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Tuesday
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WHO: The Office of the Federal Register.

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CHICAGO, IL

WHEN: September 19; at 9:15 a.m.
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Contents

Federal Register

Vol. 53, No. 168

Tuesday, August 30, 1988

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.

7 CFR
29.....33097
301 (3 documents).....33098, 33099
932.....33100
944.....33100
1126.....33102

12 CFR
500.....33104
501.....33104
574.....33104

13 CFR
Proposed Rules:
120.....33141

14 CFR
1201.....33110

16 CFR
Proposed Rules:
13 (2 documents).....33142, 33144

17 CFR
Proposed Rules:
230.....33147
240.....33147

21 CFR
74.....33110
81 (2 documents).....33110, 33122
82.....33110
314.....33121
Proposed Rules:
81.....33147

24 CFR
904.....33216
905.....33216
913.....33216
960.....33216
966.....33216

29 CFR
Proposed Rules:
1910.....33149

30 CFR
Proposed Rules:
935.....33150

32 CFR
85.....33122
Proposed Rules:
58.....33151

33 CFR
100.....33125

34 CFR
30.....33424
668.....33430

36 CFR
223.....33126

40 CFR
Proposed Rules:
257.....33314
258.....33314
261.....33152

44 CFR
64 (2 documents).....33133, 33136

46 CFR
550.....33139
580.....33139
Proposed Rules:
580.....33153

47 CFR
73 (2 documents).....33139
Proposed Rules:
73 (4 documents).....33154, 33155

48 CFR
Proposed Rules:
548.....33155
552.....33155

50 CFR
675.....33140
Proposed Rules:
23.....33156

Rules and Regulations

Federal Register
Vol. 53, No. 168
Tuesday, August 30, 1988

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[AMS-TB-88-033RN]

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 Carthage and Aberdeen, North Carolina. A mail referendum was conducted during the period of March 28–April 1, 1988, among tobacco growers who sell their tobacco at auction in Carthage and Aberdeen, North Carolina, 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 1989 and succeeding flue-cured marketing seasons, the Carthage and Aberdeen, North Carolina, tobacco markets shall be designated as and be called Carthage-Aberdeen. The regulations are amended to reflect this new designated market.

EFFECTIVE DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 96456, Room 502 Annex, Washington, DC 20090–6456, telephone (202) 447–2567.

SUPPLEMENTARY INFORMATION: A notice was published in the March 24, 1988, issue of the **Federal Register** (53 FR 9673) advising that a referendum would be conducted among flue-cured producers who market their tobacco on the Carthage and Aberdeen, North Carolina, markets to ascertain if such producers favored the designation of the consolidated market. Carthage and Aberdeen had been officially and separately designated on June 26, 1942 (7 CFR 4811) 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 which they marketed in Carthage and Aberdeen, North Carolina, during the calendar year 1987. Ballots for the March 28–April 1 referendum were mailed to 410 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 113 responses: 101 eligible producers voted in favor of the consolidation of the Carthage and Aberdeen markets; 2 eligible producers voted against the consolidation; and 10 ballots were determined to be invalid because they were not completed and/or signed.

The notice of referendum announced the determination by the Secretary that the consolidated market of Carthage-Aberdeen, North Carolina, would be designated as a flue-cured tobacco auction market and receive mandatory, Federal grading of tobacco sold at auction for the 1988 and succeeding seasons, subject to the results of the referendum. That determination was based on the evidence and arguments presented at a public hearing held in Aberdeen, North Carolina, on October 28, 1987, pursuant to applicable provisions of the regulations issued under the Tobacco Inspection Act, as amended. The referendum was held in accordance with the provisions for referendum of the Tobacco Inspection Act, as amended (7 U.S.C. 511d) and the regulations set forth in 7 CFR 29.74.

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 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, the 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. The Administrator of the Agricultural Marketing Service has determined that this action will not have a significant impact on a substantial number of small entities, and will not substantially affect the normal movement in the marketplace.

List of Subjects in 7 CFR Part 29

Administrative practices and procedure, Tobacco.

For the reason set forth in the preamble, 7 CFR Part 29, Subpart D, is amended as follows:

PART 29—[AMENDED]

Subpart D—Order of Designation of Tobacco Markets

1. The authority citation for 7 CFR Part 29, Subpart D, continues to read as follows:

Authority: Sec. 5, 49 Stat. 732 as amended by sec. 157(a)(i), 95 Stat. 374 (7 U.S.C. 511d).

