81-3015-MOD. #20 (46 FR 15666-March 6, 1981) RADFORD ARMY AMMUNITION PLANT, VIRGINIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	11.75	1.17
LATHERS	11.75	1.17

DECISION NO. PA84-3017 - MOD. #5 (49 FR 24859 - June 15, 1984) Berks, Lehigh & Northampton Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
ADD:		
TRUCK DRIVERS		
Zone 3 - (Berks County)		
Building	12.13	k+1
Wrecking	10.80	1.99

FOOTNOTES:

k. Employer contributes $135.00 per employee per month.

l. Employer contributes $134.34 employee per month.

Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: GEORGIA

COUNTIES: CLAYTON, DEKALB & FULTON

DECISION NUMBER GA85-3022

DATE: DATE OF PUBLICATION

Supersedes Decision Number GA83-1002, dated January 21, 1983, in 48 FR 2930.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including for stories).

FULTON COUNTY	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS (Heat & Frost Insulators)	9.25	
BRICK & BLOCK MASONS	11.61	
CARPENTERS	11.09	
CEMENT MASONS/CONCRETE FINISHERS	10.98	
DRYWALL FINISHERS	11.48	
DRYWALL HANGERS/MECHANICS	10.33	
ELECTRICIANS	15.00	21%
ELEVATOR CONSTRUCTORS:		
Mechanics	13.00	3.00+ a+b
Helpers	9.10	3.00+ a+b
Probationary Helpers	6.50	
GLAZIERS	9.17	
IRONWORKERS	9.71	
LABORERS:		
General Laborers	7.13	
PAINTERS	9.80	
PILEDRIVERMEN	12.00	
PIPEFITTERS (Including HVAC)	14.90	2.24
PLASTERERS	12.69	
PLUMBERS	14.90	2.24
ROOFERS	8.56	
SHEETMETAL WORKERS (Including HVAC)	13.60	2.76
SOFT FLOOR LAYERS	12.36	
SPRINKLER FITTERS	14.57	2.83
TILE SETTERS	12.55	2.48
TILE SETTERS FINISHERS	10.59	.86
TRUCK DRIVERS	6.00	
WATER PROOFERS	10.06	
POWER EQUIPMENT OPERATORS		
Backhoe	12.64	2.01
Bulldozer	8.63	
Crane	14.08	2.01
Drill	12.64	2.01
Forklift	10.23	
Front end loader	12.33	2.01
Oiler for crane	10.86	2.01
Roller	6.39	1.55
Tractor with special equipment	12.33	2.01

DEKALB COUNTY	Basic Hourly Rates	Fringe Benefits
BRICK & BLOCK MASONS	11.50	
CARPENTERS	10.27	
CEMENT MASONS/CONCRETE FINISHERS	10.31	
DRYWALL FINISHERS	10.00	
DRYWALL HANGERS/MECHANICS	9.75	
ELECTRICIANS	15.00	21%
ELEVATOR CONSTRUCTORS:		
Mechanics	13.00	3.00+ a+b
Helpers	9.10	3.00+ a+b
Probationary Helpers	6.50	
GLAZIERS	9.20	
HVAC PIPEFITTERS	9.21	
HVAC SHEET METAL WORKERS	9.23	
IRONWORKERS	8.70	
LABORERS:		
General Laborers	6.63	
Mortar Mixers	7.08	
Mason Tenders	6.80	
PAINTERS	9.66	
PIPEFITTERS (Excluding HVAC)	14.90	2.24
PLUMBERS	14.90	2.24
ROOFERS	9.52	
SHEET METAL WORKERS (Excluding HVAC)	13.60	2.76
SPRINKLER FITTERS	10.54	
TILE SETTERS	11.66	2.48
TILE SETTERS FINISHERS	10.19	.66
TRUCK DRIVERS	5.50	1.08
WATER PROOFERS	10.75	
POWER EQUIPMENT OPERATORS		
Backhoe	12.64	2.01
Bulldozer	9.67	
Crane	11.43	2.01
Front End Loader	12.33	2.01
Roller	6.10	1.38
Scraper-pan	9.46	

DECISION NO. GA85-3022

	Basic Hourly Rates	Fringe Benefits
CLAYTON COUNTY		
BRICK & BLOCK MASONS	12.23	
CARPENTERS	9.76	
CEMENT MASONS/CONCRETE FINISHERS	9.92	
ELECTRICIANS	12.10	21%
HVAC MECHANICS	8.91	
IRONWORKERS	9.55	
LABORERS:		
General Laborers	5.88	
PIPEFITTERS (Excluding HVAC)	14.90	2.24
PLUMBERS	8.96	
ROOFERS	8.90	
SHEETMETAL WORKERS (Excluding HVAC)	10.17	2.72
TILE SETTERS	11.20	
TILE SETTERS FINISHERS	6.70	
POWER EQUIPMENT OPERATORS		
Backhoe	9.94	
Crane	14.08	2.01
Front End Loader	9.42	

WELDERS - Rate for craft to which the welding is incidental.

Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: DELAWARE
DECISION NO.: DE85-3021
COUNTIES: State of Delaware
DATE: Date of Publication
Supersedes Decision No. DE82-3015, dated June 4, 1982 in 47 FR 24526.
DESCRIPTION OF WORK: Building (excluding single family houses and garden type apartments up to and including 4 stories) and Heavy Construction.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	19.64	4.04
BOILERMAKERS:		
New Castle County	20.88	2.415
Kent & Sussex Counties	19.50	3.09
BRICKLAYERS	14.21	4.19
CARPENTERS - Building & Heavy		
New Castle & Kent Cos.	16.32	3.67
Sussex County	13.92	3.36
CEMENT MASONS		
Building Construction	14.60	2.75
Heavy	14.30	2.75
ELECTRICIANS	17.92	2.48+ 3½%
ELEVATOR CONSTRUCTORS:		
Mechanics	19.36	3.29+ a+b
ELEVATOR CONSTRUCTORS' HELPERS	13.90	3.29+ a+b
ELEVATOR CONSTRUCTORS" HELPERS (Probationary)	9.93	
GLAZIERS	13.66	2.77
IRONWORKERS:		
Structural Ornamental, Reinforcing, Riggers & Machinery Movers	16.70	6.25
LABORERS - Building Construction:		
New Castle County		
Class 1	12.32	3.18
Class 2	12.57	3.18
Class 3	12.82	3.18
Class 4	13.32	3.18
Class 5	13.57	3.18
Kent & Sussex Counties		
Class 1	12.30	2.95
Class 2	12.55	2.95
Class 3	12.80	2.95
Class 4	12.90	2.95
Class 5	13.55	2.95

LABORERS - Heavy Construction:	Basic Hourly Rates	Fringe Benefits
New Castle County:		
General laborers, asphalt tamper, ashhalt raker, concrete pitman, landscaper, planter, puddler railroad trackman, rubber magazine tender, seeder & arboriate, and Signalman	10.07	3.18
Pipelayers	10.22	3.18
Blasters, caissons, and cofferdams (open air below 8 ft. where excavations for circular caissons and cofferdams are 8 ft. or more below level of natural grade adjacent to start point) diamond point drills, form setters, gunite nozzle operators, and wagon drills	10.37	3.18
LABORERS - Heavy Const. Kent & Sussex Counties		
Common laborers, landscapers, planters, seeders, aborists, asphalt tampers, rakers, concrete pitman, puddlers, rubber magazine tenders, railroad trackman, signal men	9.05	2.95
Pipelayers	9.20	2.95
Wagon drill, diamond pofnt drill, gunite nozzlemen, form setters, blasters, caisson & coffer dams (open air, below 8')	9.35	2.95

DECISION NO. DE85-3021

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Linemen, cable splicers	19.27	.80+12 1/2%
Winch truck operators	13.49	.80+12 1/2%
Truck drivers	12.53	.80+12 1/2%
Groundmen	11.56	.80+12 1/2%
MARBLE SETTERS	14.88	2.55
MILLWRIGHTS:		
Kent & New Castle Cos.	17.03	3.91
Sussex County	18.80	4.14
PAINTERS:		
Base rate	14.25	4.01
Structural steel & suspended scaffolding (swing, chair & window belts)	14.47	4.01
Machine taping	14.75	4.01
Bridges (if surface to be painted is 50' or more above ground or water), and/or cabled scaffolding	16.73	4.01
Tanks (if exposes to the weather and is used for storage or processing purposes with a capacity of 5,000 gallons or more using exterior dimensions and/or interior work on all tanks), sandblasting, and spray	14.80	4.01
Height pay - work 75' or more from surface and additional 55¢ shall be paid above the applicable rate		
PILEDRIVERMEN, Wharf & DOCK BUILDERS	14.67	3.36
PLASTERERS	16.07	1.16
PLUMBERS & STEAMFITTERS:		
New Castle & Kent (north of the southern boundary of Dover City) Counties: Plumbers	19.47	3.60
Sussex & Kent (remainder of county) Counties	17.40	2.55

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits
Building & Heavy Construction:		
Group 1	17.82	26.6%+h
Group 2	17.56	26.6%+h
Group 3	16.10	26.6%+h
Group 4	15.79	26.6%+h
Group 5	14.02	26.6%+h
Group 6	13.51	26.6%+h
ROOFERS:		
Composition, damp and waterproofing	18.17	2.73
Mechanic II (Handle and transport all materials tools, and equipment; clean-up debris)	13.65	2.10
SHEET METAL WORKERS	18.10	3.38
SOFT FLOOR LAYERS:		
New Castle & Kent Cos.	16.65	3.20
SPRINKLER FITTERS	16.67	3.23
TERRAZZO WORKERS & TILE SETTERS	13.94	4.19
TRUCK DRIVERS - Building Construction:		
Group 1	12.228	2.545
Group 2	12.435	2.545
Group 3	12.535	2.545
TRUCK DRIVERS Heavy Construction:		
Group 1	11.435	2.545 +k
Group 2	11.585	2.545 +k
Group 3	11.685	2.545 +k

LABORERS - CLASSIFICATION DEFINITIONS
BUILDING CONSTRUCTION

CLASS 1 - Laborers, general and construction, dumpmen and truck spotters

CLASS 2 - Caulkers; operators of pneumatic and electric tools; vibrating machines; concrete saws and pumps (which shall include the hook-up of hose and/or pipe); pot tenders; and sewer pipe layers; demolition (where walls are required to be ridden down by hand tools). Driller (except Core, Diamond, or Multiple Wagon); Gunite material and rebound workers; mason and plasterer tenders; and cement workers; mobile buggy operators; operators of power saws (portable) power and sewing machines; scaffold builders, shoring; hookup men; including when working with digging and grading equipment; stripping of flat arch and form work; and cleaning and oiling thereof, and tool room attendant

CLASS 3 - Burners and welders; caisson workers, top men (when excavations for caissons are dug eight feet or more below the nature grade level adjacent to the starting point of the caisson hole, the rate shall apply at the ground level); driller (core, diamond, or multiple wagon); gunite industrial fume stack, nozzle, and rod workers; sandblaster (nozzleman): tunnelling - Underpinning excavation (when an underpinning excavation is dug eight feet or more below the natural grade, or when an excavation for a pier hole of five feet square or less and eight feet or more deep is dug, the rate shall apply only when a depth of eight feet is reached): working under compressed air

CLASS 4 - Caisson workers, bottom men

CLASS 5 - Blaster; laborers engaged in unloading, placing, and assisting in the installation of well point systems or deep well systems as long as needed on the job for such work

POWER EQUIPMENT OPERATORS
CLASSIFICATIONS

GROUP 1 - Machines with booms doing hook work, any machine handling machinery, cable spinning machines, helicopter and similar machines

GROUP 2 - All types of cranes, all types of backhoes, cableway, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoists with 2 towers, pavers 21½ and over, all types overhead cranes, building hoists (double drum), gradalls, mucking machines, in tunnel, all front end loaders 3-½ c.y., and over, tandem scrapers, pipin type backhoes, boat captains, batch plant operators (concrete), drills, self contained rotary drill, fork lifts (20' lift & over), and similar machines

GROUP 3 - Conveyors, building hoist (single drum), scrapers, toutnapulls, spreaders (asphalt), high or low pressure boilers, concrete pumps, well drillers, bulldozers, tractors, asphalt plant engineers, rollers (high grade finishing), ditch witch type trenchers, all loaders under 3½ c.y., mechanic-welders, motorpatrols, core drill operator, forklift trucks under 20' lift, similar machines

GROUP 4 - Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power boom, seeding spreader, tireman (for power equipment), and similar machines

GROUP 5 - Fireman, grease trucks

GROUP 6 - Oilers and deck hands (personnel boats), core drill helper

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - Euclid type or similar off highway equipment (where not self loaded), off highway tandem back-dump, specialized earth moving equipment, truck mechanic (first class), twin engine equipment & double-hitched equipment (where not self-loaded).

GROUP 2 - A-frames, agitators or mixers, asphalt distributors, dispatchers, low-boys, semi-trailers, tandems, batch trucks & truck mechanics (second class).

GROUP 3 - Dumps (single axle), dumpsters, escort & pilot vehicles, flat body material trucks (straight job), greasers, material checkers & receivers, panel trucks, pick-ups rubber-tired (towing & pushing vehicles), tiremen & truck mechanic helpers, truck helpers.

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS
HEAVY CONSTRUCTION

GROUP 1 - Euclid type or similar off highway equipment (where not self loaded), specialized earth moving equipment, truck mechanics (first class), twin engine equipment & double-hitched equipment (where not self-loaded.)

GROUP 2 - A-frames, agitators or mixers, asphalt distributors, dispatchers, low-boys, semi-trailers, tandems, batch trucks, truck mechanics (second class).

GROUP 3 - Dump trucks (single axle), dumpsters, escort & pilot vehicles, flat body material trucks (straight jobs), greasers, material checkers & receivers, panel trucks, pick-ups, rubber-tired (towing or pushing flat body vehicles), tiremen, truck mechanic helpers, truck helpers.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: Good Friday, Memorial Day, Washington's Birthday, Labor Day, Presidential Election Day; Veteran's Day, Thanksgiving Day; Christmas Day.

b. Employer contribution of 8% of the basic hourly rate for 5 years or more of service and 5% of the basic hourly rate for 6 months to 5 years of service for Vacation Pay Credit.

c. Paid Holidays: A through F

d. Paid Holidays: New Year's Day; Declaration Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Good Friday.

FOOTNOTES: Cont'd

e. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Independence Day; Presidential Election Day; Veterans Day; and Thanksgiving Day.

f. Paid Holiday: Labor Day provided the employee is currently on the payroll and would be scheduled to work the holiday also employee must work the day prior to and after the holiday.

g. Paid Holidays: A through F; provided the employee worked the scheduled work day preceeding and following the holiday.

h. Paid Holidays: A through F; plus Election Day provided the employee works the scheduled work day before and after the holiday.

j. Paid Holiday: Election Day.

k. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day provided the employee has worked the scheduled workdays preceding and following the holiday.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

WELDERS - Receive rate prescribed for craft performing operations to which welding is incidental.

[FR Doc. 85-9275 Filed 4-18-85; 8:45 am]

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federal register

Friday
April 19, 1985

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 65

Issuance and Renewal of Inspection Authorization; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 65

[Docket No. 24233; Amdt. No. 65-30]

Issuance and Renewal of Inspection Authorization

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment permits persons who have had their mechanic certificates or ratings suspended to be eligible for issuance or renewal of inspection authorizations (IA's) if their mechanic certificates or ratings have been reinstated. This amendment will remove a requirement that is unnecessary as a means of ensuring that only responsible persons exercise IA privileges.

EFFECTIVE DATE: April 19, 1985.

FOR FURTHER INFORMATION CONTACT: Leo Weston, General Aviation and Commercial Branch, AWS-340, Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591, Telephone (202) 426-8205.

SUPPLEMENTARY INFORMATION:

Background

Section 65.93 of the Federal Aviation Regulations (FAR) provides that to be eligible for the renewal of an IA an applicant must present evidence that, among other things, he or she still meets the requirements of § 65.91(c) (1) through (4) for the original issuance of an IA. Before Amendment 65-22 (42 FR 46278; September 15, 1977), § 65.91(c)(1) provided that to be eligible for an IA, an applicant has to be "a certificated mechanic who has held both an airframe and a powerplant rating for at least 3 years before the date he applies." Amendment 65-22 revised paragraph (c)(1) to require that the applicant hold "a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective *and has been continuously in effect* for not less than the 3-year period immediately before the date of application." (Emphasis added.)

When renewal was sought under the old rule, the holder of an IA whose mechanic certificate or rating was suspended could still be said to have "held" that certificate during the time of suspension. However, the certificate could not be said to be "in effect" while it was suspended. Accordingly, after Amendment 65-22, the IA could not be renewed at the end of the year because at renewal time (authorization expires on March 31) the mechanic certificate or rating would not have been continuously in effect during the preceding 3 years. Therefore, the mechanic would not be eligible again for an IA until 3 years after the end of the suspension of the mechanic certificate. Moreover, because the eligibility requirements for issuance of a certificate are considered to be continuing requirements which must be met as long as certificate is held, an IA does not "become effective" again under § 65.91 at the end of the suspension of the mechanic certificate.

At the time Amendment 65-22 was adopted, the FAA was aware that adding the words "continuously in effect" to § 65.91(c)(1) would have this result. It was considered appropriate because the privileges and responsibilities that a person is charged with while holding the IA are greater than those of a certificated mechanic. Under § 65.95, the holder of an IA may inspect and approve for return to service certain aircraft or related parts or appliances after a major repair or major alteration to it in accordance with Part 43 of the FAR and perform annual and progressive inspections. Although a mechanic is authorized to perform much of the associated maintenance work underlying these functions, the IA holder is ultimately responsible for ensuring that the work is done in accordance with the FAR.