§ 29.8001 [Amended]

2. In § 29.8001, the table is amended by removing under item (t) in the column Auction Markets the words "Aberdeen, N.C. and "Carthage, N.C." and by adding a new entry (bbb) to read as follows:

Territory	Type of tobaccos	Auction markets	Order of designation	Citation
•	•	•	•	•
(bbb) North Carolina	Flue-Cured	Carthage-Aberdeen	Aug. 30, 1988	53 FR.

Dated: August 22, 1988.

J. Patrick Boyle,

Administrator

[FR Doc. 88-19636 Filed 8-29-88; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 88-123]

Melon Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that removed the melon fly regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. We have determined that the melon fly has been eradicated from Los Angeles County, California, and the regulations are no longer necessary.

EFFECTIVE DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective May 16, 1988, and published in the Federal Register on May 19, 1988 (53 FR 17912-17913, Docket Number 88-064), we amended the "Domestic Quarantine Notices" in 7 CFR Part 301 by removing the melon fly regulations (7 CFR 301.97 through 301.97-10). These regulations designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. We have determined that the melon fly has been eradicated from Los Angeles County, California, and the regulations are no longer necessary. Comments on the interim rule were required to be postmarked or received on or before July 18, 1988. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

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

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

Within the part of Los Angeles County that was quarantined, there were fewer than 250 small entities affected, including 53 nurseries, 150 mobile fruit vendors, 30 fruit stands, 5 fruit wholesalers, and 8 companies catering to airlines. Most of the sales by the fruit vendors and the fruit stand operators are local intrastate, and were not affected by the quarantine. Effects on the nurseries were minimized by the availability of soil treatment under the regulations. Effects on the fruit wholesalers were minimized by the availability of treatments for many of the regulated articles. Effects on the caterers were negligible, because virtually all of their food products intended for interstate movement originate outside the quarantined area and, properly handled, can be moved onto aircraft without a certificate or limited permit.

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

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Melon fly, Incorporation by reference.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published at 53 FR 17912-17913 on May 19, 1988.

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

Done in Washington, DC, this 25th day of August, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-19706 Filed 8-29-88; 8:45 am]

BILLING CODE 3410-34-M

7 CFR Part 301

[Docket No. 88-124]

Oriental Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that removed the Oriental fruit fly regulations that designated a portion of Orange County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. We have determined that the Oriental fruit fly has been eradicated from Orange County, California, and the regulations are no longer necessary.

EFFECTIVE DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective May 16, 1988, and published in the Federal Register on May 19, 1988 (53 FR 17911-17912, Docket Number 88-077), we amended the "Domestic Quarantine Notices" in 7 CFR Part 301 by removing the Oriental fruit fly regulations (7 CFR

301.93 through 301.93–10). These regulations designated a portion of Orange County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. We have determined that the Oriental fruit fly has been eradicated from Orange County, California, and the regulations are no longer necessary. Comments on the interim rule were required to be postmarked or received on or before July 18, 1988. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

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

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

Within the part of Orange County that was quarantined, there are approximately 80 small entities that may have been affected. These include approximately 60 nurseries, 10 roadside stands and flea markets, 6 fruit and vegetable growers, 2 packing houses, 1 processor, and 1 farmers market. The vegetable growers have a total of 23 acres in production, including 3 acres of avocados, 10 acres of tomatoes, and 10 acres of peppers and cucumbers. The effect of this rule on these entities should be significant, since most of their sales are local intrastate and are not affected by the regulatory provisions we are removing. Those sales that are affected are mainly of articles that can be moved interstate after compliance with treatment or inspection provisions of the regulations. Compliance with these provisions does not add significant costs to the interstate movement of most of these affected articles.

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

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published at 53 FR 17911–17912 on May 19, 1988.

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

Done at Washington, DC, this 25th day of August, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–19705 Filed 8–29–88; 8:45 am]

BILLING CODE 3410–34–M

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7 CFR Part 301

[Docket No. 88–122]

Peach Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that removed the Peach fruit fly regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. We have determined that the peach fruit fly has been eradicated from Los Angeles County, California, and the regulations are no longer necessary.

EFFECTIVE DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective May 16, 1988, and published in the Federal Register on May 19, 1988 (53 FR 17913–17914, Docket Number 88–025), we amended the "Domestic Quarantine Notices" in 7 CFR Part 301 by removing the "Peach Fruit Fly" regulations (7 CFR 301.96 through 301.96–10). These regulations designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. We have determined that the peach fruit fly has been eradicated from Los Angeles County, California, and the regulations are no longer necessary. Comments on the interim rule were required to be postmarked or received on or before July 18, 1988. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

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

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

Within the quarantined area, there are fewer than 115 small entities that may be affected, including 45 nurseries, 50 mobile fruit vendors, eight fruit stands, and eight companies catering to airlines.