This 3-year-long period of ineligibility, however, has had an unintended inhibiting effect on the FAA's enforcement program. Amendment 65-22 has had a significant impact on the action taken against a mechanic for relatively minor to moderate violations. As a result of Amendment 65-22, a short-term suspension of a certificate or rating for a relatively minor offense effectively revokes an IA for a period of 3 years. Further, this creates the unusual situation where an action for revocation of an IA could have less of an impact on the mechanic involved than a 5-day suspension of a single rating on his or her mechanic certificate. (In most cases, a mechanic whose IA has been revoked may reapply after 1 year.) Not every action that warrants the suspension of a mechanic certificate evidences a lack of responsibility sufficient to justify such a long-term ineligibility for an IA. As a result, enforcement personnel have been reluctant in some cases to produce such results.

In attempting to resolve this problem, the FAA has reviewed the requirement of § 65.91(c)(1) and has determined that it is unnecessary as a means of ensuring that only responsible persons continue to exercise IA privileges. First, the suspension or revocation of a mechanic certificate or rating does result in loss of IA privileges. Section 65.92(a) provides that the holder of an IA may exercise the privileges of that authorization only while he or she holds a currently effective mechanic certificate with both a currently effective airframe rating and a currently effective powerplant rating. In addition, the cause that gave rise to suspension of the IA holder's mechanic certificate or rating may also warrant suspension of an IA for a longer period of time and may even justify revocation of the IA. Revocation of the IA may be justified when the person's actions evidence a lack of responsibility indicating that the mechanic should not be allowed to exercise the inspection and other privileges prescribed by § 65.95. Also, section 609 of the Federal Aviation Act of 1958, as amended (FAAct), provides that the FAA may reexamine any civil airman, including the holder of an IA. The FAA may reexamine, for instance, when there is reason to believe that the holder of an IA may not be qualified to exercise his or her privileges. If, as a result of this reexamination, the FAA determines that safety in air commerce or air transportation and the public interest require, the FAA may issue an order suspending or revoking the IA. Thus, the cause that gave rise to the suspension of the IA holder's mechanic certificate may also warrant reexamination to determine his or her qualification to hold an IA. The results of this reexamination may warrant suspending or revoking the IA.

Discussion of the Comments

Interested persons were afforded the opportunity to participate in the making of this amendment by Notice 84-16 (49 FR 35652; September 11, 1984). Due consideration has been given to all comments presented in response to this notice.

Sixteen of the 19 public comments received are favorable. Many of these favorable commenters agree that the proposal would reduce an unfair penalty imposed on any IA holder who has had his or her mechanic certificate or rating temporarily suspended by removing the requirement that the certificate and ratings be continuously in effect for 3 years at the time of the IA renewal.

Three commenters who are not in favor of this notice state that any time a certificated mechanic holding an IA has violated the regulations to such an extent as to cause a suspension of the mechanic certificate, that suspension

should also affect his or her IA privileges. Two of these commenters state that a mechanic having his or her certificate or a rating suspended should have to prove his or her competency again to the satisfaction of the Administrator.

The FAA agrees, in part, with the above commenters that there are enforcement cases where suspensions or revocations of IA's or reexaminations of IA holders may be necessary. Under the authority of Section 609 of the FAAct, the FAA may reexamine an airman, including an IA. Therefore, when there is a question of an IA holder's qualification to exercise the privileges of the authorization, the FAA may reexamine the airman. Based on this reexamination or any other investigation, the FAA may suspend or revoke the airman's IA. The FAA has determined that its continued ability to suspend or revoke an IA or to reexamine an IA holder, when circumstances warrant, provides adequate protection against unqualified persons exercising IA privileges, without imposing an undue burden on mechanics for minor violations.

One commenter states that this NPRM is a timely response by the FAA to an unintended result of the rulemaking process and that it will relieve a significant burden to both individual certificate holders and the Administrator's enforcement personnel without derogation in air safety.

A professional organization states that the present regulations pose an unnecessary secondary penalty on any holder of an IA who is punished for a slight infraction of the regulations by suspension of either or both of the airframe and powerplant ratings. The organization believes that the public interest will not be compromised and that the economic impact will be positive because a highly trained individual will be returned to the wage-earning rolls more quickly.

Accordingly, the FAA is amending § 65.91 to return to the requirements which existed prior to Amendment 65–22 and is clarifying these requirements to provide that an otherwise eligible applicant need only hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating which have been in effect for a total of at least 3 years. This revision will remove any inequity associated with the renewal process and will provide more flexible and fair enforcement program for IA holders, without derogation of the original certification standards.

Regulatory Assessment

This rule will relax an unnecessary requirement for original issuance or renewal of an IA. It also will eliminate a double penalty currently imposed on any IA holder who, as a result of a suspension, becomes ineligible for renewal solely because his or her mechanic certificate or ratings were not continuously in effect during the 3-year period preceding the annual IA renewal.

This rule will not impose any costs, other than the cost of publishing the rule. Benefits of the proposed rule will accrue from the elimination of income loss due to an individual's not being permitted to renew an IA for 3 years from the date of a suspension. The actual benefits will be inconsequential because, once the full impact of the current rule was fully realized, the FAA imposed few suspensions on IA holders. Thus, very few IA holders actually will be affected by this rule. Comments to the NPRM did not disclose any data or facts to contradict this position. In light of the lack of costs and benefits, the FAA finds that a regulatory evaluation is not warranted.

Trade Impact Assessment

This rule will have no impact on trade opportunities for either U.S. firms doing business overseas or foreign firms doing business in the United States.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to ensure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

This amendment will relax requirements for issuance and renewal of an IA and will impose no additional burden. Further, the number of persons who would be unable to renew their IA's if the current rule is not changed is minimal compared with the total number of IA holders.

The FAA finds that this rule will not have a significant economic impact, either beneficial or detrimental, on a substantial number of small entities. Therefore, a regulatory flexibility determination is not required.

Need for Immediate Adoption

This amendment will provide immediate relief and reduce a regulatory burden on persons who have had their mechanic certificates or ratings suspended by permitting them to be eligible for issuance or renewal of their IA's provided their mechanic certificate or ratings have been reinstated.

Immediate adoption will permit persons who have had their mechanic certificates or ratings suspended since the last IA renewal date (March 31) to be eligible again on the following year's renewal date provided they meet all of the requirements of §§ 65.91, 65.92, and 65.93 of the FAR.

This amendment will also permit persons who had previously become ineligible for a 3-year period, because of suspension of their mechanic certificates or ratings, to immediately become eligible for issuance of IA's provided that their mechanic certificates or ratings have been reinstated and they meet the requirements of § 65.91 of the FAR.

Finally, adoption of this amendment will not impose any burden on persons affected. Therefore, for these reasons, I find that good cause exists for making this amendment effective in fewer than 30 days.

Conclusion

This amendment will relax the requirements for initial issuance and renewal of an inspection authorization and thus will not impose an additional burden on any person. Accordingly, it has been determined that this action is not a major rule under Executive Order 12291, and it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For these reasons and because the number of persons who would be unable to renew their IA's if the current rule is not changed is minimal in comparison to the total number of IA holders, I certify that under the criteria of the Regulatory Flexibility Act, this proposal will not have a significant economic impact, positive or negative, on a substantial number of small entities. In addition, the FAA has determined that the expected economic impact of this proposal is so minimal that a full regulatory evaluation is not required.

List of Subjects in 14 CFR Part 65

Airmen other than flight crewmembers, Inspection authorization, Mechanic certification, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, § 65.91 of the Federal Aviation Regulations (14 CFR 65.91) is amended as follows, effective April 19, 1985.

PART 56—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

By revising § 65.91(c)(1) to read as follows:

§ 65.91 Inspection authorization.

* * * * *

(c) * * *

(1) Hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective and has been in effect for a total of at least 3 years;

* * * * *

(Secs. 313(a), 314(a), 601, 602, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355(a), 1421, 1422, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-499, January 12, 1983))

Issued in Washington, D.C., on April 1, 1985.

Donald D. Engen,

Administrotor.

[FR Doc. 85-9443 Filed 4-18-85; 8:45 am]

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federal register

Friday
April 19, 1985

Part V

General Services Administration

Changes to Federal Travel Regulations; Notice

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR A–40, Supp. 14]

Changes to Federal Travel Regulations

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Notice of changes to Federal Travel Regulations (FTR).

SUMMARY: GSA has issued GSA Bulletin FPMR A–40, Supplement 14, to transmit a change to the Federal Travel Regulations (FTR), FPMR 101–7, implementing new provisions authorizing payment of a relocation income tax (RIT) allowance for reimbursement of additional Federal, State, and local income taxes incurred by transferred Federal employees as a result of certain relocation expense reimbursements.

EFFECTIVE DATE: The new provisions transmitted by Supplement 14 are effective for transferred employees whose effective date of transfer is on or after November 14, 1983, or on or after October 12, 1984, for certain specified provisions. The effective date of transfer means the date on which the employee reports for duty at the new official station.

FOR FURTHER INFORMATION CONTACT: Staff members, Travel and Transportation Regulations Division (FTA), Office of Transportation, (703) 557–1253 and 557–1256 or FTS 557–1253 and 557–1256.

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

Authority

1. Section 118 of Pub. L. 98–151 (97 Stat. 977), November 14, 1983, amended the statutory authority for the Federal employee relocation allowances contained in subchapter II of chapter 57, title 5, United States Code by adding new section 5724b authorizing reimbursement of "all or part" of the additional Federal, State, and "city" income taxes incurred by a transferred employee as a result of reimbursement for certain defined moving expenses.

2. Section 120 of Pub. L. 98–473 (98 Stat. 1968), October 12, 1984, amended the authority in 5 U.S.C. 5724b for the relocation income tax (RIT) allowance to (1) authorize reimbursement of "substantially all" (rather than all or part) of the additional Federal, State, and "local" (rather than only city) income taxes and (2) redefine the types of moving expenses covered by section 5724b to specifically include relocation services under 5 U.S.C. 5724c and to exclude expenses for nontemporary storage of household goods.

3. By Executive Order No. 12466, February 27, 1984, which amended Executive Order No. 11609, July 22, 1971, the President delegated authority to the Administrator of General Services to, among other things, prescribe regulations, in consultation with the Secretary of the Treasury, to implement 5 U.S.C. 5724b relating to reimbursement of additional income taxes incurred by transferred employees resulting from reimbursement for relocation expenses.

Guidelines to Agencies

1. The provisions of Part 11 to Chapter 2, FTR, give the agency the discretion to determine whether the actual calculation of the new allowance should be done by the employee or by an appropriate official. However, agencies are encouraged, at least during the initial implementation period, to either calculate the allowance for employees based on employee furnished information or provide as much assistance to employees as may be necessary to expedite payments or preclude erroneous claims.

2. Agencies should insure that employees understand that the statutory authority (Public Laws 98–151 and 98–473) for the RIT allowance as prescribed in the attached FTR change did not make changes to the Internal Revenue Code or State or local tax codes. Consequently, the authority for reimbursement of additional income taxes incurred as a result of moving expense reimbursements shall not be construed as changing or limiting the employee's income tax obligations in any way or as authorizing a refund of these taxes when filing a return with the IRS or other recognized tax authority. The RIT allowance must be claimed and paid on the SF 1012 (Travel Voucher) or other authorized travel voucher form, the same as other moving expense allowances.

Explanation of Changes

The attachment to GSA Bulletin FPMR A–40, Supplement 14, amends the FTR by adding Part 11 to Chapter 2, implementing policies and procedures for payment of a relocation income tax (RIT) allowance. Supplement 14 also transmits a change to Part 12, Chapter 2 (paragraph 2–12.7) by deleting the exclusion of certain payments to relocation companies from coverage by the RIT allowance.

Accordingly, the Federal Travel Regulations (FTR) are amended as follows:

CHAPTER 2—RELOCATION ALLOWANCES

1. **Authority:** (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)); 5 U.S.C. 5707; Executive Order No. 11609, July 22, 1971 and No. 12466, February 27, 1984.)

2. Chapter 2 of the FTR is amended by adding Part 11 to read as follows:

PART 11—RELOCATION INCOME TAX (RIT) ALLOWANCE

2–11.1. Authority.

Payment of a relocation income tax (RIT) allowance is authorized to reimburse eligible transferred employees for substantially all of the additional Federal, State, and local income taxes incurred by the employee, or by the employee and spouse if a joint tax return is filed, as a result of certain travel and transportation expenses and relocation allowances which are furnished in kind, or for which reimbursement or an allowance is provided by the Government (5 U.S.C 5724b, as amended). The RIT allowance shall be calculated and paid as provided in this Part 11.

2–11.2. Coverage.

a. *Eligible employees.* Payment of a RIT allowance is authorized for employees transferred on or after November 14, 1983, in the interest of the Government from one official station to another for permanent duty. The effective date of an employee's transfer is the date the employee reports for duty at the new official station as provided in paragraph 2–1.4j.

b. *Individuals not covered.* The provisions of this Part 11 are not applicable to the following individuals or employees:

(1) New appointees as defined in 2–1.5e, including those covered under 2–1.5f (i.e., new appointees to shortage category or Senior Executive Service positions, and new Presidential appointees) and 2–1.5g(2) (i.e., new appointees to overseas posts of duty);

(2) Employees assigned under the Government Employees Training Act (see 5 U.S.C. 4109); or

(3) Employees returning from overseas assignments for the purpose of separation.

2–11.3. Types of moving expenses or allowances covered and general limitations.

The RIT allowance is by law limited as to the types of moving expenses that can be covered. The law authorizes reimbursement of additional income taxes resulting from certain moving expenses furnished in kind or for which reimbursement or an allowance is provided to the transferred employee by the Government. However, such moving expenses are covered by the RIT allowance only to the extent that they are (1) actually paid or incurred, and (2) are not allowable as a moving expense deduction for tax purposes. The types of expenses or allowances listed in a through i, below, are covered by the RIT allowance within the limitations discussed.

a. *En route travel.* Travel (including per diem) and transportation expenses of the transferred employee and immediate family for en route travel from the old official station to the new official station. (See FTR Part 2–2.)

b. *Household goods shipment.* Transportation (including temporary storage) expenses for movement of household goods from the old official station to the new official station. (See FTR Part 2–8.)

c. *Nontemporary storage expenses.* Allowable expenses for nontemporary storage of household goods belonging to an employee transferred on or after November 14, 1983, through October 11, 1984, to an isolated location in the conterminous United States. (See FTR 2–9.1.) Nontemporary storage expenses are not covered by the RIT allowance for transfers on or after October 12, 1984. (See 2–11.4c).

d. *Mobile home movement.* Expenses for the movement of a mobile home for use as a residence when movement is authorized instead of shipment and temporary storage of household goods. (See FTR Part 2–7.)

e. *Househunting trip.* Travel (including per diem) and transportation expenses of the employee and spouse for one round-trip to the new official station to seek permanent residence quarters. (See FTR Part 2–4.)

f. *Temporary quarters.* Subsistence expenses of the employee and immediate family during occupancy of temporary quarters. (See FTR Part 2–5.)

g. *Real estate expenses.* Allowable expenses for the sale of the residence (or expenses of settlement of an unexpired lease) at the old official station and for purchase of a home at the new official station for which reimbursement is received by the employee. (See FTR Part 2–6.)

h. *Miscellaneous expense allowance.* A miscellaneous expense allowance for the purpose of defraying certain expenses associated with discontinuing a residence at one location and establishing a residence at the new location in connection with an authorized or approved permanent change of station. (See FTR Part 2–3.)

i. *Relocation services.* Payments, or portions thereof, made to a relocation service company for services provided to a transferred employee (see FTR Part 2–12), subject to the conditions stated below and within the general limitations of this paragraph applicable to other covered expenses.

(1) *For employees transferred on or after November 14, 1983, through October 11, 1984.* The amount of a broker's fee or real estate commission or other real estate sales transaction expenses which normally are reimbursable to the employee under 2–6.2 but have been paid by a relocation service company incident to an assigned sale from the employee, provided that such payments constitute income to the employee. For the purposes of this regulation, an assigned sale occurs when an employee obtains a binding agreement for the sale of his/her residence and assigns the inherent rights and obligations of that agreement to a relocation company that is providing services under contract with the employing agency. For example, if the employee incurs an obligation to pay a specified broker's fee or real estate commission under the terms of the sales agreement, this obligation along with the sales agreement is assigned to the relocation company and may, upon payment of the obligation by the relocation company, constitute income to the employee. (See 2–12.7 entitled "Income tax consequences of using relocation companies.")

(2) *For employees transferred on or after October 12, 1984.* Expenses paid by a relocation company providing relocation services to the transferred employee pursuant to a contract with the employing agency to the extent such payments constitute income to the employee. (See 2–12.7.)

Note.—See FTR reference shown in parentheses for reimbursement provisions for each allowance listed in a through i, above. See Section 217 of the Internal Revenue Code (IRC) and Internal Revenue Service (IRS) Publication 521 entitled "Moving Expenses" and appropriate State and local tax authority publications for additional information on the taxability of moving expense reimbursements and the allowable tax deductions for moving expenses.

2–11.4. Exclusions from coverage.

The provisions of this Part 11 are not applicable to the following:

a. Any tax liability that may result from payments by the Government to relocation companies on behalf of employees transferred on or after November 14, 1983, through October 11, 1984, other than the payments for those expenses specified in 2–11.3i(1).

b. Any tax liability incurred for local income taxes other than city income tax as a result of moving expense reimbursements for employees transferred on or after November 14, 1983, through October 11, 1984. (See definition in 2–11.5b.)

c. Any tax liability resulting from reimbursed expenses for any nontemporary storage of household goods except as specifically provided for in 2–11.3c.

d. Any tax liability resulting from paid or reimbursed expenses for shipment of a privately owned automobile.

e. Any tax liability resulting from an excess of reimbursed amounts over the actual expense paid or incurred. For instance, if an employee's reimbursement for the movement of household goods is based on the commuted rate schedule and his/her actual moving expenses are less than the reimbursement, the difference is not covered by the RIT allowance. (See 2–11.8c(2)(a).)

f. Any tax liability resulting from an employee's decision not to deduct moving expenses for which a tax deduction is allowable under the Internal Revenue Code or appropriate State and local tax codes. (See 2–11.8b(1) and 2–11.8c(2).)