The effect of this rule on these entities should be insignificant. Most of the sales by the entities, except for the nurseries and caterers, are local, intrastate and were not affected by the regulatory provisions we removed. Effects on the nurseries were minimized by the availability of soil treatment under the regulations. Effects on the caterers were negligible, because virtually all of their food products intended for interstate movement originated outside the quarantined area and, properly handled, were permitted to be moved onto aircraft without a certificate or limited permit.

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

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published at 53 FR 17913–17914 on May 19, 1988.

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

Done in Washington, DC, this 25th day of August, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–19704 Filed 8–29–88; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 932 and Part 944

[Docket No. FV–88–119]

Olives Grown in California and Imported Olives; Interim Final Rule Establishing Grade and Size Requirements for Limited Use Styles of California Processed Olives for the 1988–89 Season, and Conforming Changes in the Olive Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes grade and size requirements for California processed olives used in the production of limited use styles of olives such as wedges, halves, slices, or segments and establishes similar requirements in the olive import regulation to bring that regulation into conformity with the domestic requirements. The grade and size requirements are the same as implemented last season. Olives used in limited use styles are too small to be desirable for use as whole or pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of products where the form of the olive is changed. Their use in such products over the years has helped the California olive industry meet the increasing market needs of the food service industry. The requirements for domestic olives were recommended by the California Olive Committee, which works with the Department in administering the marketing order program for olives grown in California. The establishment of such requirements for imported olives is required pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: Interim final rule is effective August 30, 1988. Comments which are received by September 29, 1988, will be considered prior to issuance of the final rule.

ADDRESS: Written comments concerning this rule should be submitted in triplicate to the Docket Clerk, F&V Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. All comments submitted will be made available for public inspection in the above office during regular business hours. Comments should reference the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Marketing Order Administration Branch, F&V Division, AMS, USDA, P.O. Box 96458, Room 2525–S, Washington, DC 20090–6456; telephone 202–475–3919.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 932 [7 CFR Part 932], as amended (the order), regulating the handling of olives grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are seven handlers of California olives subject to regulation under the order and approximately 1,400 producers in California. Approximately 25 importers of olives are subject to the olive import regulation. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. Most but not all of the olive producers and importers may be classified as small entities. None of the olive handlers may be classified as small entities.

Nearly all of the olives grown in the United States are produced in California. The growing areas are scattered throughout California with most of the commercial production coming from inland valleys. About 75 percent of the production comes from the San Joaquin Valley and 25 percent from the Sacramento Valley.

Olive production has fluctuated from a low of 24,200 tons in the 1972–73 crop year to a high of 146,500 tons in the

1982–83 crop year. Last year's production totaled about 64,000 tons. The various varieties of olives produced in California have alternate bearing tendencies with high production one year and low the next. The industry expects the 1988–89 crop to be about 85,000 tons.

The primary use of California olives is for canned ripe olives which are eaten out of hand as hors d'oeuvres or used as an ingredient in cooking. The canned ripe olive market is essentially a domestic market. Very few California olives are exported.

This action will allow handlers to market more olives than would be permitted in the absence of this relaxation in size requirements. This additional opportunity is provided to maximize the use of the California olive supply, facilitate market expansion, and benefit both growers and handlers.

This interim rule modifies § 932.153 of Subpart-Rules and Regulations [7 CFR 932.108 through 932.161]. The modification establishes grade and size regulations for 1988–89 crop limited use size olives. The modification is issued pursuant to paragraph (a)(3) of § 932.52 of the order. This rule also makes necessary conforming changes in the olive import regulation [Olive Regulation 1; 7 CFR 944.401]. The import regulation is issued pursuant to section 8e of the Act. Section 8e provides that whenever grade, size, quality, or maturity provisions are in effect for specified commodities, including olives, under a marketing order, the same or comparable requirements must be imposed on the imports.

Paragraph (a)(3) of § 932.52 of the marketing order provides that processed olives smaller than the sizes prescribed for whole and pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. The sizes are specified in terms of minimum weights for individual olives in various size categories. The section further provides for the establishment of size tolerances.

To allow handlers to take advantage of the strong market for halved, segmented, sliced, and chopped canned ripe olives, the committee recommended that grade and size requirements again be established for limited use olives for the 1988–89 crop year (August 1 through July 31). The grade requirements are the same as those applied during the 1987–88 crop year, as are the sizes and the size tolerances. Permitting handlers to use small olives in limited use style canned olives will have a positive impact on industry returns. In the absence of this action, the undersized fruit would have to be used for non-canning uses, like oil, for which returns are lower. Except for the changes necessary in the effective date, the provisions, hereinafter set forth in § 932.153, are the same as those established last season.