2–11.5. Definitions and discussion of terms.

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

a. *State income tax.* A tax, imposed by a State tax authority, that is deductible for Federal income tax purposes as a State income tax under section 164(a)(3) of the IRC. "State" means any one of the several States of the United States and the District of Columbia.

b. *Local income tax.* A tax, imposed by a recognized city or county tax authority, that is deductible for Federal income tax purposes as a local (city or county) income tax under section 164(a)(3) of the IRC; except that, for employees transferred on or after November 14, 1983, through October 11, 1984, local income tax shall be

construed to mean only city income tax. For purposes of this regulation:

(1) "City" means any unit of general local government which is classified as a municipality by the Bureau of the Census, or which is a town or township that in the determination of the Secretary of the Treasury possesses powers and performs functions comparable to those associated with municipalities, is closely settled, and contains within its boundaries no incorporated places as defined by the Bureau of the Census (31 CFR 215.2(b)(1)).

(2) "County" means any unit of local general government which is classified as a county by the Bureau of the Census (31 CFR 215.2(e)).

c. *Covered moving expense reimbursements or covered reimbursements.* As used herein, these terms include those moving expenses listed in 2–11.3 which may be furnished in kind, or for which reimbursement or an allowance is provided by the Government.

d. *Covered taxable reimbursements.* Covered moving expense reimbursements minus the allowable tax deductions for moving expenses. (See determination in 2–11.8c.)

e. *Year 1 or reimbursement year.* The calendar year in which reimbursement or payment for moving expenses is made to, or for, the employee under the provisions of the FTR, Chapter 2. All or part of these reimbursements (see 2–11.6) are reported as income (wages, salary or other compensation) to the employee for that tax year under the provisions of the IRC and IRS regulations, and an obligation for Federal tax withholding is incurred. The withholding tax allowance (WTA) (see 1, below) is calculated in Year 1, to cover the employee's Federal tax withholding obligations each time reimbursements are made that result in a withholding obligation. For purposes of this regulation, an advance of funds for any of the covered moving expenses is not considered to be a reimbursement or a payment until the travel voucher settlement for such expenses takes place. If an employee's reimbursement for moving expenses is spread over more than one year, he/she will have more than one Year 1.

f. *Year 2.* The calendar year following Year 1 in which the employee files a tax return reflecting his/her tax liability for income received in Year 1. The RIT allowance is calculated in Year 2 and paid to cover the additional tax liability (resulting from moving expense reimbursements received in Year 1) not covered by the WTA paid in Year 1. If an employee's covered taxable reimbursements are spread over more than one year, he/she will have more than one Year 2.

g. *Federal withholding tax rate (FWTR).* The tax rate applied to incremental income to determine the amount to be withheld from salary or other compensation such as moving expense reimbursements. Because moving expense reimbursements constitute supplemental wages for Federal income tax purposes, the 20 percent flat rate of withholding is generally applicable to such reimbursements (see 2–11.7c). Agencies should refer to the Treasury Fiscal Requirements Manual, ITFRM 3–5000, and applicable IRS regulations for complete information on this subject.

h. *Earned income.* For purposes of the RIT allowance, "earned income" shall include only the gross compensation (salary, wages, or other compensation such as moving expense reimbursements and the WTA) that is reported as income on IRS Form W–2 for the employee (employee and spouse, if filing jointly), and if applicable, the net earnings (or loss) from self-employment income shown on Schedule SE of IRS Form 1040. Earned income may be from more than one source. (See 2–11.8d.)

i. *Marginal tax rate (MTR).* The tax rate (for example 40%) applicable to a specific increment of income. The Federal and State marginal tax rates to be used in calculating the RIT allowance are provided in appendices 2–11.A and B. See 2–11.8e(3) for instructions on local marginal tax rate determinations.

j. *Combined marginal tax rate (CMTR).* A single rate determined by combining the applicable margin tax rates prescribed herein for Federal, State and local income taxes, using the formula provided in 2–11.8e(4).

k. *"Gross-up."* Payment for the estimated additional income tax liability incurred by an employee as a result of reimbursements or payments by the Government for the covered moving expense reimbursements listed in 2–11.3. (See total RIT allowance in m, below.)

l. *"Gross-up" formula.* The formula used to determine the amount of the "gross-up". The formula used herein (see 2–11.7d and 2–11.8f) compensates the employee for the initial tax, the tax on tax, etc. The formula assumes that the combined marginal tax rate for Year 2 and subsequent tax years will be the same as the one for Year 1 (see 2–11.8b(1)(c)).

m. *Total RIT allowance or "gross-up."* The amount of payment, computed in Year 2 by applying the "gross-up" formula, required to cover substantially all of the estimated additional tax liability incurred as a result of the covered moving expense reimbursements received in Year 1. (See k and l, above, and 2–11.8f.)

n. *Final RIT allowance or final "gross-up."* The total RIT allowance or "gross-up" less the WTA (see o, below). The final RIT allowance or final "gross-up" is calculated and paid in Year 2. (See 2–11.8f.)

o. *Withholding tax allowance (WTA).* The withholding tax allowance (WTA) is an estimated partial payment of the total RIT allowance. The WTA covers the employee's Federal tax withholding liability on covered taxable reimbursements. The amount is computed by applying the "gross-up" formula (using the Federal withholding tax rate) each time that a Federal withholding obligation is incurred on moving expense reimbursements in Year 1. "Grossing-up" the Federal withholding amount protects the employee from having to use part of his/her moving expense reimbursement to pay Federal withholding taxes. The amount of the WTA is considered income to the employee. (See 2–11.7.)

2–11.6. Procedures in general.

a. This regulation sets forth procedures for the computation and payment of the RIT allowance and defines agency and employee responsibilities. This regulation does not require changes to those internal fiscal procedures established by individual agencies pursuant to IRS regulations, or the Treasury Fiscal Requirements Manual, provided that the intents of the statute authorizing the RIT allowance and this regulation are not disturbed.

b. The total amount reimbursed or paid to the employee, or on his/her behalf, for travel, transportation and other relocation expenses and allowances is includable in the employee's gross income pursuant to the Internal Revenue Code (IRC) and certain State and local government tax codes. Some expenses for which reimbursements are received may be deducted from income by the employee as moving expense deductions, subject to certain limitations prescribed by the IRS or pertinent State or local tax authorities. Reimbursements for nondeductible moving expenses are subject to income tax. (See IRS Publication 521 entitled "Moving Expenses" and the appropriate State and local tax codes for detailed information.)

c. Usually, if the employee is reimbursed for nondeductible moving expenses, the amount of these reimbursements is subject to withholding of Federal income tax at the

time of reimbursement. Under existing fiscal procedures, the amount of the employee's withholding obligation is usually deducted either from reimbursements for the moving expenses at the time of reimbursement or from the employee's salary. Procedures prescribed herein are not intended to change ongoing fiscal procedures in this area. (See Treasury Fiscal Requirements Manual for Federal Agencies.)

d. Payment of a withholding tax allowance (WTA) established herein will offset deductions for the Federal withholding taxes, on moving expense reimbursements and on the WTA itself, from the employee's moving expense reimbursements or from salary. The amount of the WTA is then deducted from the total RIT allowance computed the following year to arrive at the final RIT allowance.

e. The total amount of the RIT allowance can be computed after the end of Year 1 as soon as gross compensation and total covered taxable reimbursements can be determined.

f. Procedures are prescribed in 2–11.7 and 2–11.8 for computation and payment of the WTA and the final RIT allowance. These procedures are intended to build on existing fiscal procedures regarding reporting of employee income from reimbursements and withholding of taxes on supplemental wages.

2–11.7. Procedures for determining the withholding tax allowance (WTA) in Year 1.

a. *General rules.* The withholding tax allowance (WTA) is an estimated partial payment of the RIT allowance designed to cover the employee's Federal withholding tax obligation resulting from moving expense reimbursements. Withholding tax obligations, if any, for State and/or local income taxes on moving expense reimbursements are not covered by the WTA. The WTA will be calculated by the agency as provided below and credited to the employee on the travel voucher at the time reimbursement is made for certain moving expenses. The amount of the WTA is equal to the Federal withholding tax obligation incurred by the employee on covered moving expense reimbursements (which are not offset by deductible moving expenses) and on the WTA itself. The amount of the WTA is considered to be income to the employee and should, along with the amount of moving expense reimbursements, be reported on IRS Form W–2 and furnished to the employee on IRS Form 4782 (Employee Moving Expense Information) or another itemized listing of moving expense reimbursements. The total amount of all WTA's paid during Year 1 shall be deducted from the total RIT allowance calculated after the end of Year 1. The agency shall advise the employee that if the total amount of all WTA's paid in Year 1 exceeds the total RIT allowance which the employee is entitled to in Year 2, he/she is obligated to repay the excess amounts as a debt due the Government as provided in 2–11.9b(3). The WTA shall be calculated, accounted for, and reported as provided in b through f, below.

b. *Determination of amount of reimbursement subject to withholding.* Each time that moving expenses are reimbursed to the employee, or paid on behalf of the employee, IRS regulations require that the agency determine the amount of those reimbursements that it reasonably believes will be deductible moving expenses. Reimbursements for nondeductible moving expenses are then subject to withholding of Federal income tax. Since there are some relocation expenses which may be reimbursed but are not covered reimbursements under the RIT allowance, such as nontemporary storage of household goods (HHG) (see exclusions in 2–11.4), the amount of the nondeductible moving expenses may be different than the actual amount of covered taxable reimbursements which is subject to withholding. Because the difference in these amounts should not be substantial and the WTA is an estimated partial payment of the RIT allowance, the amount of nondeductible moving expenses subject to Federal withholding tax, as determined by the agency pursuant to IRS regulations, may be used in computing the WTA.

c. *Determination of Federal withholding tax rate (FWTR).* Because moving expense reimbursements constitute supplemental wages for Federal income tax purposes, the 20 percent flat rate of withholding is generally applicable to income generated by such reimbursements. The 20 percent rate shall be used in calculating the WTA unless under an agency's internal fiscal (withholding) procedures a different withholding rate is normally used pursuant to IRS tax regulations. In such cases, the applicable withholding rate shall be substituted for the 20 percent rate in the calculation shown in d, below.

d. *Calculation of withholding tax allowance (WTA).*

(1) The WTA is calculated by substituting the amounts determined in 2–11.7 b and c, above, into the gross-up formula shown below. The amount of nondeductible moving expenses (from 2–11.7b) is multiplied by the fraction of the FWTR (from 2–11.7c; generally 20 percent) over 1 minus the FWTR.

These calculations are expressed in the "gross-up" formula as follows:

Formula:

$$Y = \frac{X}{1-X}(N)$$

where

Y = WTA

X = FWTR (generally, 20 percent)

N = nondeductible moving expenses

Example: If

X = 20 percent

N = $21,800

Then

$$Y = \frac{.20}{1.00-.20}(\$21,800)$$

Y = .25 ($21,800)

Y = $5,450

(2) The WTA may be calculated several times within Year 1 if reimbursements for nondeductible moving expenses are made on more than one travel voucher. Each time an employee is reimbursed for nondeductible moving expenses which are subject to Federal tax withholding, the WTA will be calculated and shown on the employee's travel voucher as an estimated allowance paid to cover the Federal tax withholding amount and its subsequent tax impact.

e. *Determination of employee's Federal withholding tax on WTA.* Since the amount of the WTA is considered income to the employee, it is subject to Federal tax withholding (generally at the 20 percent rate). The Federal tax withholding on the WTA should be calculated and handled in the same manner as withholding on nondeductible moving expenses. (Note: As a cross-check on the accuracy of the WTA computation, the withholding amount on the nondeductible moving expenses plus the withholding on the WTA should equal the WTA amount calculated in d, above.) After deducting all withholding amounts (withholding on the WTA and withholding on the nondeductible moving expenses) from the amount of the employee's reimbursements (including the WTA), the balance of the amount due the employee as shown on the travel voucher should be the original amount of reimbursement for the moving expenses.

f. *End of year reporting.* At the end of the year, agencies generally are required to issue IRS Forms W–2 for each employee showing total gross compensation (including moving

expense reimbursements) and the applicable amount of Federal taxes withheld. For tax reporting purposes, the WTA is to be treated as a moving expense reimbursement. The total amount of the employee's WTA's calculated during the year should be reflected, along with the applicable Federal withholding amount, on the employee's Form W–2. The total amount of the WTA's will also be furnished to the employee on IRS Form 4782 or another itemized listing provided for the employee's use in preparing his/her tax return and in claiming the RIT allowance as provided in 2–11.8.

2–11.8. Rules and procedures for determining the RIT allowance in Year 2.

a. *Summary/overview of procedures.* The RIT allowance will be calculated and claimed in Year 2. This can be accomplished as soon as the employee can determine earned income (as defined herein), income tax filing status, and covered taxable reimbursements for the Year 1. The RIT allowance is then calculated using the appropriate tax tables and the "gross-up" formula under procedures prescribed herein. The total amount of all WTA's paid in Year 1 is deducted from the RIT allowance yielding the final amount of the RIT allowance due the employee in Year 2. This final amount also is considered income. The appropriate amount of withholding taxes on the final RIT allowance is deducted and the balance constitutes the net payment to the employee. Rules, procedures, examples, and prescribed tax tables for these calculations are provided in b through h, below, and in the figures and appendices to this Part 11.

b. *General rules and assumptions.*

(1) The procedures prescribed herein for calculation and payment of the RIT allowance are based on certain assumptions jointly developed by GSA and IRS, and tax tables developed by IRS. This approach avoids a potentially controversial and administratively burdensome procedure requiring the employee to furnish extensive documentation, such as certified copies of actual tax returns and reconstructed returns, in support of a claim for a RIT allowance payment. Specifically it has been assumed that:

(a) the employee will claim moving expense deductions for the same tax year in which the corresponding moving expense reimbursements are reflected as income;

(b) the employee will claim the maximum amount of deductible moving expenses allowable under the IRS tax rules when filing his/her tax return; and

(c) the employee's (and spouse's, if a joint return is filed) earned income, combined marginal tax rate, and filing status for Year 1, used to determine the amount of the RIT allowance, will remain the same or will not be substantially different in the second and subsequent tax years.

(2) The prescribed procedures which yield an estimate of an employee's additional tax liability due to moving expense reimbursements are to be used uniformly. They are not to be adjusted to accommodate an employee's unique circumstance which may differ from the assumed circumstances stated in (1), above.

(3) An adjustment of the final RIT allowance paid in Year 2 for the covered taxable reimbursements received in Year 1 is required if the tax information certified to on the RIT allowance claim is different than that shown on the actual Federal tax return filed with IRS for Year 1 or changed for any reason after filing of the tax return, so as to affect the combined marginal tax rate used in the RIT allowance calculation. (See 2–11.10 for claims procedures.)

c. *Determination of amount of covered taxable reimbursements.*

(1) Generally, the amount of the covered taxable reimbursements is the difference between (a) the amount of covered moving expense reimbursements for the allowances listed in 2–11.3 that was included in the employee's income in Year 1, and (b) the maximum amount of allowable moving expenses that may be claimed by the employee on his/her Federal tax return under IRS tax regulations to offset the income resulting from moving expense reimbursements for Year 1.

(2) For purposes of the RIT allowance, the following special rules apply to the determination of moving expense deductions to offset moving expense reimbursements reported as income:

(a) The total amount of reimbursement (which was reported as income) for the expenses of en route travel for the employee and family (see 2–11.3a) and transportation (including up to 30 days temporary storage) of household goods (see 2–11.3b) to the new official station shall be used as a moving expense deduction.

(b) The total amount of reimbursement for a househunting trip, temporary quarters (up to 30 days at new station) and real estate transaction expenses (see 2–11.3e, f, g, and i), up to the maximum allowable deduction under IRS tax regulations, shall be used as a moving expense deduction. For example, an employee and spouse filing a joint return for the 1984 tax year and residing in the same household at the end of the tax year may deduct up to $3,000 for these expenses. (No more than $1,500 of the $3,000 may be claimed for househunting trips and temporary quarters expenses combined). If the employee was reimbursed $1,350 for the househunting trip and temporary quarters expenses and $9,000 for real estate expenses, the moving expense deductions would be $1,350 for the househunting trip and temporary quarters expenses and $1,650 for real estate expenses. If the employee's reimbursement was $1,850 for the househunting trip and temporary quarters expenses and $9,000 for real estate expenses, the moving expense deductions would be $1,500 for the househunting trip and temporary quarters expenses and $1,500 for real estate expenses. If the employee had no reimbursement for the househunting trip and temporary quarters, the full $3,000 would be applied to the $9,000 reimbursement for real estate expenses. (See IRS Publication 521, "Moving Expenses," for these and other maximums which vary by situation and filing status.)

(3) Procedures and examples are provided herein as if all moving expense reimbursements are received in one year with all moving expense deductions applied in that same year to arrive at the covered taxable reimbursements. However, when reimbursements span more than one year, the amount of covered taxable reimbursements must be determined separately for each reimbursement year (Year 1). The maximum moving expense deductions apply to the entire move. Under IRS tax regulations the employee has some discretion as to when he/she claims these deductions (e.g., in the year of the move when the expenses was paid or in the year of reimbursement, if these actions do not occur in the same year). However, for purposes of the RIT allowance procedures, the moving expense deductions will be applied in the year that the corresponding expense reimbursement is made. For example, if an employee incurred and was reimbursed $1,000 for a househunting trip and temporary quarters in 1984 and an additional $1,000 for temporary quarters in 1985, this employee, according to his/her particular situation and tax filing status, may deduct $1,500 of these expenses in moving expense deductions. In calculating the RIT allowance for 1984, $1,000 of the $1,500 deduction is used to offset the $1,000 reimbursement in 1984 resulting in zero covered taxable reimbursements for the househunting trip and temporary quarters for 1984.

The remaining $500 (balance of the $1,500 not used in determining covered taxable reimbursements for 1984) will be used to offset the $1,000 temporary quarters reimbursement in 1985 (second Year 1), leaving $500 of the temporary quarters reimbursement as a covered taxable reimbursement for 1985.

(4) Although the WTA amount is included in income (see 2–11.7), it shall not be included in the amount of covered taxable reimbursements. Under the procedures and formulas established herein, the proper amount of the RIT allowance is calculated using the gross-up formula with covered taxable reimbursements without the WTA included.

(5) Agencies are cautioned that there may be moving expenses reimbursed to the employee that are not covered by the RIT allowance. (See exclusions in 2–11.4; also see discussion in 2–11.7 regarding covered taxable reimbursements versus nondeductible expenses.)

(6) An example showing how to calculate covered taxable reimbursements is illustrated in Figure 2–11.8a. Also, Figures 2–11.8b. and 2–11.8c show an example of completed IRS Form 4782 (Employee Moving Expense Information) and of IRS Form 3903 (Moving Expense Adjustment) with dollar amounts which correspond to those shown in Figure 2–11.8a.

d. *Determination of income level and filing status.* In order to determine the combined marginal tax rate (CMTR) needed to calculate the RIT allowance, the employee must determine the appropriate amount of earned income (as prescribed herein) that was or will be reported on his/her Federal tax return for the tax year in which the covered taxable reimbursements were received (Year 1). Such amount will also include the spouse's earned income if a joint filing status is claimed. For purposes of this regulation, appropriate earned income shall include only the amount of gross compensation reported on IRS Form(s) W–2, and, if applicable, the net earnings (or loss) from self-employment income as shown on Schedule SE of IRS Form 1040. (Note that moving expense reimbursements including the WTA amounts are to be included in earned income and should be shown as income on the Form W–2; if they are not, other appropriate documentation shall be furnished by the agency.) The earned income level as determined under this provision and the tax filing status (for example, from lines 1 through 5 on the 1984 IRS Form 1040) shall be contained in a certified statement on, or attached to, the voucher claiming the RIT allowance (see 2–11.10).

e. *Determination of the combined marginal tax rate (CMTR).* The gross-up formula used to calculate the RIT allowance in f, below, requires use of a single tax rate which represents the Federal, State and/or local tax rates applicable to the income determined in d, above, for Year 1 for the employee (or employee and spouse). This single tax rate is referred to as a combined marginal tax rate (CMTR). The CMTR will be determined as provided in (1) through (4), below. Note that the marginal tax rates determined below, as well as the income level and filing status, must be furnished by the employee in a certified statement in support of the RIT allowance claim (see 2–11.10).

(1) *Federal marginal tax rate.* The Federal marginal tax rate is determined by using the income level and filing status determined under 2–11.8d and contained in the certified statement by the employee on his/her RIT allowance claim, and applying the prescribed Federal tax tables contained in appendix 2–11.A. For example, if the income level (from 2–11.8d) was $65,000 for a married employee filing a Federal joint return, the Federal marginal tax rate would be 38 percent. This rate would be used regardless of how much of the $65,000 was attributable to reimbursement for the employee's relocation expenses. (Note that this marginal rate is different from the withholding tax rate used for the WTA.) If the employee incurs only Federal income tax (i.e., there are no State or local taxes), the Federal marginal tax rate determined from appendix 2–11.A is the CMTR to be used in the gross-up formula provided in 2–11.8f. In such cases, the provisions of (2) and (3), below, do not apply.

(2) *State marginal tax rate.*

(a) If the employee incurs an additional State income tax (see definition in 2–11.5a) liability as a result of moving expense reimbursements, the State tax table in appendix 2–11.B is to be used to determine the applicable State marginal tax rate that will be substituted into the formula for determining the CMTR. The income level determined in 2–11.8d for Federal taxes shall be used to identify the appropriate income bracket in the State tax table. The applicable State marginal tax rate is obtained from the selected income bracket column for the State where the employee is required to pay State income tax on moving expense reimbursements. The tax rates shown in the table apply to all employees regardless of filing status, except where a separate rate is shown for single filing status.

(b) The lowest income bracket shown in the State tax table in appendix 2–11.B is $20,000–$24,999. In cases where the employee's (employee's and spouse's, if filing jointly) earned income as determined under 2–11.8d is less than this income bracket, an appropriate State marginal tax rate shall be established by the employing agency from the applicable State tax code or regulations issued pursuant thereto. Such State marginal tax rate shall be representative of the earned income level in question but in no case more than the marginal tax rate established in appendix 2–11.B for the $20,000–$24,999 income bracket for the particular State in which an additional income tax obligation has been incurred.

(c) The prescribed State marginal tax rates generally are expressed as a *percent* of *taxable income*. However, if the applicable State marginal tax rate is stated as a *percentage* of the *Federal income tax liability*, the State tax rate must be converted to a percent of taxable income to be used in the CMTR formula in 2–11.8e(4). This is accomplished by multiplying the applicable Federal tax rate by the applicable State tax rate. For example, if the Federal tax rate is 38 percent and the State tax rate is 25 percent of the Federal tax liability, the State tax rate stated as a percent of income would be 9.5 percent.

(d) An employee may incur a State income tax liability on moving expense reimbursements in more than one State at the same or different marginal tax rates. Nevertheless, a single State marginal tax rate must be determined for use in the CMTR formula in 2–11.8e(4). The following general rules shall be applied in determining the applicable single rate.

(i) In the tax year during which the transfer actually takes place, the employee may incur a State income tax obligation at both the old and the new location. However, most moving expense reimbursements will be taxed at the new location. Although the employee may receive some reimbursements (e.g., for a househunting trip, possibly household goods shipment) prior to the actual transfer which would be credited as income at the old location, these types of expenses generally are tax deductible and would not generate an additional State tax liability for the employee. In addition, procedures inherent in the travel voucher reimbursement system tend to cause most reimbursements which may

be taxable to occur after the actual transfer. Therefore, the State marginal tax rate determined under 2–11.8e(2)(a) through (c) for the new location will be used in the CMTR formula.

(ii) There may be instances where the employee is subject to taxes on moving expense reimbursements in two States, in one State because of State residency and in another because a particular State taxes income earned within its jurisdiction irrespective of whether the employee is a resident. If the States recognize such situations by allowing an adjustment or credit for taxes paid to another State, the State marginal tax rate for the State where income tax on moving expense reimbursements is actually paid will be determined and used in the CMTR formula. However, in those situations where there is in fact double taxation on income from moving expense reimbursements and the taxes imposed by both States qualify as a State income tax (as defined in 2–11.5a), the sum of the State marginal tax rates for the two States as determined under 2–11.8e(2)(a) through (c) shall be used in the CMTR formula.

(3) *Local marginal tax rate.* Because of the impracticality of establishing a single marginal tax rate table for local income taxes that could be applied uniformly on a nationwide basis, appropriate local marginal tax rates shall be determined as provided in (a) through (c), below.

(a) If the employee incurs an additional local income tax (see definition 2–11.5b) liability as a result of moving expense reimbursements, he/she shall certify to such fact when claiming the RIT allowance (see certification statement in 2–11.10) by specifying the name of the locality imposing the income tax and the applicable marginal tax rate determined from the actual marginal tax rate table or schedule prescribed by the taxing locality. The marginal tax rate shall be applicable to the taxable income portion of the amount of earned income determined under 2–11.8d for the employee (and spouse, if filing jointly). The employing agency shall establish procedures to determine whether the employee certified local marginal tax rate is appropriate for the employee's income level and filing status and approve its use in the CMTR formula. (See also 2–11.10b(2).)

(b) If the local marginal tax rate is stated as a percentage of Federal or State income tax liability, such rate must be converted to a percent of income for use in the CMTR formula. This is accomplished by multiplying the applicable Federal or State tax rate determined in 2–11.8e(1) or (2) by the applicable local tax rate. For example, if the State tax rate is 6 percent and the local tax rate is 50 percent of State tax liability, the local tax rate stated as a percentage of income would be 3 percent.

(c) The situations described in 2–11.8e(2)(d) with respect to State income taxes may also be encountered with local income taxes. If such situations do occur, the rules prescribed for determining the single State marginal tax rate shall also be applied to determine the single local marginal tax rate for use in the CMTR formula.

(4) *Calculation of the combined marginal tax rate (CMTR).* As stated above, the gross-up formula for calculating the RIT allowance is designed for use with a single combined tax rate. However, the required CMTR cannot be calculated by merely adding the Federal, State and local marginal tax rates together because of the deductibility of State and local income taxes from income for Federal income tax purposes. The State tax tables prescribed in appendix 2–11.B are designed to use the same income amount as that determined for the Federal taxes, which reflects, among other things, State and local tax deductions. The formula prescribed below for calculating the CMTR is designed to adjust the State and local tax rates to compensate for their deductibility from income for Federal tax purposes.

(a) *Both State and local taxes incurred.* If the employee incurs both State and local income taxes on moving expense reimbursements, the following formula shall be used to determine the CMTR:

Formula: $X=F+(1-F)S+(1-F)L$

where
X=CMTR
F=Federal tax rate
S=State tax rate
L=local tax rate
Example: If
F = 38 percent of income
S = 6 percent of income
L = 2 percent of income

Then
$X=.38+(1.00-.38).06+(1.00-.38).02$
$X=.4296$

(b) *State income tax incurred but no local income tax.* If the employee incurs tax liability on moving expense reimbursements for State income tax but none for local income tax, the value of "L" is zero and the formula in (a), above, may be solved as follows:

Formula:
$X=F+(1-F)S+(1-F)L$
Example: If
F=38 percent of income
S=6 percent of income
L=Zero

Then
$X=.38+(1.00-.38).06$
$X=.4172$

(c) *Local income tax incurred but no State income tax.* If the employee incurs a tax liability on moving expense reimbursements for local income tax but none for State income tax, the value of "S" is zero and the formula in (a), above, may be solved as follows:

Formula:
$X=F+(1-F)S+(1-F)L$
Example: If
F=38 percent of income
S=Zero
L=2 percent of income

Then
$X=.38+(1.00-.38).02$
$X=.3924$

f. *Determination of the RIT allowance.* The total RIT allowance for the covered taxable reimbursements received in Year 1 and the final amount of the allowance due the employee are calculated in Year 2 as provided below:

(1) The total RIT allowance is calculated by substituting the amount of covered taxable reimbursements for Year 1 (see 2–11.8c) and the CMTR (see 2–11.8e) attributable to the employee's (employee's and spouse's, if filing jointly) earned income level and filing status (see 2–11.8d) into the "gross-up" formula. The amount of covered taxable reimbursements is multiplied by the fraction of the CMTR over 1 minus the CMTR. For example, if the employee's CMTR was .4296 and the amount of covered taxable reimbursement was $21,800, the total RIT allowance would be $16,419.76.

(2) The employee usually will have been paid one or more WTA's during Year 1 to cover the Federal withholding tax on the reimbursements. Since the WTA is an estimated partial payment of the RIT allowance, the total amount of all WTA's paid during Year 1 shall be deducted from the total RIT allowance to determine the final amount of the RIT allowance payable to the employee in Year 2.

(3) Calculation of the final RIT allowance as provided in (1) and (2), above, may be stated in a final "gross-up" formula as follows:

Formula:

$$Z=\frac{X}{1-X}(R)-Y$$

where
Z=final RIT allowance payable in Year 2
X=CMTR

R = covered taxable reimbursements
Y = total WTA's paid in Year 1

Example: If
X = .4296
R = $21,800
Y = $5,450

Then

$$Z = \frac{.4296}{1.00 - .4296}(\$21,800) - \$5,450$$

Z = .7532 ($21,800) − $5,450
Z = $16,419.76 − $5,450
Z = $10,969.76

(4) There may be instances when a WTA was not paid in Year 1 at the time moving expense reimbursements were made. For example, for those employees whose effective date of transfer was on or after November 14, 1983, through December 31, 1984, and whose reimbursements were received in 1983 or 1984, a WTA would not have been paid. In cases where there is no WTA to be deducted, the value of "Y" is zero and the formula stated in (3), above, for calculating the final amount of the RIT allowance (= Z) due the employee in Year 2 may be solved as follows:

Formula:

$$Z = \frac{\times}{1 - \times}(R) - y$$

Example: If
× = .4296
R = $21,800
Y = Zero

Then

$$Z = \frac{.4296}{1.00 \times .4296}(\$21,800)$$

Z = .7532 ($21,800)
Z = $16,419.76

(5) If the final amount of the RIT allowance is greater than zero, it is payable to the employee on the travel voucher as a relocation or moving expense allowance. The final RIT allowance amount is included in the employee's gross income for Year 2 and, therefore, subject to appropriate withholding taxes (see net payment to employee in 2-11.8g). The final RIT allowance amount will be reported on IRS Form W–2 for Year 2 and on IRS Form 4782 for the employee's information.

(6) If the final amount of the RIT allowance shown on the travel voucher is less than zero (negative amount) because the WTA amount paid in Year 1 exceeds the total RIT allowance, the employee shall repay the excess amount to his/her agency (see also 2–11.7a and 2–11.9b).

(7) Any changes to the employee's income level or filing status for Year 1 that would affect the marginal tax rates (Federal, State, or local) used in calculating the RIT allowance must be reported to the agency by the employee as provided in 2–11.9b(2). (See also 2–11.10 for certified statement regarding these changes.)

g. *Determination of the net payment due employee in Year 2.* Since the final amount of the RIT allowance is income to the employee in Year 2, it is subject to Federal tax withholding. It is also subject to appropriate State and local tax withholding if the employing agency normally withholds for State and local taxes on moving expense reimbursements. Agencies should determine the appropriate amounts of withhold taxes under their internal tax withholding procedures. The amount of withholding taxes is deducted from the final RIT allowance to arrive at the net payment to the employee.

h. *Summary example.* The procedures provided in a through g, above, for calculating the RIT allowance and in 2–11.7 for calculating the WTA are summarized and illustrated for a hypothetical situation in Figure 2–11.8d.

2–11.9. Responsibilities.

a. *Agency.* Finance offices will calculate the amount of the gross-up for the withholding tax allowance (WTA) in Year 1 in accordance with procedures outlined herein and credit this amount to the employee on the travel voucher at the time of reimbursement. The WTA will be reflected on the employee's Form W–2 for Year 1. The RIT allowance may be calculated in Year 2 either by the employee, or by the agency finance office based on information provided by the employee on the voucher, as directed by the agency's implementing policies and procedures. In addition, agencies shall prescribe appropriate and necessary implementing procedures as provided elsewhere in this Part 11.

b. *Employee.*

(1) The employee is required to file the tax information for Year 1 specified in 2–11.10 with his/her agency in Year 2, regardless of whether any additional reimbursement for the RIT tax allowance is owed the employee.

(2) If any action occurs (i.e., amended tax return, tax audit, etc) that would change the information provided in Year 2 by the employee to his/her agency for use in calculating the total RIT allowance due the employee for Year 1 taxes, this information must be provided by the employee to his/her agency under procedures prescribed by the agency. (See 2–11.10.)

(3) If the total amount of all WTA's paid by the Government in Year 1 is more than the total RIT allowance computed in Year 2, the employee is obligated to repay the excess amounts as a debt due the Government. (See also 2–11.7a and 2–11.8f(6).)

2–11.10. Claims for payment and supporting documentation and verification.

a. *Claims forms.* Claims for payment of the RIT allowance shall be submitted by the employee in Year 2 on SF 1012 (Travel Voucher) or other authorized travel voucher form. When claiming payment for the RIT allowance, the employee shall furnish and certify to certain tax information that has been or will be shown on his/her actually prepared tax returns. This information shall be contained in a certified statement on, or attached to, the SF 1012 reading essentially as follows:

I certify that the following information, which is to be used in calculating the RIT allowance to which I am entitled, has been (or will be) shown on the income tax returns filed (or to be filed) by me (or by my spouse and me) with the applicable Federal, State, and local (specify which) tax authorities for the 198__ tax year.

—Gross compensation as shown on attached IRS Form(s) W–2 and, if applicable, net earnings (or loss) from self-employment income shown on attached Schedule SE (Form 1040):

Employee.....	$_____	$_____
Spouse (if filing jointly)..	$_____	$_____
Total (Both columns).....	$_____	

—Filing status: _____

(Specify one of the five filing status items that was (or will be) claimed on IRS Form 1040.)

—Marginal tax rates from FTR appendices 2–11.A and B and local tax tables derived under procedures prescribed in FTR Part 2–11:

Federal _____
State (specify which): _____
Local (specify which): _____

The above information is true and accurate to the best of my knowledge. I (we) agree to notify the appropriate agency official of any changes to the above (i.e., from amended tax returns, tax audit, etc.) so that appropriate adjustment to the RIT allowance can be made. The required supporting documents are attached. Additional documentation will be furnished if requested.

Employee's Signature _____
Date _____
Spouse's signature (if joint filing status) _____
Date _____

b. *Supporting documention/ verification.* The claim for the RIT allowance shall be supported by documentation attached to the voucher

and by verification of State and local tax obligations as provided below:

(1) Copies of the appropriate IRS Forms W–2 and, if applicable, the completed IRS Schedule SE (Form 1040) shall be attached to the voucher to substantiate the income amounts shown in the certified statement. Employee and/or spouse must agree to provide additional documentation to verify income amounts, filing status, and State and local income tax obligations if requested by the agency.

(2) In order to determine or verify whether a particular State or locality imposes a tax on moving expense reimbursements, it is incumbent upon the appropriate agency officials to become familiar with the State and local tax laws that affect their transferring employees. In cases where the taxability of moving expense reimbursements is not clear, an agency may pay a RIT allowance which reflects only those State and local tax obligations that are clearly imposed under State and local tax law. Once the questionable State or local tax obligations are resolved, agencies may recompute the RIT allowance and make appropriate payment adjustments.

c. *Fraudulent claims.* A claim against the United States is forefeited if the claimant defrauds or attempts to defraud the Government in connection therewith (28 U.S.C. 2514). In addition, there are two criminal provisions under which severe penalties may be imposed on an employee who knowingly presents a false, fictitious, or fraudulent claim against the United States (18 U.S.C. 287 and 1001). The employee's claim for payment of the RIT allowance shall accurately reflect the facts involved in every instance so that any violation of these provisions will be avoided.