Paragraph (b)(12) of § 944.401 of the olive import regulation allows imported bulk olives which do not meet the minimum size requirements for canned whole and pitted ripe olives to be used for limited use styles if they meet specified size requirements. Continuation of the limited use authorization for California olives by this interim rule requires that similar changes be made in paragraph (b)(12) of § 944.401 to keep the import regulation in conformity with the applicable domestic requirements. These conforming changes will benefit importers because they will be able to import small-sized olives for limited use during the 1988–89 season ending July 31, 1989.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is determined that the provisions as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Compliance with this action will require no special preparation by handlers and importers; (2) it is important that these requirements apply to as much of the 1988–89 marketing season as possible; (3) the olive import requirements are mandatory under section 8e of the Act; (4) this action relieves restrictions on handlers and importers; and (5) the rule provides a 30-day comment period, and any comments received will be considered prior to the issuance of a final rule.

List of Subjects

7 CFR Part 932

Marketing agreements and orders, Olives, California.

7 CFR Part 944

Marketing agreements and orders, Fruits, Import Regulations.

For the reasons set forth in the preamble, 7 CFR Parts 932 and 944 are amended as follows.

1. The authority citations for 7 CFR Parts 932 and 944 continue to read as follows:

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

PART 932—OLIVES GROWN IN CALIFORNIA

2. Section 932.153 is revised to read as follows:

Note.—This section will appear in the Code of Federal Regulations.

§ 932.153 Establishment of grade and size requirements for processed 1988–89 crop year olives for limited use.

(a) *Grade.* On and after August 30, 1988, any handler may use processed olives of the respective variety group in the production of limited use styles of canned ripe olives if such olives were processed after July 31, 1988, and meet the grade requirements specified in paragraph (a)(1) of § 932.52 as modified by § 932.149.

(b) *Sizes.* On and after August 30, 1988, any handler may use processed olives in the production of limited use styles of canned ripe olives if such olives were harvested during the period August 1, 1988, through July 31, 1989, and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives harvested before August 1, 1988, or after July 31, 1989.

(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh 1/90 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/90 pound.

(3) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties shall be of a size which individually weigh 1/140 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh 1/180 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh 1/140 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.

PART 944—FRUITS; IMPORT REGULATIONS

5. Section 944.401 is amended by revising the introductory text of paragraph (b)(12) to read as follows:

Note.—This paragraph will appear in the Code of Federal Regulations.

§ 944.401 Olive Regulation 1.

* * * * *

(b) * * *

(12) Imported bulk olives when used in the production of canned ripe olives must be inspected and certified as prescribed in this section. Imported bulk olives which do not meet the applicable minimum size requirements specified in paragraphs (b)(2) through (b)(11) of this section may be imported during the period August 30, 1988, through July 31, 1989, for limited use, but any such olives so used shall not be smaller than the following applicable minimum size:

* * * * *

Dated: August 24, 1988.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 88-19635 Filed 8-29-88; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1126

[DA-88-114]

Milk in the Texas Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action continues, for the months of August 1988 through July 1989, a suspension of portions of the pool plant and producer milk definitions of the Texas order. Specifically, the action continues the suspension of the 60-percent delivery standard for pooling cooperative association plants, the limitation on the types of pool plants at which milk receipts are used to determine the amount of milk that a cooperative may divert to nonpool plants, and the limits on the amount of milk that a pool plant operator may divert to nonpool plants. In addition, the shipping standards for pooling supply plants under the order, and the individual producer performance standards that must be met to be eligible to be diverted to a nonpool plant, also are suspended for August 1988 through July 1989. The continuation of the suspension, and the suspension of the additional provisions, were requested by Associated Milk Producers, Inc., and Mid-America Dairymen, Inc., cooperative associations that represent a substantial proportion of the producers who supply milk to the market. The action is necessary to give handlers the flexibility to dispose of the market's increasing milk supplies without engaging in uneconomic movements of milk solely for the purpose of insuring that dairy farmers who have historically supplied the fluid milk needs of the market would continue to have their milk pooled and priced under the order.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of proposed suspension: Issued August 3, 1988; published August 8, 1988 (53 FR 29689).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Texas marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on August 8, 1988 (53 FR 29689) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No opposing views were received.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of August 1988 through July 1989 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1126.7(d) introductory text, the words "during the months of February through July" and the words "under paragraph (b) or (c) of this section".

2. In § 1126.7(e) introductory text, the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c) and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested".