2–11.11. Violation of service agreement.

In the event the employee violates the terms of the agreement required under 2–1.5a(1), no part of the RIT allowance will be paid, and any amounts paid prior to such violation shall be a debt due the United States until they are repaid by the employee.

2–11.12. Advance of funds.

No advance of funds is authorized in connection with the allowance provided in this part.

2–11.13. Source references.

The following references or publications have been used as source material for this Part 11.

a. Internal Revenue Code (IRC), section 164(a)(3) (26 U.S.C. 164(a)(3)) pertaining to the deductibility of State and local income taxes, and section 217 (26 U.S.C. 217), pertaining to moving expenses.

b. Internal Revenue Service Publication 521, "Moving Expenses."

c. Internal Revenue Service, Circular E, "Employer's Tax Guide."

d. Department of Treasury Fiscal Requirements Manual for Federal Agencies, ITFRM 3–5000.

e. 31 CFR 215.2 (5 U.S.C. 5516, 5517, and 5520).

BILLING CODE 6820-34-M

EXAMPLE 1. CALCULATION OF COVERED TAXABLE REIMBURSEMENTS

The following example shows how to calculate covered taxable reimbursements as provided in FTR 2-11.8. Column (a) shows hypothetical moving expense reimbursements. Column (b) shows Federal moving expense deductions for employee and spouse filing a joint return and residing together at the end of the tax year (see footnote 5/, below). Column (c) shows the balance of the covered reimbursements in column (a) which have not been offset by moving expense deductions in column (b). Amounts shown are for illustration purposes only and should not be construed in any way to represent actual, average, or typical moving costs.

	Covered Allowances (FTR 2-11.3)		Amount Paid/ Reimbursed (a) 1/	Maximum Moving Exp. Deduction (b) 2/	Amount of Covered Taxable Reimbursements (c)=(a)-(b) 3/
1.	Travel and transportation expenses between duty stations.		$ 1,150 4/	$ 1,150 4/	$ -0- 4/
2.	Transportation and 30 days temporary storage of household goods (HHG's).		$ 5,100 4/	$ 5,100 4/	$ -0- 4/
3.	Temporary storage of HHG's not included on line 2, and/or nontemporary storage (see (2-11.3c).		$ 1,100	$ -0-	$ 1,100
4.	Mobile home movement instead of HHG's.		$ -0-	$ -0-	$ -0-
5.	Miscellaneous expense allowance.		$ 700	$ -0-	$ 700
6.	Househunting trip.	$1,550			
7.	Temporary quarters, 30 days, new station.	$2,550			
8.	Total lines 6 and 7.		$ 4,100		
9.	Enter lesser of line 8 or $1,500 as deductible amount in col. b; 5/			$ 1,500	
10.	Enter balance of line 8 minus line 9.				$ 2,600
11.	Temporary quarters in excess of line 7.		$ 1,900	$ -0-	$ 1,900
12.	Real estate transactions resulting from:				
	(a) Sale expenses.	$13,500			
	(b) Purchase expenses.	$ 3,500			
	(c) Unexpired lease.	$ -0-			
	(d) Relocation services. 6/	$ -0-			
13.	Total of items (a) through (d), line 12.		$17,000		
14.	Enter lesser of line 13 or $3,000 less deductible amount used on line 9. 5/			$ 1,500	
15.	Balance of line 13 minus line 14.				$15,500
16.	Relocation services not included on line 12(d). 6/		$ -0- 6/	$ -0- 6/	$ -0- 6/
17.	Total column (a), (b), and (c).		$31,050	$ 9,250 7/	$21,800 8/
18.	Total amount of WTA's paid in Year 1.		$ 5,450 9/		
19.	Total lines 17 and 18, column (a).		$36,500 10/		

Figure 2-11.8a. Illustration of Example for Calculation of Covered Taxable Reimbursements in Year 2.
(Part 1 of 2)

1/ Enter in column (a) the amounts of reimbursed expenses for the allowances listed in FTR 2-11.3.

2/ Enter in column (b) the maximum amounts of the reimbursed expenses in column (a) which are deductible moving expenses. (See FTR 2-11.8c(2); also see footnote 4/.)

3/ Enter in column (c) the balance of column (a) minus column (b). (See FTR 2-11.8c.)

4/ The amount entered in column (b) for lines 1 and 2 should be the same as that entered in column (a). (See FTR 2-11.8c(2)(a).) Column (c) will be zero.

5/ Limits may vary according to filing status, etc. See page 5 of IRS Publication 521, Moving Expenses.

6/ In this example, relocation services were not used--employee declined (see FTR 2-12 and employing agency policy). However, if relocation services were used, any amounts paid to the relocation service company that are determined to be income to the employee (see FTR 2-11.3i, 2-11.4a, and 2-12.7) and covered by the RIT allowance would be entered on lines 12(d) and 16, column (a), as appropriate. In such cases, the amount shown in column (c) as a covered taxable reimbursement would depend on whether any part of the amount in column (a) is a moving expense deduction in column (b). All amounts included in column (a) may not be deductible and there are limitations as to what can be included as a covered reimbursement under 2-11.3i.

7/ In this example, total moving expense deductions on line 17, column (b), equate to the amount shown on line 11 on IRS Form 3903 in Figure 2-11.8c. Amounts on those lines for an actual situation may not be the same because of relocation expenses incurred which are not paid for or reimbursed by the Government but which may be claimed as a moving expense deduction for Federal tax purposes, such as extra valuation insurance for household goods shipments.

8/ The amount on line 17, column (c), is the amount of covered taxable reimbursements to be used in the gross-up formula for the RIT allowance.

9/ Enter total amount of all WTA's paid in Year 1 on line 18, column (a) only. This amount is an estimated partial payment of the RIT allowance. It is not included in the amount of covered taxable reimbursements determined for calculation of the RIT allowance. (See FTR 2-11.8c(4).)

10/ In this example, the total amount shown on line 19, column (a), equates to the amount shown on line 7 on IRS Form 4782 in Figure 2-11.8b. Amounts on those lines for an actual situation may differ because of relocation allowances paid or reimbursed which are not covered by the RIT allowance. (See exclusions in FTR 2-11.4.)

Figure 2-11.8a. Illustration of Example for Calculation of Covered Taxable Reimbursements in Year 2. (Footnotes)
(Part 2 of 2)

EXAMPLE 2

Form **4782** (Rev. August 1983)
Department of the Treasury
Internal Revenue Service

Employee Moving Expense Information

Payments made during the calendar year 19 .....

OMB No. 1545-0182

Do not file. Keep for your records.

Name of employee: I. M. EMPLOYEE

Social security number: 000 00 0000

Moving Expense Payments

Type of expense	a. Amount paid to employee	b. Amount paid to a third party for employee's benefit and value of services furnished in-kind	c. Total (Add columns a. and b.)
1 Transportation expenses in moving household goods and personal effects (including storage expenses for a foreign move)		(carrier payment) 6,200.00	6,200.00
2 Travel, meal, and lodging expenses in moving from old to new residence	1,150.00		1,150.00
3 Pre-move travel, meal, and lodging expenses in looking for a new residence after obtaining employment	870.00	(air carrier) 680.00	1,550.00
4 Temporary living expenses in new location or area during any 30 days in a row after obtaining employment (90 days in a row for a foreign move)	2,550.00		2,550.00
5 Qualified expenses of selling, buying, or leasing a residence	17,000.00		17,000.00
6 All other payments (specify) Misc. Exp. Allowance	700.00		700.00
Temporary Qtrs. in excess of 30 days	1,900.00		1,900.00
Withholding Tax Allowance	5,450.00		5,450.00
7 Total moving expense payments. Add lines 1 through 6. ▶			36,500.00

Figure 2-11.8b. Illustration of completed Example IRS Form 4782

EXAMPLE 3

Form **3903**
Department of the Treasury
Internal Revenue Service

Moving Expense Adjustment

▶ Attach to Form 1040.

OMB No. 1545-0062
1984
62

Name(s) as shown on Form 1040: I. M. Employee

Your social security number: 000 00 0000

a What is the distance from your **old** residence to your **new** work place? 1500 miles

b What is the distance from your **old** residence to your **old** work place? 20 miles

c If the distance in **a** above is 35 or more miles farther than the distance in **b** above, complete the rest of this form. If the distance is less than 35 miles, you may not take a deduction for moving expenses. This rule does not apply to members of the armed forces.

1	Transportation expenses in moving household goods and personal effects					1	5,100 00
2	Travel, meal, and lodging expenses in moving from old to new residence					2	1,150 00
3	Pre-move travel, meal, and lodging expenses in looking for a new residence after getting your job	3	1,550 00				
4	Temporary living expenses in new location or area during any 30 days in a row after getting your job	4	2,550 00				
5	Add lines 3 and 4	5	4,100 00				
6	Enter the smaller of line 5 or $1,500 ($750 if married, filing a separate return, and, at the end of the tax year, you lived with your spouse who also started work during the tax year)			6	1,500 00		
7	Expenses of (check one): a ☑ selling or exchanging your **old residence**; or b ☐ if renting, settling an unexpired lease on your old residence			7	13,500 00		
8	Expenses of (check one): a ☑ buying your new residence; **or** b ☐ if renting, getting a lease **on your** new residence			8	3,500 00		
9	Add lines 6, 7, and 8			9	18,500 00		
10	Enter the smaller of line 9 or $3,000 ($1,500 if married, filing a separate return, and, at the end of the tax year, you lived with your spouse who also started work during the tax year)					10	3,000 00
	Note: *Use any amount on line **7a** not deducted because of the $3,000 (or $1,500) limit to decrease the gain on the sale of your residence. Use any amount on line **8a** not deducted because of the limit to increase the basis of your new residence. See **No Double Benefit** in the instructions.*						
11	Add lines 1, 2, and 10. This is your moving expense deduction. Enter here and on Form 1040, line 24 ▶					11	9,250 00
	Note: *If your employer paid for any part of your move (including the value of any services furnished in kind), report that amount on **Form 1040, line 7.** See **Reimbursements** in the instructions.*						

Figure 2-11.8c. Illustration of completed Example IRS Form 3903

EXAMPLE 4. Summary of RIT Procedures

Year 1: In 1984, the employee received $31,050 in covered moving expense reimbursements. After subtracting $9,250 of deductible moving expenses, $21,800 of the reimbursements (nondeductible moving expenses) were subject to Federal tax withholding. (No State or local tax withholding in this case.)

Apply WTA formula: $Y = \frac{X}{1-X} \quad (N)$

Where Y = WTA
X = Federal withholding tax rate (.20)
N = nondeductible moving expenses ($21,800)

Then $Y = \frac{.20}{1-.20} \quad ($21,800)$
$Y = $5,450$

Compute net payment to employee in Year 1:

Total moving expense reimbursements in Year 1	$31,050
Less deductible moving expenses	- 9,250
Nondeductible moving expenses subject to withholding	$21,800
Plus WTA on $21,800	+ 5,450
Amount subject to withholding	$27,250
Less Federal tax withholding ($27,250 X .20)	- 5,450
Balance after withholding	$21,800
Plus deductible moving expenses	+ 9,250
Net payment to employee in Year 1	$31,050

Year 2: In 1985, the amount of the RIT allowance is determined on the basis of covered reimbursements in Year 1. Assume that $21,800 of nondeductible moving expenses is the same as the covered taxable reimbursements. Also, assume that employee and spouse (married, filing jointly) have combined earned income of $65,000. Thus, the Federal marginal tax rate would be 38%. Also, assume the applicable State and local marginal tax rates are 6% and 2%, respectively, of taxable income.

Apply CMTR formula: $X = F + (1-F)S + (1-F)L$

Where X = CMTR
F = Federal tax rate
S = State tax rate
L = local tax rate

Then $X = .38 + (1-.38).06 + (1-.38).02$
$X = .38 + .0372 + .0124$
$X = .4296$

Figure 2-11.8d. Summary Example of RIT Allowance Procedures (Part 1 of 2)

Example 4. Summary of RIT Allowance Procedures (continued)

Apply final gross-up formula: $Z = \frac{X}{1-X}(R) - Y$

Where Z = final RIT allowance
X = CMTR (.4296)
R = covered taxable reimbursements ($21,800)
Y = WTA paid in Year 1 ($5,450)

Then $Z = \frac{.4296}{1-.4296}$ ($21,800) - $5,450
Z = .7532 ($21,800) - $5,450
Z = $16,419.76 - $5,450
Z = $10,969.76

Compute net payment to employee in Year 2:

Total RIT allowance	$16,419.76
Less WTA's paid in Year 1	- 5,450.00 1/
Final RIT allowance payable	$10,969.76
Less Federal withholding tax	- 2,193.95
Less State and local withholding	N/A
Net amount paid to employee	$ 8,775.81

1/ If no WTA's had been paid in this example, the final RIT allowance would be the same as the total RIT allowance ($16,419.76). The Federal withholding tax would be $3,283.95, leaving a net payment to the employee of $13,135.81.

Figure 2-11.8d. Summary Example of RIT Allowance Procedures (Part 2 of 2)

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS - TAX YEARS 1983/1984

The following table is to be used to determine the Federal marginal tax rate for computation of the RIT allowance as prescribed in FTR 2-11.8e(1).

Marginal Tax Rate	Single Taxpayer		Heads of Household		Married Filing Jointly/Qualifying Widows & Widowers		Married Filing Separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
11 %	$3,519	$4,692	$5,742	$7,845	$8,265	$10,356	$4,017	$5,220
12 %	4,692	5,812	7,845	9,830	10,356	12,587	5,220	6,514
14 %	5,812	8,010	9,830	11,979	12,587	17,415	6,514	8,215
15 %	8,010	10,102	N/A	N/A	N/A	N/A	N/A	N/A
16 %	10,102	12,586	N/A	N/A	17,415	22,090	8,215	10,524
17 %	N/A	N/A	11,979	15,480	N/A	N/A	N/A	N/A
18 %	12,586	14,953	15,480	19,216	22,090	26,915	10,524	13,105
20 %	14,953	17,340	19,216	23,330	N/A	N/A	N/A	N/A
22 %	N/A	N/A	N/A	N/A	26,915	32,198	13,105	15,068
23 %	17,340	21,186	N/A	N/A	N/A	N/A	N/A	N/A
24 %	N/A	N/A	23,330	29,738	N/A	N/A	N/A	N/A
25 %	N/A	N/A	N/A	N/A	32,198	38,335	15,068	18,748
26 %	21,186	27,362	N/A	N/A	N/A	N/A	N/A	N/A
28 %	N/A	N/A	29,738	35,682	38,335	45,082	18,748	21,934
30 %	27,362	34,022	N/A	N/A	N/A	N/A	N/A	N/A
32 %	N/A	N/A	35,682	43,397	N/A	N/A	N/A	N/A
33 %	N/A	N/A	N/A	N/A	45,082	58,888	21,934	27,415
34 %	34,022	41,150	N/A	N/A	N/A	N/A	N/A	N/A
35 %	N/A	N/A	43,397	59,143	N/A	N/A	N/A	N/A
38 %	41,150	49,875	N/A	N/A	58,888	78,203	27,415	35,991
42 %	49,875	64,832	59,143	78,622	78,203	107,463	35,991	49,858
45 %	N/A	N/A	78,622	101,019	107,463	132,836	49,858	62,195
48 %	64,832	92,257	101,019	128,517	N/A	N/A	N/A	N/A
49 %	N/A	N/A	N/A	N/A	132,836	186,961	62,195	89,006
50 %	92,257	---	128,517	---	186,961	---	89,006	---

Appendix 2-11.A. Federal Tax Table for RIT Allowance

STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL - TAX YEARS 1983/1984

The following table (pages 1 thru 3) is to be used to determine State marginal tax rates for calculation of the RIT allowance as prescribed in FTR 2-11.8e(2).

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column. 1/ 2/			
	$20,000-24,999	$25,000-49,999	$50,000-74,999	$75,000 & OVER
1. Alabama	5	5	5	5
2. Alaska	0	0	0	0
3. Arizona	8	8	8	8
4. Arkansas	6	7	7	7
5. California	3	7	11	11
if single status 3/	8	11	11	11
6. Colorado	8	8	8	8
7. Connecticut	0	0	0	0
8. Delaware	8.4	11	13.5	13.5
if single status 3/	8.8	12.2	13.5	13.5
9. District of Columbia	10	11	11	11
10. Florida	0	0	0	0
11. Georgia	6	6	6	6
12. Hawaii	8.5	10	10.5	11
if single status 3/	10.5	11	11	11
13. Idaho	7.5	7.5	7.5	7.5
14. Illinois	2.5	2.5	2.5	2.5
15. Indiana	3	3	3	3
16. Iowa	8	11	12	13
17. Kansas	7.5	9	9	9
18. Kentucky	6	6	6	6
19. Louisiana	4	4	6	6
20. Maine	8	9.2	10	10
if single status 3/	9.2	10	10	10
21. Maryland	5	5	5	5
22. Massachusetts	5.375	5.375	5.375	5.375

Appendix 2-11.B. State Tax Table for RIT Allowance

STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL - TAX YEARS 1983/1984 (cont'd.)