3. In § 1126.13(e)(1), the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant".

4. In § 1126.13(e)(2), the paragraph references "(a), (b), (c), and (d)".

5. In § 1126.13(e)(3), the sentence, "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;"

Statement of Consideration

This action continues, for the months of August 1988 through July 1989, a suspension of portions of the pool plant and producer milk definitions of the Texas order. Specifically, the action continues the suspension of the 60-percent delivery standard for pool plants operated by cooperative associations, the restriction on the types of pool plants at which milk must be received to establish the maximum amount of milk that a cooperative may divert to nonpool plants, and the limits on the amount of milk that a pool plant operator may divert to nonpool plants. In addition, for the same time period, the action suspends the shipping standards that must be met by supply plants to be pooled under the order and the individual producer performance standards that must be met in order for a producer's milk to be eligible for diversion to a nonpool plant.

The order provides for pooling a cooperative association plant located in the marketing area if at least 60 percent of the producer milk of members of the cooperative association is physically received at pool distributing plants

during the month. Also, a cooperative association may divert to nonpool plants up to one-third of the amount of milk that the cooperative causes to be physically received at pool distributing and supply plants during the month. In addition, the order provides that the operator of a pool plant may divert to nonpool plants not more than one-third of the milk that is physically received during the month at the handler's pool plant. The suspension would inactivate the 60-percent delivery standard for plants operated by a cooperative association, allow a cooperative's deliveries to all types of pool plants to be included as a basis from which the diversion allowance would be computed, and remove the diversion limitation applicable to the operator of a pool plant. Such provisions were suspended during March–July 1988.

The order also provides for regulating a supply plant each month in which it ships a sufficient percentage of its receipts to distributing plants. The order provides for pooling a supply plant that ships 15 percent of its milk receipts during August and December and 50 percent of its receipts during September through November and January. A supply plant that is pooled during each of the immediately preceding months of September through January is pooled under the order during the following months of February through July without making qualifying shipments to distributing plants. The requested suspension would remove these performance standards during August 1988 through July 1989 for supply plants that were regulated under the Texas order during each of the immediately preceding months of September through January.

The order also specifies that the milk of each producer must be physically received at a pool plant in order to be eligible for diversion to a nonpool plant. During the months of September through January, 15 percent of a producer's milk must be received at a pool plant for diversion eligibility. The suspension would remove the 15 percent delivery requirement. It is noted that such action represents a minor modification of the provisions that were originally proposed to be suspeneded. The modification is based on comments received from one of the cooperative associations that originally requested the suspension. Upon further review, the cooperative indicated that it would not be necessary to remove all of the conditions that are applicable to producer milk eligibility for diversion purposes. Thus, the suspension does not remove the requirement that the milk of a producer must first be received at a pool plant in order to be eligible for diversion to a nonpool plant.

The continuation of the current suspension, as well as the additional suspension of the supply plant and producer performance standards, were requested by two cooperative associations (Associated Milk Producers, Inc., and Mid-America Dairymen, Inc.) that represent a substantial proportion of the dairy farmers who supply the Texas market. Associated Milk Producers operates supply-balancing plants that are pooled under the order and Mid-America operates a supply plant in southwestern Missouri that has historically been pooled under the Texas order.

As indicated by the cooperatives, the suspension is necessary because of production increases by Texas dairy farmers. As a result of substantially greater production, supplies of milk are more than ample to meet fluid milk needs and significant quantities of milk will have to be shipped to nonpool plants for use in manufactured dairy products. In addition, it is unlikely that additional supplies of milk from southwestern Missouri will be necessary in the coming months to supplement fluid milk needs of distributing plants. As a result, the suspension is necessary to give handlers the flexibility to dispose of excess milk supplies in the most efficient manner and to eliminate costly and inefficient movements of milk that would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the Texas market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that such action will eliminate unnecessary milk movements and ensure that dairy farmers who have been supplying the market's fluid requirements will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No opposing views were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1126

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the following provisions of the Texas order are hereby suspended for the months of August 1988 through July 1989.

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. The authority citation for 7 CFR Part 1126 continues to read as follows:

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

§ 1126.7 [Temporarily suspended in part]

2. In § 1126.7(d) introductory text, the words "during the months of February through July" and the words "under paragraph (b) or (c) of this section".

3. In § 1126.7(e) introductory text, the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c) and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested".

§ 1126.13 [Temporarily suspended in part]

4. In 1126.13(e)(1), the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant".

5. In § 1126.13(e)(2), the paragraph references "(a), (b), (c), and (d)".

6. In § 1126.13(e)(3), the sentence, "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;"

Signed at Washington, DC, on August 23, 1988.

Robert Melland,

Deputy Assistant Secretary of Agriculture, Marketing and Inspection Services.