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column. 1/ 2/			
	$20,000-24,999	$25,000-49,999	$50,000-74,999	$75,000 & OVER
23. Michigan	5.35	5.35	5.35	5.35
24. Minnesota	14	16	16	16
25. Mississippi	5	5	5	5
26. Missouri	6	6	6	6
27. Montana	9	10	11	11
28. Nebraska	* 19 percent of Federal income tax liability. 4/			
29. Nevada	0	0	0	0
30. New Hampshire	0	0	0	0
31. New Jersey	2	2.5	3.5	3.5
32. New Mexico	3.9	5.6	6.5	7.8
if single status 3/	6.1	6.9	7.4	7.8
33. New York	11	14	14	14
if single status 3/	13	14	14	14
34. North Carolina	7	7	7	7
35. North Dakota	6	8	9	9
36. Ohio	4.75	5.7	6.65	9.5
37. Oklahoma	6	6	6	6
38. Oregon	10.8	10.8	10.8	10.8
39. Pennsylvania	2.35	2.35	2.35	2.35
40. Rhode Island	* 25.5 percent of Federal income tax liability. 4/			
41. South Carolina	7	7	7	7
42. South Dakota	0	0	0	0
43. Tennessee	0	0	0	0
44. Texas	0	0	0	0
45. Utah	7.75	7.75	7.75	7.75
46. Vermont	* 26 percent of Federal income tax liability. 4/			

Appendix 2-11.B

BILLING CODE 6820-24-C

STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL - TAX YEARS 1983/1984 (cont'd.)

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column. 1/ 2/ $20,000-24,999	$25,000-49,999	$50,000-74,999	$75,000 & OVER
47. Virginia	5.75	5.75	5.75	5.75
48. Washington	0	0	0	0
49. West Virginia	3.5	7.4	10.5	13
if single status 3/	8.2	12.6	13	13
50. Wisconsin	8.7	9.5	10	10
51. Wyoming	0	0	0	0

1/ Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75, etc.) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

2/ If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in FTR 2-11.8e(2)(b).

3/ This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

4/ Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in FTR 2-11.8e(2).

Appendix 2-11.B

PART 12—USE OF RELOCATION SERVICE COMPANIES

3. Part 12 of Chapter 2 of the FTR is amended by revising paragraph 2–12.7 to read as follows:

2–12.7. Income tax consequences of using relocation companies.

In entering into contracts with relocation companies, agencies should consider the income tax consequences for the employee. Certain payments on behalf of the employee to a relocation company may constitute taxable income to the employee, depending on the specific terms of the contract. Under the provisions of 5 U.S.C. 5724b, additional taxes resulting from such income would be covered by the relocation income tax allowance as provided in 2–11. For further information relating to the income tax consequences of payments to relocation companies, agencies should contact the Internal Revenue Service, 1111 Constitution Avenue, NW., (CC: IND:I) Room 5019, Washington, D.C. 20224.

Dated: April 1, 1985.

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85–9488 Filed 4–18–85; 8:45 am]

BILLING CODE 6820-24-M

federal register

Friday
April 19, 1985

Part VI

National Archives and Records Administration

36 CFR Ch. XII
41 CFR Parts 101-11, 101-13, 105-60, 105-61, 105-65
Establishment of Chapter and Redesignation of Regulations; Final Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

41 CFR Parts 101-11, 101-13, 105-60, 105-61, and 105-65

Establishment of Chapter XII and Redesignation of Regulations

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: This document establishes Chapter XII in Title 36 for regulations of the National Archives and Records Administration, an independent executive branch agency established by Public Law 98-497. It also redesignates certain regulations concerning NARA programs that now appear in Title 41, and makes minor technical changes in organizational references.

EFFECTIVE DATE: April 1, 1985.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas, Director, Program Policy and Evaluation Division, National Archives (NAA), Washington, DC 20408, (202) 523-3214.

SUPPLEMENTARY INFORMATION: The National Archives and Records Administration Act of 1984, Public Law 98-497, established the National Archives and Records Administration (NARA) as an independent agency in the executive branch, and transferred the National Archives and Records Service of the General Services Administration to the agency. Regulations concerning National Archives and Records Service programs relating to disposition of Federal records; vital records during an emergency; preservation of records by war contractors; public availability and use of records, donated historical materials and facilities; and National Historical Publications and Records Commission programs were contained in Title 41 CFR Parts 101-11, 101-13, 105-60, 105-61, and 105-65, and were issued under the authority of the Administrator of General Services.

This document establishes the National Archives and Records Administration regulations in Title 36, Chapter XII of the Code of Federal Regulations. The table of contents for Chapter XII set forth below includes regulations which are issued in this final rule, as well as the part titles of other material which NARA intends to issue in the future after notice of proposed rulemaking. The regulations redesignated in this document were originally issued in Title 41 after providing the public an opportunity to comment. Only nomenclature changes and technical amendments to the redesignated regulations are made: changing references from GSA organizations and officials to NARA organizations; clarifying citations and language where necessary; and in Part 1253, adding the location and hours of use of additional NARA facilities not previously included in the regulations.

Within the next month, NARA intends to issue a notice of proposed rulemaking that would establish regulations implementing the Privacy Act and Freedom of Information Act and other general agency regulations. NARA intends to issue another notice of proposed rulemaking that would incorporate provisions of 41 CFR Part 101-11 relating to adequacy of documentation and records disposition in records management programs. Provisions in 41 CFR Part 101-11 and Chapter 105 as they relate to NARA will continue to remain in those CFR units during the interim period that the two notices of proposed rulemaking are issued. NARA intends to issue the final regulation rewriting and transferring these provisions to Chapter XII of Title 36 by June 30, 1985. GSA is issuing regulations in its FIRMR (41 CFR Chapter 201) incorporating provisions of 41 CFR 101-11 which promote economy and efficiency in records management (50 FR 14220, April 11, 1985). NARA will have sole signatory authority over its regulations.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant economic impact on small business entities.

List of Subjects in 36 CFR Chapter XII

Archives and records, Classified information, Reporting and recordkeeping requirements, Freedom of information, Research.

Title 36—[Amended]

For the reasons set forth above, Title 36 of the Code of Federal Regulations is amended as follows:

1. The authority for Chapter XII reads as follows:

Authority: 44 U.S.C. 2104(a), as added by sec. 102(a)(2) of Pub. L. 98-497.

2. Title 36 of the Code of Federal Regulations is amended by establishing Chapter XII to read "Chapter XII—National Archives and Records Administration." The general organization of the chapter is as follows:

CHAPTER XII—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

SUBCHAPTER A—GENERAL RULES

Part
1200 Official seal
1202 Regulations implementing the Privacy Act of 1974
1204 Standards of Conduct
1206 National Historical Publications and Records Commission
1208 Regulations implementing Section 504 of the Rehabilitation Act of 1973
1209-1219 [Reserved]

SUBCHAPTER B—RECORDS MANAGEMENT

1220 Federal Records; General
1222 Creation of Records; Adequacy of Documentation
1224 Files Management
1228 Disposition of Federal Records
1230 Micrographics
1232 Audiovisual Records Management
1234 ADP Records Management
1236 Vital Records During an Emergency
1238 Technical Assistance
1239 Preservation of Records by War Contractors
1240-1249 [Reserved]

SUBCHAPTER C—PUBLIC AVAILABILITY AND USE

1250 Public Availability of NARA Agency Records and Information Materials
1252 Public Use of Records, Donated Historical Materials, and Facilities; General
1253 Location of Records and Hours of Use
1254 Availability of records and donated historical materials
1256 Restrictions on the Use of Records
1258 Fees

SUBCHAPTER D—DECLASSIFICATION

1260 Declassification of and Public Access to National Security Information

SUBCHAPTER E—PRESIDENTIAL RECORDS

1270 Presidential Records

SUBCHAPTER F—NIXON PRESIDENTIAL MATERIALS

1275 Preservation and Protection of and Access to the Presidential Historical Materials of the Nixon Administration

SUBCHAPTER G—NARA FACILITIES

1280 Public Use of Facilities
1281-1299 [Reserved]

3. Title 36 of the Code of Federal Regulations is amended by transferring certain regulations appearing in 41 CFR Chapters 101 and 105 and redesignating the provisions accordingly. The following table shows the relationship of the former CFR Part, subpart and section numbers under 41 CFR Chapters 101 and 105 and new part, subpart and section numbers in 36 CFR Chapter XII.

BILLING CODE 7515-01-M

REDESIGNATION TABLE

Former section numbers	New section numbers
Subpart 101–11.3a	Part 1260
101–11.320	1260.1
101–11.321	1260.2
101–11.322	Subpart A
101–11.322–1	1260.10
101–11.322–2	1260.12
101–11.323	Subpart B
101–11.323–1	1260.20
101–11.323–2	1260.22
101–11.324	Subpart C
101–11.324–1	1260.30
101–11.324–2	1260.32
101–11.325	1260.40
101–11.325–1	1260.42
101–11.325–2	1260.44
101–11.325–3	1260.46
101–11 326	1260.50
101–11.327	1260.60
101–11–328	1260.4
101–11.329	Subpart G
101–11.329–1	1260.70
101–11.329–2	1260.72
101–11.329–3	1260.74
Subpart 101–11.4	Part 1228
101–11.401	1228.1
101–11.402	1228.2
101–11.403	Subpart A
101–11.403–1	1228.10
101–11.403–2	1228.12
101–11.404	Subpart B
101–11.404–1	1228.20
101–11.404–2	1228.22
101–11.404–3	1228.24
101–11.405	Subpart C
101–11.405–1	1228.30
101–11.405–2	1228.2
101–11.405–3	1228.32
101–11.405–4	1228.34
101–11.405–5	1228.36
101–11.406	Subpart D
101–11.406–1	1228.60
101–11.406–2	1228.2
101–11.406–3	1228.62
101–11.406–4	1228.64
101–11.406–5	1228.66
101–11.406–6	1228.68
101–11.406–7	1228.70
101–11.406–8	1228.72
101–11.406–9	1228.74
101–11.407	Subpart E
101–11.407–1	1228.90
101–11.407–2	1228.92
101–11.407–3	1228.94
101–11.408	Subpart F
101–11.408–1	1228.100
101–11.408–2	1228.102
101–11.408–3	1228.104
101–11.408–4	1228.106
101–11.409	Subpart G
101–11.409–1	1228.120
101–11.409–2	1228.122
101–11.409–3	1228.124
101–11.409–4	1228.126
101–11.409–5	1228.128
101–11.409–6	1228.130
101–11.409–7	1228.132
101–11.409–8	1228.134
101–11.409–9	1228.136
101–11.410	Subpart H
101–11.410–1	1228.150
101–11.410–2	1228.152
101–11.410–3	1228.154
101–11.410–4	1228.156
101–11.410–5	1228.158
101–11.410–6	1228.160
101–11.410–7	1228.162
101–11.410–8	1228.164
101–11.411	Subpart I
101–11.411–2	1228.180
101–11.411–3	1228.182
101–11.411–4	1228.184
101–11.411–5	1228.186
101–11.411–6	1228.188
101–11.411–7	1228.190
101–11.411–8	1228.192
101–11.411–9	1228.194
101–11.411–10	1228.196
101–11.411–11	1228.198
101–11.411–12	1228.200
101–11.412	Subpart J
101–11.412–1	1228.220

REDESIGNATION TABLE—Continued

Former section numbers	New section numbers
101–11.412–2	1228.222
101–11.412–3	1228.224
Subpart 101–11.7	Part 1236
101–11.701–1	1236.1
101–11.701.3	1236.2
101–11.701–4	1236.4
101–11.701–5	1236.6
101–11.701–6	1236.8
PART 101–13	Part 1239
101–13.1	1239.1
101–13.2	1239.2
101–13.3	1239.4
101–13.4	1239.6
101–13.4a	1239.8
101–13.5	1239.10
101–13.6	1239.12
101–13.7	1239.14
101–13.8	1239.16
101–13.9	1239.18
101–13.10	1239.20
101–13.11	1239.22
101–13.12	1239.24
	Part 1252
105–61.000–1	1252.1
105–61.001	1252.2
105–61.001–1	1252.2
105–61.001–2	1252.2
105–61.001–3	1252.2
105–61.001–4	1252.2
105–61.001–5	1252.2
105–61.001–6	1252.2
105–61.001–7	1252.2
105–61.101	Part 1254
105–61.101–1	1254.1
105–61.101–2	1254.2
105–61.101–3	1254.4
105–61.101–4	1254.6
105–60.601–2	1254.8
105–61.102	Subpart B
105–61.102–1	1254.10
105–61.102–2	1254.12
105–61.102–2a	1254.14
105–61.102–3	1254.16
105–61.102–4	1254.18
105–61.102–5	1254.20
105–61.102–6	1254.22
105–61.102–7	1254.24
105–61.103	Subpart C
105–61.103–1	1254.30
105–61.103–2	1254.32
105–61.103–3	1254.34
105–61.104	1254.40
105–61.104–1	1254.42
105–61.104–2	1254.44
105–61.104–3	1254.46
105–61.104–4	1254.48
105–61.104–5	1254.50
105–61.104–6	1254.52
105–61.104–7	1254.54
105–61.104–8	1254.56
105–61.104–9	1254.58
105–61.105	1254.70
105–61.106–1	1254.72
105–61.106–2	1254.74
105–61.107	1254.76
105–61.108–1	1258.1
105–61.202	1254.36
Subpart 105–61.3	Part 1280
105–61.302	Subpart A
105–61.302–1	1280.10
105–61.302–2	1280.12
105–61.302–3	1280.14
105–61.303	1280.16
105–61.304–1	1280.18
105–61.304–2	1280.20
105–61.305	Subpart B
105–61.305–1	1280.40
105–61.305–2	1280.42
105–61.305–3	1280.44
105–61.305–4	1280.46
105–61.305–5	1280.48
105–61.306(a)	1280.60
105–61.306(b)	1280.62
105–61.307	1280.1
105–61.5101	Part 1253
105–61.5101–1	1253.1
105–61.5101–2	1253.2
105–61–5101–3	1253.3

REDESIGNATION TABLE—Continued

Former section numbers	New section numbers
105–61.5101–4	1253.4
105–61.5101–5	1253.5
105–61.5101–6b	1253.6(e)
105–61.5101–7	1253.6
105–61.5101–7(a)	1253.6(a)
105–61.5101–7(b)	1253.6(b)
105–61.5101–7(c)	1253.6(c)
105–61.5101–7(d)	1253.6(f)
105–61.5101–7(e)	1253.6(g)
105–61.5101–7(f)	1253.6(h)
105–61.5101–7(g)	1253.6(i)
105–61.5101–7(h)	1253.6(j)
105–61.5101–7(i)	1253.6(k)
105–61.5101–7(j)	1253.6(l)
105–61.5101–7(k)	1253.6(m)
Subpart 105–61.52	Part 1258
105–61.5201	1258.2
105–61.5202	1258.4
105–61.5203	1258.6
105–61.5204	1258.8
105–61.5205	1258.10
105–61.5206	1258.12
105–61.5207	1258.14
105–61.5208	1258.16
Subpart 105–61.53	Part 1256
105–61.5300	1256.1
105–61.5301	1256.2
105–61.5302	Subpart A
105–61.5302–1	1256.10
105–61.5302–2	1256.12
105–61.5302–3	1256.14
105–61.5302–4	1256.16
105–61.5302–5	1256.18
105–61.5303	Subpart B
Part 105–65	Part 1206
105–65.000	1206.1
105–65.001	1206.2
105–65.002	1206.4
105–65.003	1206.6
Subpart 105–65.1	Subpart A
105–65.100	1206.10
105–65.101	1206.12
105–65.102	1206.14
105–65.103–1	1206.16
105–65.103–2	1206.18
105–65.104–1	1206.20
105–65.104–2	1206.22
Subpart 105–65.2	Subpart B
105–65.200	1206.30
105–65.201	1206.32
105–65.202	1206.34
105–65.203–1	1206.36
105–65.203–2	1206.38
Subpart 105–65.3	Subpart C
105–65.300	1206.50
105–65.301	1206.52
105–65.302–1	1206.54
105–65.302–2	1206.56
105–65.302–3	1206.58
105–65.303	1206.60
105–65.303–1	1206.62
105–65.303–2	1206.64
105–65.304	1206.66
105–65.305	1206.68
105–65.306	1206.70
105–65.307	1206.72
105–65.308	1206.74
105–65.309	1206.76
105–65.310	1206.78
105–65.311	1206.80
105–65.312	1206.82
105–65.313	1206.84
105–65.314	1206.86
105–65.315	1206.88
105–65.316	1206.90
105–65.317	1206.92
105–65.318	1206.94

BILLING CODE 7515–01–T

4. The table of contents for the newly redesignated Part 1206 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1206—NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Sec.
1206.1 Scope of part.
1206.2 Definitions.
1206.4 Purpose of the Commission.
1206.6 Programs of the Commission.

Subpart A—National Historical Publications Program

1206.10 General.
1206.12 Scope and purpose.
1206.14 Organization.
1206.16 Book publication projects.
1206.18 Subsidies for printing costs.
1206.20 Microform publication projects.
1206.22 Microform publication standards.

Subpart B—National Historical Records Program

1206.30 General.
1206.32 Scope and purpose.
1206.34 Organization.
1206.36 State Historical Records Coordinator.
1206.38 State Historical Records Advisory Board.

Subpart C—Grant Procedures

1206.50 Types of grants.
1206.52 Grant limitations.
1206.54 Who may apply;
1206.56 Where to apply.
1206.58 When to apply.
1206.60 Application requirements.
1206.62 Project proposals.
1206.64 Proposed budgets.
1206.66 Review and evaluation of records project proposals.
1206.68 Grant administration responsibilities.
1206.70 Grant instrument.
1206.72 Grant period and payments.
1206.74 Adherence to original budget estimates.
1206.76 Adherence to original project objectives.
1206.78 Grant reports.
1206.80 Safety precautions.
1206.82 Acknowledgement.
1206.84 Revocation of grants.
1206.86 Transfer of grants to other institutions.
1206.88 Repayment of grant funds.
1206.90 Responsibility for exceeding grant funds.
1206.92 Records, accounting practices, and audit.
1206.94 Compliance with Government-wide requirements.

Authority: 44 U.S.C. 2104(a); 44 U.S.C. 2501–2506.