[FR Doc. 88–19639 Filed 8–29–88; 8:45am]

BILLING CODE 3410–02–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 500 and 501

[No. 88-694]

Nomenclature Change; and Miscellaneous Conforming Technical Amendments

Date: August 16, 1988

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; nomenclature change; and miscellaneous conforming and technical amendments.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending its regulations: (1) To reflect the current organization of the Board's Office of District Banks; and (2) To correct typographical and other technical errors contained in the Board's regulations.

EFFECTIVE DATE: August 30, 1988.

FOR FURTHER INFORMATION CONTACT: Cindy L. Hausch, Financial Analyst, (202) 377-7488; Kathy O'Dea, Assistant Director (202) 377-6789; or Patrick G. Berbakos, Director (202) 377-6720, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

Pursuant to 12 CFR 508.11 and 508.14, the Board finds that, because of the minor, technical nature of these corrective amendments, notice and public procedure are unnecessary, as is the 30-day delay of the effective date.

List of Subjects in 12 CFR Parts 500 and 501

Accounting, Administrative practice and procedure, Bank deposit insurance, Claims, Investments, Organization and channeling of functions, Reporting and recordkeeping requirements, and Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 500 and 501, Subchapter A, Title 12, *Code of Federal Regulations*, as set forth below.

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER A—GENERAL

PART 500—ORGANIZATION AND CHANNELING OF FUNCTIONS

1. The authority citation for Part 500 continues to read as follows:

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 402, 48 Stat. 1256, as amended (12 U.S.C. 1725); Reorg. Plan No. 3 of 1947, 12 FR 4961, 3 CFR, 1943-48 Comp., p. 1071; Reorg. Plan No. 6 of 1961, *reprinted in* 12 U.S.C.A. 1437 App. (West Supp. 1988).

2. Section 500.13 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 500.13 Director of the Office of Management Systems and Administration.

* * * * *

(a) The Financial Management Division is responsible for the administration and management of the internal financial operations of the Board and the headquarters of the Federal Savings and Loan Insurance Corporation, including budgeting, accounting, receipt, and disbursement of funds; control, processing, and payment of expenses; and maintenance of pay and leave records. * * *

* * * * *

3. Revise § 500.19 to read as follows:

§ 500.19 Director of the Office of District Banks.

The Director of the Office of District Banks serves as chief liaison between the 12 Federal Home Loan Banks ("district banks") and the Federal Home Loan Bank Board and oversees the operations and financial programs of each district bank. The Director is responsible for ensuring that the district banks conform with applicable laws as well as Board regulations and policies and for arranging annual audits of each of the district banks. The office is responsible for processing, reviewing, and evaluating certain applications to the Board and the Federal Savings and Loan Insurance Corporation, except for applications which are approved by other agents or offices of the Board pursuant to delegated authority. The Director is responsible for conducting elections of elected directors and for identifying and recommending the appointment of appointed directors of each Federal Home Loan Bank. The Office of District Banks is divided into three units: Application Analysis and Policy Division; Bank Operations Division; and Bank Systems and Reports Division.

§ 500.2 [Removed and reserved]

4. Remove § 500.21 and reserve the section designation for future use.

PART 501—OPERATIONS

5. The authority citation for Part 501 continues to read as follows:

Authority: Sec. 17, 47 Stat. 736, as amended, (12 U.S.C. 1437); secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4961, 3 CFR, 1943-48 Comp., p. 1071; Reorg. Plan No. 6 of 1961, *reprinted in* 12 U.S.C.A. 1437 App. (West Supp. 1988).

6. Amend § 501.10 by revising paragraph (a) to read as follows:

§ 500.10 Officers as agents.

* * * * *

(a) Such agents shall see that all Federal savings and loan associations and other insured institutions in the agent's bank district submit for consideration such matters as applications for Board action pursuant to the various sections of the Federal Regulations as delegated, the hearing of oral argument and making recommendation to the Board, and such similar matters as are required to be acted upon by the Board or the Federal Savings and Loan Insurance Corporation by statute, rule, or regulation.

* * * * *

7. Amend § 501.11 by revising paragraph (d) to read as follows:

§ 501.11 Designation of Principal Supervising Agent and Supervisory Agents.

* * * * *

(d) He shall see that Federal savings and loan associations and other insured institutions in his bank district submit to him for his consideration such matters as applications for Board action pursuant to the various sections of the Federal Regulations as delegated, the hearing of oral argument and making recommendation to the Board, and such similar matters as are required to be acted upon by the Board or the Federal Savings and Loan Insurance Corporation by statute, rule, or regulation. When these matters come to the attention of said agent he shall, after giving them due consideration, submit them, together with such supplemental information as may be available to him, to the Board with his recommendations thereon.

* * * * *

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-19573 Filed 8-29-88; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 574

[No. 88-810]

Acquisition of Control of Insured Institutions; Delegations of Authority and Technical Amendments

Date: August 18, 1988

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; delegations of authority and revision of filing procedures; solicitation of comments.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "the Corporation"), is amending the provisions of 12 CFR Part 574 to expand the authority of the Board's Principal Supervisory Agents ("PSAs") at the Federal Home Loan Banks ("FHLBanks") to approve and disapprove change of control notices and applications by eliminating paragraphs (i) and (v) of § 574.8(a)(1), which preclude PSAs from approving or disapproving acquisitions of insured institutions that involve certain securities filings made with the Board under the Securities Exchange Act of 1934, 15 U.S.C. 78a, *et seq.* (the "Exchange Act"), or the Board's securities offering regulations at 12 CFR Part 563g. In addition, the Board is delegating to the PSAs the authority to accept or reject certain rebuttal of control and rebuttal of concerted action submissions filed pursuant to 12 CFR Part 574. Finally, the Board is taking this opportunity to make various technical amendments that will streamline and update Part 574, as more fully described in the preamble to this final rule.

DATES: Effective August 30, 1988. Comments must be received on or before October 31, 1988.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at the Board's Information Services Office at 801 17th Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Robyn Dennis, Financial Analyst, (202) 778–2660, Corporate Activities Section, Office of Regulatory Activities, Federal Home Loan Bank System, 801 Seventeenth Street NW., Washington, DC 20552; J. Amanda Machen, Assistant Deputy Director, (202) 377–7398; Jeff Miner, Assistant Deputy Director, (202) 377–7546; Kevin A. Corcoran, Deputy Director for Corporate Transactions, (202) 377–6962; V. Gerard Comizio, Director, (202) 377–6411; or Julie L. Williams, Deputy General Counsel for Securities and Corporate Structure, (202) 377–6459, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Acquisitions and Notices

Paragraphs (a)(1) and (2) of 12 CFR 574.8 delegate to each PSA authority to approve or disapprove any acquisition application or notice filed under § 574.3(a) or (b), provided certain criteria are met. Prior to the amendments described herein, there were six such criteria. By the action described herein, the Board is eliminating the following two of those criteria:

(1) Neither the acquiror nor the insured institution to be acquired, or any affiliate of either, is required under the Exchange Act, 15 U.S.C. 78a–78jj, and Part 563d of this chapter, to make a filing with the Board under any of the following regulations in connection with the transaction in which the acquisition would occur:

(A) Rule 13e–3, 17 CFR 240.13e–3 (for "going private" transactions);

(B) Rule 13e–4, 17 CFR 240.13e–4 (for tender offers by an issuer for its own stock);

(C) Regulation 14A, 17 CFR 240.14a–1 through 240.14a–101 (for solicitation of proxies);

(D) Regulation 14C, 17 CFR 240.14c–1 through 240.14c–101 (for distribution of information statements in lieu of solicitation of proxies); or

(E) Regulations 14D or 14E, 17 CFR 240.14d–1 through 240.14f–1 (for tender offers); and

(2) Neither the insured institution to be acquired nor the acquiror is required under Section 563g.2 of this chapter to file an offering circular with the Board in connection with the acquisition.

As a result of the above two provisions, all acquisitions that have involved the aforementioned types of securities filings with the Board have, in the past, required review either by the Board or the Board's Washington staff. The Board, at the time it promulgated the above two provisions, stated two reasons for requiring all such acquisition applications and notices to be processed in Washington. First, the Board noted that acquisitions requiring securities filings with the Board often involve institutions that have recently converted to the stock form. *See* 50 FR 42,686, 48,711 (Nov. 26, 1985). The Board was concerned that acquisitions involving such institutions could raise "special issues" requiring scrutiny by the Board or the Board's Washington staff. *Id.* After several years of experience with such applications and notices, however, the Board believes it would now be appropriate to delegate acquisitions involving securities filings to the PSA level. The Board feels confident, on the basis of the transactions it and its Washington staff have processed during the past several years as a result of the currently structured system of delegations, that the issues generally presented by acquisitions of recently converted institutions have been identified and adequately addressed either by regulation or by the establishment of Bank Board System policies, procedures, and internal applications processing guidelines. Of course, to the extent that an acquisition involving a securities filing presents a significant issue of law or policy, or another aspect that renders it ineligible for action by the PSA, it will still come to the Board or the Washington staff for a decision.