§ 1206.16 [Amended]

5. The title for § 1206.16 is revised to read "§ 1206.16 Book publication projects."

§ 1206.20 [Amended]

6. The title for § 1206.20 is revised to read "§ 1206.20 Microform publication projects."

§ 1206.22 [Amended]

7. The title for § 1206.22 is revised to read "§ 1206.22 Microform publication standards."

§ 1206.70 [Amended]

8. Section 1206.70 is amended by removing from the first sentence the words "the Administrator of General Services or".

9. The table of contents for the newly redesignated Part 1228 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1228—DISPOSITION OF FEDERAL RECORDS

Sec.
1228.1 Scope of part.
1228.2 Definitions.

Subpart A—Records Disposition Programs

1228.10 Authority.
1228.12 Basic elements of disposition programs.

Subpart B—Records Disposition Schedules and Disposal Lists

1228.20 Comprehensive agency records disposition schedules.
1228.22 General Records Schedules.
1228.24 Records disposal lists.

Subpart C—Disposition of Permanent Records

1228.30 Authority.
1228.32 Submission of recommendations for the permanent retention of records.
1228.34 Approval of the permanent retention of records.
1228.36 Disapproval of the permanent retention of records.

Subpart D—Disposition of Temporary Records

1228.60 Authority.
1228.62 Requests for authorization to dispose of temporary records.
1228.64 General Accounting Office clearance.
1228.66 Approval of requests for disposal authority.
1228.68 Withdrawal of disposal authority.
1228.70 Request to change disposal authority.
1228.72 Temporary extension of retention periods.
1228.74 Methods of disposal.

Subpart E—Emergency Authorization to Destroy Records

1228.90 General provisions.
1228.92 Menaces to human life or health or to property.
1228.94 State of war or threatened war.

Subpart F—Damage to and Unauthorized Disposition of Records

1228.100 Responsibilities.
1228.102 Penalties.
1228.104 Reporting.
1228.106 Exclusions.

Subpart G—Transfer of Records from the Custody of One Executive Agency to Another

Sec.
1228.120 Authority.
1228.122 Approval.
1228.124 Agency request.
1228.126 Agency concurrences.
1228.128 Records of terminated agencies.
1228.130 Equipment.
1228.132 Costs of transfers.
1228.134 Restrictions on use of records.
1228.136 Exceptions.

Subpart H—Transfer of Records to Federal Records Centers

1228.150 Authority.
1228.152 Procedures for transfers to Federal records centers.
1228.154 Transfers to the National Personnel Records Center.
1228.156 Transferring vital records to Federal records centers.
1228.158 Surveying records for transfer to records center.
1228.160 Release of equipment.
1228.162 Use of records in Federal records centers.
1228.164 Disposal clearance for records in Federal records centers.

Subpart I—Transfer of Records to the National Archives

1228.180 Authority.
1228.182 Types of records to be transferred.
1228.184 Audiovisual records.
1228.186 Cartographic and architectural records.
1228.188 Machine-readable records.
1228.190 Transfer of records listed in records control schedules.
1228.192 Transfer of unscheduled records.
1228.194 Records subject to the Privacy Act of 1974.
1228.196 Release of equipment.
1228.198 Use of records transferred to the National Archives.
1228.200 Disposal clearances.

Subpart J—Agency Records Centers

1228.220 Authority.
1228.222 Facility standards for agency records centers.
1228.224 Requests for authority to establish or relocate records centers.

Authority: 44 U.S.C. 2104(a).

10. Part 1228 is amended by removing the word "(NCD)" whenever it appears and inserting the word "(NIR)".

§ 1228.1 [Amended]

11. Section 1228.1 is amended by removing the word "subpart" appearing in the section title and text and inserting the word "part."

§ 1228.2 [Amended]

12. The definitions formerly appearing in 41 CFR 101-11.405-2 (permanent records), 101-11.406-2 (temporary records), and 101-11.411-1 (National Archives) and redesignated into § 1228.2 are arranged in alphabetical sequence.

§ 1228.22 [Amended]

13. Section 1228.22 is amended by removing the words "General Services Administration (NARS)" and inserting the words "National Archives and Records Administration".

§ 1228.72 [Amended]

14. Section 1228.72 is amended by removing "(NC)" whenever it appears and inserting "(NI)".

§ 1228.74 [Amended]

15. Section 1228.74 is amended by adding "41 CFR" before the reference "Part 101–45" in the last sentence in paragraph (b) and by removing "(NC)" in paragraph (c)(2) and inserting "(NI)".

§ 1228.92 [Amended]

16. Section 1228.92 is amended by removing "GSA" in paragraph (e) and inserting "NAR".

§ 1228.104 [Amended]

17. Section 1228.104 is amended by removing "GSA" in paragraph (b) and inserting "NAR".

§ 1228.106 [Amended]

18. Section 1228.106 is amended by removing the word "Section" at the beginning of the second sentence and inserting "41 CFR".

19. Section 1228.150 is amended by revising the table to read as follows:

§ 1228.150 Authority.

* * * * *

Areas served	Federal records center
District of Columbia, Maryland, West Virginia, and Virginia (except U.S. Court records).	Washington National Records Center, Washington, DC 20409.
Designated records of the Military Departments and the U.S. Coast Guard.	National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132.
The entire Federal Government personnel records of separated Federal employees, medical and pay records of all Federal employees; designated medical records of Army and Air Force military personnel and their dependents; and records of agencies in the St. Louis area (Missouri only), of Scott AFB, IL, and of the Memphis Service Center, Internal Revenue Service.	National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118.
Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.	Federal Records Center, 380 Trapelo Road, Waltham, MA 02154.
New York, New Jersey, Puerto Rico, and the Virgin Islands.	Federal Records Center, Military Ocean Terminal, Building 22, Bayonne, NJ 07002.
Delaware, Pennsylvania, and U.S. court records for Maryland, Virginia, and West Virginia.	Federal Records Center, 5000 Wissahickon Ave., Philadelphia PA 19144.
North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, and Kentucky.	Federal Records Center, 1557 St. Joseph Ave., East Point, GA 30044.
Illinois, Wisconsin, Minnesota, and U.S. court records for Indiana, Michigan, and Ohio.	Federal Records Center, 7358 South Pulaski Rd., Chicago, IL 60629.
Indiana, Michigan, and Ohio except for U.S. court records.	Federal Records Center, 3150 Bertwynn Drive, Dayton, OH 45439.
Kansas, Iowa, Nebraska, and Missouri except greater St. Louis area.	Federal Records Center, 2312 East Bannister Rd., Kansas City, MO 64131.
Texas, Oklahoma, Arkansas, Louisiana, and New Mexico.	Federal Records Center, P.O. Box 6216, Forth Worth, TX 76115.
Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota.	Federal Records Center, Bldg. 48, Denver Federal Center, P.O. Box 25307, Denver, CO 80225.
Nevada except Clark County, California except southern California, American Samoa.	Federal Records Center, 1000 Commodore Drive, San Bruno, CA 94066.
Arizona; Clark County, Nevada, and southern California (counties of San Luis Obispo, Kern, San Bernadino, Santa Barbara, Ventura, Orange, Los Angeles, Riverside, Inyo, Imperial, and San Diego).	Federal Records Center, 24000 Avila Road, Laguna Niguel, CA 92677.
Washington, Oregon, Idaho, Alaska, Hawaii, and Pacific Ocean area (except American Samoa).	Federal Records Center, 6125 Sand Point Way, Seattle, WA 98115.

§ 1228.152 [Amended]

20. Section 1228.152(c) is amended by changing the words "in the GSA region" to read "serving the area".

§ 1228.158 [Amended]

21. Section 1228.158 is amended by changing the words "regional National Archives and Records Service" to read "NARA field".

§ 1228.164 [Amended]

22. Section 1228.164 is amended by removing in paragraph (b) the words "GSA Form 3165" and inserting the words "NA Form 1300" and by removing in paragraph (c) the words "GSA Form 3170" and inserting the words "NA Form 1301".

§ 1228.180 [Amended]

23. Section 1228.180 is amended by removing in the second sentence of paragraph (b) the words "the Administrator," and by removing paragraph (c).

24. Section 1228.182 is amended by removing the words "regional archives" whenever they appear in paragraph (b) and inserting the words "National Archives Field Branches"; by adding at the end of paragraph (b)(2)(i) the words ", except for records of agency field offices located in the Washington, DC area"; and by revising paragraph (b)(3)(i), removing paragraph (b)(3)(ii), and redesignating paragraph (b)(3)(iii) as paragraph (b)(3)(ii), to read as follows:

§ 1228.182 Types of records to be transferred.

* * * * *

(b) * * *

(3) * * *

(i) Records of Washington, DC area field offices of Federal agencies and other records relating to the District of Columbia and the Washington, DC area, such as records of the National Capital Planning Commission.

* * * * *

§ 1228.190 [Amended]

25. Section 1228.190 is amended by inserting the word "Legal" before the word "custody" at the beginning of the last sentence of paragraph (a) and at the beginning of the last sentence of paragraph (b).

§ 1228.192 [Amended]

26. Section 1228.192 is amended by inserting the word "legal" before the word "custody" at the beginning of the last sentence of paragraph (a) and in the last sentence of paragraph (b).

27. The table of contents for the newly redesignated Part 1236 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1236—VITAL RECORDS DURING AN EMERGENCY

Sec.

Authority: 44 U.S.C. 2104(a); Executive Order 11490 of October 28, 1969 as amended (3 CFR 1966–1970 Comp., p. 820.)

§ 1236.1 [Amended]

28. Section 1236.1 is amended by removing "§ 101–11.701" and inserting the word "part".

§ 1236.4 [Amended]

29. Section 1236.4 is amended by revising the title to read "§ 1236.4 Categories of vital records."

§ 1236.6 [Amended]

30. Section 1236.6 is amended by revising the title to read § 1236.6 Vital records storage at Federal records centers." and by removing in paragraph (b) the words ", NARS Regional Commissioner,".

31. The table of contents for the newly redesignated Part 1239 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1239—PRESERVATION OF RECORDS BY WAR CONTRACTORS

Sec.
1239.1 Scope of regulation.
1239.2 Responsibility of the war contractor.
1239.4 Records not to be destroyed for stated period.
1239.6 Partial settlements, exclusions, or exceptions.
1239.8 Exemptions.
1239.10 Duplicate copies.
1239.12 Authorization to destroy if photographs are retained.
1239.14 Features which photography would not clearly reflect.
1239.16 Arrangements, classification and self-identification of records.
1239.18 Minimum standards for film and processing.
1239.20 Certificate of authenticity.
1239.22 Additional special requirements for microfilm.
1239.24 Indexing and retention of photographs.

Authority: 18 U.S.C. 443.

32. Table of contents for the newly redesignated Part 1252 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1252—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES; GENERAL

Sec.
1252.1 Scope.
1252.2 Definitions.

Authority: 44 U.S.C. 2104(a).

33. In Part 1252, remove the word "part" wherever it occurs, and replace it with the word "subchapter".

§ 1252.2 [Amended]

34. The definitions formerly appearing in 41 CFR 105–61.001–1 through 105–61.001–7 and redesignated into § 1252.2 are arranged in alphabetical sequence after the existing text of § 1252.2 and the definitions of "Director" and "Federal records centers" are revised to read as follows:

§ 1252.2 Definitions.

* * * * *

"Director" means the head of a Presidential library, the head of an Office of the National Archives division, branch, or unit responsible for servicing records, or the head of a Federal center.

"Federal records center" include the Washington National Records Center, National Personnel Records Center, and the Federal Records Centers located at National Archives Centers listed in § 1253.6.

* * * * *

35. The table of contents for the newly redesignated Part 1253 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1253—LOCATION OF RECORDS AND HOURS OF USE

Sec.
1253.1 National Archives Building.
1253.2 Pickett Street facility.
1253.3 Presidential libraries.
1253.4 Washington National Records Center.
1253.5 National Personnel Records Center.
1253.6 National Archives Centers.

Authority: 44 U.S.C. 2104(a).

36. § 1253.2 is added to read as follows:

§ 1253.2 Pickett Street facility.

Nixon Presidential materials (see Subchapter F) and holdings of the Cartographic and Architectural Branch are located at the Pickett Street facility, 881 S. Pickett Street, Alexandria, VA. Mailing address: National Archives (NLN) or National Archives (NNSC), Washington, DC 20408, Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

§ 1253.6 [Amended]

37. Section 1253.6 is amended by revising the section title, by redesignating paragraphs (d) through (k) as (f) through (m), by adding new paragraph (d), by removing "2306" appearing in newly designated paragraph (h) and inserting "2312", and by removing the words "Federal Archives and Records Center" appearing in newly redesignated paragraphs (i) and (j) and inserting the words "National Archives Center" as follows:

§ 1253.6 National Archives Centers.

* * * * *

(d) National Archives Field Archives Branch: 9th and Market Streets, Room 1350, Philadelphia, PA 19107. Hours: 8 a.m. to 5 p.m., Monday through Friday; 9 a.m. to 1 p.m., first and third Saturdays of the month.

* * * * *

38. The table of contents for the newly redesignated Part 1254 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

Subpart A—General

Sec.
1254.1 General provisions.
1254.2 Location of records and hours of use.
1254.4 Research procedures.
1254.6 Researcher identification card.
1254.8 Subpoenas and other legal demands for records transferred to the National Archives and Records Administration.

Subpart B—Research Room Rules

1254.10 Registration.
1254.12 Researcher's responsibility for records.
1254.14 Restrictions on using microfilm readers.
1254.16 Prevention of damage to records.
1254.18 Removal or mutilation of records.
1254.20 Conduct.
1254.22 Keeping records in order.
1254.24 Locker use policy.

Subpart C—Access to Unclassified Records and Donated Historical Materials

1254.30 Archives.
1254.32 FRC records.
1254.34 Records of defunct agencies.
1254.36 Donated historical materials.

Subpart D—Access to National Security Information

1254.40 Access to national security information.
1254.42 Freedom of Information Act requests.
1254.44 Declassification responsibility.
1254.46 Public requests for mandatory review of classified information under Executive Order 12356.
1254.48 Mandatory review of classified U.S. Government originated information and foreign government information provided to the United States in confidence.
1254.50 Mandatory review of information originated by a defunct agency or received by a defunct agency from a foreign government.
1254.52 Mandatory review of classified White House originated information and foreign government information received or classified by the White House less than 30 years old.
1254.54 Mandatory review of classified White House originated information and foreign government information received or classified by the White House more than 30 years old.
1254.56 Access by historical researchers and former Presidential appointees.
1254.58 Fees.

Subpart E—Information, Reproduction, and Authentication Services

1254.70 Copying services.
1254.72 Information about records.
1254.74 Information from records.
1254.76 Authentication of copies.

Authority: 44 U.S.C. 2101–2118.

§ 1254.1 [Amended]

39. Section 1254.1 is amended by revising the title to read "§ 1254.1 General provisions."

37. Section 1254.8 is revised to read as follows:

§ 1254.8 Subpoenas and other legal demands for records transferred to the National Archives and Records Administration.

(a) Access to records transferred to a Federal records center is controlled by the instructions and restrictions imposed on NARA by the Federal agency that transferred the records to the Federal records center. NARA will honor a subpoena duces tecum or other legal demand for the production of these records, to the extent required by law, if the transferring agency has imposed no restrictions. When the transferring agency has imposed restrictions, NARA will notify the authority issuing the subpoena or other legal demand that NARA must abide by the agency-imposed restrictions and will request the authority to pursue the matter directly with the transferring agency.

(b) The Archivist of the United States, the Director of the Legal Services Staff (NSL) or his designee, and the Director of the Federal Records Center in which the records are stored are the only NARA officials authorized to accept a subpoena or other legal demand for records transferred to a Federal records center.

(c) A subpoena duces tecum or other legal demand for the production of records designated as "archives" or "donated historical materials" administered by NARA may be served only on the Archivist of the United States, the Director of the Legal Services Staff (NSL) or his designee, the appropriate Assistant Archivist, Director of a National Archives Field Archives Branch, or Director of a Presidential Library.

§ 1254.30 [Amended]

41. Section 1254.30 is amended by removing in the first sentence of paragraph (a) the word "44 U.S.C. 2104" and inserting the word "44 U.S.C. 2108" and by removing in the fourth sentence the words "and the GSA Business Service Center reading rooms set forth in § 105–60.303."

§ 1254.70 [Amended]

42. Section 1254.70 is amended by removing the words "the Service" wherever they appear, and inserting the word "NARA".

43. The table of contents for the newly redesignated Part 1256 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1256—RESTRICTIONS ON THE USE OF RECORDS

Authority: 44 U.S.C. 2108.

44. Part 1256 is amended by removing the words "44 U.S.C. 2104" whenever they appear and inserting the words "44 U.S.C. 2108".

§ 1256.1 [Amended]

45. Section 1256.1 is amended by removing in the section title and the text the word "subpart" and inserting the word "part".

46. Section 1256.40 is added to read as follows:

§ 1256.40 Agency-imposed restrictions.

Some records in NARA legal custody are covered by restrictions imposed by the agency of origin that are in conformance with the Freedom of Information Act.

47. The table of contents for the newly redesignated Part 1258 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1258—FEES

Authority: 44 U.S.C. 2116(c).

§ 1258.1 [Amended]

48. Section 1258.1 is amended in the first sentence by removing the words "44 U.S.C. 2112c" and inserting the words "44 U.S.C. 2116(c)" and by removing the words ", not in excess of 10 percent more than the costs or expenses,".

§ 1258.2 [Amended]

49. Section 1258.2(c)(1) is amended by removing the word "GSA".

50. The table of contents for the newly redesignated Part 1260 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1260—DECLASSIFICATION OF AND PUBLIC ACCESS TO NATIONAL SECURITY INFORMATION

Authority: 44 U.S.C. 2104(a); Executive Order 12356 of April 2, 1982 (3 CFR 1982 Comp., p. 166).

§ 1260.1 [Amended]

51. The title for §1260.1 is revised to read "§ 1260.1 Scope of part."

§ 1260.2 [Amended]

52. Section 1260.2 is amended by removing in the fourth sentence the word "NARS' " and inserting the word "NARA's".

§ 1260.40 [Amended]

53. The title for § 1260.40 is revised to read "§ 1260.40 Information subject to mandatory review."

54. The table of contents for the newly redesignated Part 1280 is set forth below. All internal references appearing in the newly redesignated part are revised as appropriate.

PART 1280—PUBLIC USE OF FACILITIES

Sec.
1280.1 General provisions.

Subpart A—National Archives Building

1280.10 Admittance of visitors to National Archives Exhibition Hall.
1280.12 Photographing documents in exhibit areas.
1280.14 Artificial lighting in public areas.
1280.16 National Archives Library.
1280.18 National Archives Theater and conference rooms.
1280.20 Application for outside use of National Archives Theater and conference rooms.

Subpart B—Facilities in Presidential Libraries

1280.40 Museum areas.
1280.42 Auditoriums and other public spaces.
1280.44 Supplemental rules.
1280.46 Book collections.
1280.48 Photographing documents.

Subpart C—National Archives Centers

1280.60 Use of conference rooms.
1280.62 Restrictions on use.

Authority: 44 U.S.C. 2104(a).

§ 1280.1 [Amended]

55. Section 1280.1 is amended by revising the title for § 1280.1 to read "§ 1280.1 General provisions." and by removing the words "Federal records center" and inserting the words "National Archives Center".

§ 1280.10 [Amended]

56. The title for § 1280.10 is revised to read "§ 1280.10 Admittance of visitors to the National Archives Exhibition Hall."

§ 1280.14 [Amended]

57. The title for § 1280.14 is revised to read "§ 1280.14 Artificial lighting in public areas."

§ 1280.18 [Amended]

58. The title for § 1280.18 is revised to read "§ 1280.18 National Archives Theater and conference rooms."

§ 1280.20 [Amended]

59. The title for § 1280.20 is revised to read "§ 1280.20 Application for outside use of National Archives Theater and conference rooms."

§ 1280.60 [Amended]

60. Section 1280.60 is amended by adding the section title to read "§ 1280.60 Use of conference rooms" and by removing in the first sentence the words "Federal records center" and inserting the words "National Archives Center".

§ 1280.62 [Amended]

61. Section 1280.62 is amended by adding the section title to read "§ 1280.62 Restrictions on use."

62. In Chapter XII, remove the words "Administrator of General Services" whenever they appear and insert the words "Archivist of the United States".

63. In Chapter XII, remove the word "Administrator" whenever it appears and insert the word "Archivist".

64. In Chapter XII, remove the words "National Archives and Records Service" whenever they appear and insert the words "National Archives and Records Administration".

65. Except in §§ 1254.52(a)(6)(iv) and 1260.44(d), remove the words "General Services Administration" whenever they appear in Chapter XII and insert the words "National Archives".

66. Except in §§ 1228.188(c) and the note to § 1288.222(b)(11), remove the word "GSA" and the word "NARS" whenever they appear in Chapter XII and insert the word "NARA".

67. In Chapter XII, remove the words "Part 101–11" whenever they appear and insert the words "Subchapter B".

68. In Chapter XII, remove the words "Part 105–61" whenever they appear and insert the words "Subchapter C".

69. In Chapter XII, remove the words "Subpart 101–20.3" whenever they appear and insert the words "41 CFR 101–20.3".

70. In Chapter XII, remove the words "Subpart 101–20.7" whenever they appear and insert the words "41 CFR 101–20.7".

Title 41—[Amended]

71. The following sections are removed from 41 CFR Parts 101–11, 105–61, and 105–65:

Section 101–11.701
Section 101–11.701–2
Section 105–61.000
Section 105–61.000–2
Section 105–61.106
Section 105–61.108
Section 105–61.108–2
Section 105–61.109
Section 105–61.201
Section 105–61.5100
Section 105–61.5101–6(a)
Section 105–65.103
Section 105–65.104
Section 105–65.203
Section 105–65.302.

Dated: March 27, 1985.

Robert M. Warner,

Archivist of the United States.

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Federal Register

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Code of Federal Regulations

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Printing schedules and pricing information	523-3419

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Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

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, APRIL

12761-12986.....1
12987-13160.....2
13161-13308.....3
13309-13536.....4
13537-13750.....5
13751-13962.....6
13963-14086.....9
14087-14206.....10
14207-14362.....11
14363-14690.....12
14691-14918.....15
14919-15092.....16
15093-15402.....17
15403-15534.....18
15535-15728.....19

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....13608

3 CFR

Executive Orders:
April 17, 1926 (Revoked in part by PLO 6599).....12804
10000 (Amended by EO 12510).....15535
12070 (Superseded by EO 12510).....15535
12509.....15093
12510.....15535

Proclamations:
5164 (Amended by Proc. 5313).....12987
5312.....12761
5313.....12987
5314.....13751
5315.....13753
5316.....13755
5317.....13757
5318.....15095
5319.....15403
5320.....15405

Administrative Orders:

Presidential Determinations
No. 85-9 of March 29, 1985.....14363
No. 85-10 of April 2, 1985.....14207

4 CFR

83.....13161

5 CFR

307.....13172
316.....13172
352.....13963
930.....15407
1201.....13173, 15409

Proposed Rules:
293.....15158
870.....15428
871.....15428
872.....15428
873.....15428

7 CFR

1a.....13759
29.....15537
54.....14365
272.....13759
273.....13759
301.....12764, 13178, 13537, 13965, 14087, 15532
319.....14691
353.....14691
434.....12764
435.....12764
436.....12765
905.....13761
908.....13309
910.....13545, 14369, 15537
911.....15097
989.....14209
1126.....12765
1407.....12766
1488.....13966
1491.....13967
1872.....12989, 15098
1942.....12767, 12989, 13004, 15098
1944.....12989, 15098
1951.....12989, 15098
1955.....12989, 15098
1962.....12989, 15098
3015.....14088

Proposed Rules:
Ch. X.....13976
52.....13042, 15160, 15568
800.....15569
915.....15430
925.....13609
929.....12812
944.....13609, 15430
1002.....14110
1004.....12813, 14110
1007.....12817
1011.....12817
1032.....13976, 15432
1046.....12817
1093.....12817
1097.....12817
1098.....12817
1102.....12817
1106.....13977
1108.....12817
1150.....14390
3015.....15433

8 CFR

103.....13546, 15098
238.....14369

9 CFR

78.....13546, 15410
92.....13309, 14919
327.....14370

Proposed Rules:
51.....14246
71.....15166
78.....15166
85.....14931
92.....13042
318.....14711, 15435
381.....15435

10 CFR

2.....13006
30.....14692

40 14692
70 14692
605 14856
Proposed Rules:
19 13797
20 13797
21 13797
30 13797
39 13797
40 13797
50 13810
51 13797
70 13797
71 13797
140 13978
150 13797
430 ..... 12966, 13042

11 CFR

Proposed Rules:
110 15169

12 CFR

5 13762
204 13010
205 13180
208 13010
217 13010
226 13181
325 13185
523 13968
Proposed Rules:
Ch. III 14247
352 15453
611 14110

13 CFR

116 14210
120 13309
121 ..... 13310, 15411
122 13309
133 12772
Proposed Rules:
120 14248

14 CFR

39 ..... 12774, 12775, 13013–13015, 13310, 13548–13554, 13766, 14088, 14370, 14919, 15098, 15099, 15538, 15539
61 15376
63 15376
65 ..... 15376, 15698
71 ..... 12776, 13186, 13767–13769, 14089–14092, 14694, 14695, 15540, 15541
73 ..... 15541, 15542
75 14092
91 15376
95 12777
97 14371
121 14373
1214 13186
1252 13311
Proposed Rules:
Ch. I 15577
21 13810
25 ..... 13226, 15038
39 ..... 13611, 13810–13815, 14390, 14391, 14716, 14717
61 15381
63 15381
71 ..... 12818, 13227, 13817–13819, 14939, 15577–15583
73 14717
91 ..... 15381, 15528
121 ..... 15038, 15528
125 15528
1261 13228
135 15528

15 CFR

30 13016
369 13187
373 14373
399 13770
904 12781
922 12781
970 12781

16 CFR

13 ..... 13189, 13968, 13969 15412, 15413
300 15100
303 15100
305 12786
1030 13555
Proposed Rules:
13 13240
305 13820
306 13048
460 13246

17 CFR

140 15413
Proposed Rules:
33 14718
240 ..... 13388, 13612, 14111

18 CFR

2 14374
154 14374
157 14374
201 14374
270 14374
271 ..... 14374, 14378
Proposed Rules:
225 15176
271 14249
277 15176
410 13249

19 CFR

4 15414
10 14093
101 13190
178 13771
Proposed Rules:
6 12819
175 14250

20 CFR

416 14211
Proposed Rules:
617 14720
635 14720

21 CFR

5 ..... 14093, 14094, 14211
71 14212
81 ..... 13017, 13018
105 13555
107 13555
170 14212
171 14212
176 14696
177 14095
178 13556
179 ..... 15415, 15417
180 14212
182 13557
184 13557
193 ..... 14096, 14097
201 14212
310 14212
312 ..... 14212, 15543
314 14212
330 14212
430 14212
431 14212
433 14212
444 15107
448 15107
510 14212
511 14212
514 14212
520 ..... 13560, 13561
558 13561–13563
561 ..... 14096, 14097
570 14212
571 14212
601 14212
812 14212
1003 14212
1010 ..... 13563, 13564, 14212
1020 15543
1030 13565
Proposed Rules:
101 ..... 13306, 15177, 15458
182 12821
184 12821
186 12821
211 13388
310 13388

22 CFR

2 14379
120 12787
121 12787
124 12787
125 12787
126 12787
127 12787
128 12787
Proposed Rules:
208 15584

23 CFR

625 14913
Proposed Rules:
635 ..... 14251, 14722
650 14251
658 ..... 12825, 13821

24 CFR

203 14379
204 14379
205 14921
232 12788
235 12788
570 12789
595 12789
888 14922

25 CFR

700 14379

26 CFR

1 13019
5c 13019
11 13019
301 ..... 13019, 14696, 15417
601 13020
602 ..... 13020, 13962, 14696
Proposed Rules:
1 ..... 13821, 14256, 14392
31 14392
54 14392

27 CFR

47 14380
178 14380
Proposed Rules:
9 15588

28 CFR

2 12789

29 CFR

Proposed Rules:
1910 14698
1952 14924
2619 14700
2644 12790
2674 12791
2677 12796
Proposed Rules:
19 13049
1910 ..... 12827, 15179
1928 15086

30 CFR

Ch. VII 13566
914 13566
916 14212
917 13567
938 13315
Proposed Rules:
Ch. II 15590
104 13617
216 12828
700 13250
761 13250
773 13724
915 13388
935 12833
943 14256
944 12834

32 CFR

78 14383
544 13771
706 ..... 14384, 14385
728 15111
Proposed Rules:
62b 13985

33 CFR

45 13317
62 14213
100 ..... 12799, 14214, 14215, 14701, 15418
117 ..... 13318, 14702
146 14215
150 14215
157 12800
165 ..... 14701, 14703, 15419, 15420
Proposed Rules:
100 ..... 14257, 14722, 15459
110 ..... 12835, 12837, 14723 14940, 15460
117 ..... 13389, 13835, 14258, 15461
165 12838

34 CFR

682 13916

36 CFR

Proposed Rules:
7 15056

Ch. XII..... 15722

37 CFR

Proposed Rules:
Ch. IV..... 13524
201..... 14725

38 CFR

17..... 14704
36..... 12800, 13020, 13191, 13970

Proposed Rules:
1..... 14393
19..... 15184
21..... 13836

39 CFR

111..... 13569, 14216
255..... 14098

Proposed Rules:
111..... 12839, 13050

40 CFR

52..... 14925, 15144, 15421–15423
60..... 12801–12803, 13021, 15424, 15425, 15544, 15545
61..... 12802, 12803, 13021, 13022, 15386, 15425, 15545
65..... 13970
117..... 13456
180..... 13194, 13195, 14104–14106
260..... 14216
261..... 14216
266..... 14216
302..... 13456

Proposed Rules:
Ch. I..... 15462
50..... 13130
51..... 13130
52..... 13130, 13250, 13390, 14396, 15190
53..... 13130
58..... 13130
60..... 14941
61..... 14941
62..... 15186
65..... 14259, 14396
81..... 12840, 13130, 15187, 15463
152..... 14115
158..... 14115
166..... 13251, 13944
180..... 13251, 15188, 15189
220..... 13986
227..... 13986
228..... 13986, 14336
234..... 13986
250..... 14076
264..... 13253
271..... 14945
300..... 14115
302..... 13514
712..... 13391
761..... 13393

41 CFR

Ch. 201..... 13023 13319, 14201, 14386
101–11..... 15722
101–21..... 14242
101–13..... 15722
105–60..... 15722
105–61..... 15722
105–65..... 15722

Proposed Rules:
101–38..... 14260
101–39..... 14260
101–40..... 14260
101–41..... 14261

42 CFR

400..... 15312, 15347, 15427
405..... 15312, 15335, 15427
412..... 15312, 15427
420..... 15335
431..... 15312, 15427
433..... 15312, 15427
435..... 13196
436..... 13196
456..... 15312, 15427
460..... 15312, 15427
462..... 15312, 15427
466..... 15312, 15427
473..... 15364
474..... 15335
476..... 15347
489..... 15335

Proposed Rules:
435..... 14397

43 CFR

Public Land Orders:
2650..... 15546
6599..... 12804
6600..... 15145

Proposed Rules:
3200..... 14945
3500..... 14512
3510..... 14512
3520..... 14512
3530..... 14512
3540..... 14512
3550..... 14512
3560..... 14512
3570..... 14512
3580..... 14512

44 CFR

Proposed Rules:
59..... 14904
60..... 14904
61..... 14904
64..... 14904, 14926, 14928
66..... 14904
67..... 15191
70..... 14904
72..... 14904
75..... 14904

45 CFR

1321..... 12942
1328..... 12942
1340..... 14878
1611..... 13331

Proposed Rules:
1301..... 13253

46 CFR

580..... 14704

Proposed Rules:
Ch. IV..... 14122
154..... 15591
175..... 13837
176..... 13837
177..... 13837
180..... 13837
181..... 13837
182..... 13837
183..... 13837
184..... 13837
185..... 13837
186..... 13837
187..... 13837
298..... 13050
516..... 13617
560..... 13617
572..... 13617, 14264

47 CFR

Ch. 1..... 15547
0..... 14386
2..... 14386
22..... 13332, 14386
64..... 13573
67..... 15558
69..... 13023
73..... 13031–13038, 13333–13337, 13791, 13971, 13972, 15146, 15558
76..... 13972
81..... 13974
90..... 13596, 14389, 15148
94..... 13338
95..... 15563
97..... 13792

Proposed Rules:
Ch. I..... 13623, 13986, 13991, 14727, 15191
1..... 13394
2..... 13255, 13394
5..... 13394
18..... 13394
21..... 13394
22..... 13255, 13394
25..... 13255
67..... 14729
73..... 13050, 13394, 13402, 13838, 13994, 14265–14271, 14946–14954, 15591
76..... 15592
83..... 13394
90..... 13394, 13997
95..... 13394, 00000
97..... 15195, 15196
99..... 13394

48 CFR

Ch. 4..... 14196
Ch. 5..... 14243
Ch. 12..... 14798
Ch. 19..... 13200
201..... 13353
205..... 13353
206..... 13353
207..... 13353
208..... 13353
210..... 13353
213..... 13353
214..... 13353
215..... 13353
216..... 13353
217..... 13353
219..... 13353
220..... 13353
225..... 13353
235..... 13353
236..... 13353
237..... 13353
245..... 13353
247..... 13353
250..... 13353
252..... 13353
270..... 13353
501..... 14243
507..... 14243
1501..... 14356
1503..... 14356
1505..... 14356
1506..... 14356, 15425
1513..... 14356
1514..... 14356
1515..... 14356, 15425
1517..... 14356
1527..... 14356
1533..... 14356
1536..... 14356
1552..... 14356, 15425
1803..... 13365
1804..... 13365
1808..... 13365
1812..... 13365
1815..... 13365
1819..... 13365
1822..... 13365
1827..... 13365
1832..... 13365
1844..... 13365
1845..... 13365
1847..... 13365
1851..... 13365
1852..... 13365

Proposed Rules:
Ch. 5..... 14122
52..... 13256
515..... 15463
522..... 15463

49 CFR

25..... 12804
27..... 13039
173..... 13381
192..... 13224
215..... 13381
571..... 15154

Proposed Rules:
215..... 15593
393..... 14630, 15198
571..... 13402, 14580, 14589, 14602, 14626
572..... 14602
575..... 14400
584..... 14632
585..... 14589
1039..... 14122
1132..... 13051
1152..... 13256, 14401
1175..... 13841
1207..... 13053
1249..... 13053

50 CFR

10..... 13708
17..... 15547
216..... 12781
217..... 12806
219..... 12781
222..... 12806
246..... 12781
285..... 12781
296..... 13796
301..... 13382
611..... 14107, 15425
621..... 12781
652..... 14930
671..... 13040
672..... 12809, 15426

Proposed Rules:
13..... 15396
17..... 13054, 14123, 15396
23..... 14402
285..... 13256

611.....15464
646.....13639
683.....13405

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Last List April 18, 1985

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S. 781/Pub. L. 99–24

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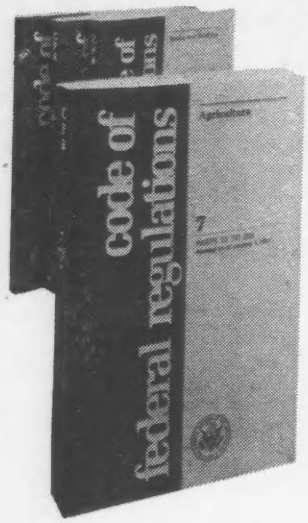

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