The second reason stated by the Board, at the time the above two provisions were promulgated, for requiring acquisitions involving securities filings to be reviewed in Washington was efficiency. The Board reasoned that since the Washington staff would be reviewing securities filings made in connection with such acquisitions, certain efficiencies and economies of scale might result from having the Washington staff also review the acquisition applications themselves. 50 FR at 48,711; 51 FR 40,127, 40,137 (Nov. 5, 1986). The Board has found, however, that the dates on which acquisition applications and notices and the related securities filings are submitted to the Board may differ to an extent that efficiencies do not result. As a result, the applications and notices and the related securities filings are frequently processed serially, rather than concurrently. Depending upon the manner in which an applicant chooses to schedule a transaction, an acquisition application or notice and the related securities filing may be submitted a month or more apart.

Thus, the Board has decided to expand the current delegations of authority to the PSAs to delegate responsibility for acquisition applications and notices involving securities filings to the PSA level in an effort to further streamline the agency's procedures. This action is consistent with the Board's efforts on a number of fronts to improve the efficiency of the agency's application processing procedures.[1]

[1] It is important to note that the Board has found that information is often gleaned from a securities filing that is helpful in reviewing an acquisition application or notice and vice versa. The Board does not believe that delegating responsibility for processing acquisition applications and notices involving securities filings to the PSAs should result in any significant diminution in the agency's ability to take advantage of such information, especially since the Federal Home Loan Banks receive copies of many of the types of securities filings that are processed by the Board's Washington staff. The Board's Washington staff and staff of the FHLBanks are in frequent contact and routinely seek input from one another, and the Board will continue to

Continued

Rebuttal Filings

By Resolution No. 85–1005, dated November 25, 1985, the Board adopted a formalized process by which an acquiror could attempt to rebut certain determinations of control or presumptions of action in concert that may arise in connection with the acquisition of stock, equity, or proxies of an insured institution (or holding company thereof) under specified circumstances. The Board thereby established an expedited process for the resolution of questions as to whether an investor has the power to control or influence an insured institution.

After more than two years of experience with the rebuttal regulations, the Board believes that the review of rebuttal of control determinations and presumptions of action in concert can be further expedited. Therefore, the Board is delegating authority to the PSAs to act under specified circumstances to accept or reject rebuttal of control and action in concert filings. The PSA will have delegated authority if the following conditions are met:

(1) With a rebuttal of control filing, the acquiror has submitted an executed agreement that conforms in material respects to the agreement set forth at § 574.100;

(2) The filing does not raise novel or significant issues of law or policy. Such issues may include, but are not limited to:

(a) The acquiror is in violation of provisions of Part 574, such as the requirement to file and obtain clearance of a rebuttal of control or concerted action filing *before* making an acquisition or taking other action that would give rise to a rebuttable determination of control or concerted action under § 574.4 (b) or (d);

(b) The applicable control factor arises as a result of holding revocable or irrevocable proxies;

(3) The proposed acquisition is not opposed by the institution whose securities are to be acquired, and there is no competing acquiror for the institution's securities.

(4) The acquisition does not arise in the context of a conversion under Part 563b of the Insurance Regulations.

If any of these conditions are not met, the acquiror must file the rebuttal submission with the Federal Home Loan Bank System's Office of Regulatory Activities and the Board's Office of General Counsel. These Offices will continue to have delegated authority to determine whether the control determination or the presumption of concerted action has been rebutted. It is the Board's view that filings that do not meet the above conditions frequently raise complex or precedential legal issues or present supervisory considerations with system-wide implications, which warrant review by the Board's Washington staff. In any case where a rebuttal filing raises a significant issue of law or policy, however, only the Board itself would have authority to act on the filing. Given the nature of rebuttal filings, the Board expects such situations to be rare.

The Board also is partially modifying the time frames within which the FSLIC may determine that a rebuttal submission is sufficient. The Corporation or its delegate will continue to be required to provide notification, within 20 calendar days after proper filing of a rebuttal submission, of its determination to accept or reject the submission, request additional information, or return the submission as materially deficient. However, the Corporation or its delegate must provide such notification within 15 calendar days of the proper filing of any additional information furnished in response to a specific request. The amendment is intended to retain the expedited 20-day time frame for review of rebuttal submissions while at the same time conforming these time frames to the time frames applicable to processing acquisition applications and notices under other portions of Part 574 as well as the FSLIC's general guidelines for processing applications. *See* 12 CFR 571.12. In addition, the Board is amending its recently-adopted filing requirements to specify that non-delegated rebuttal submissions must be filed directly with the Secretariat, the Office of Regulatory Activities, the Office of General Counsel, and the Principal Supervisory Agent for the insured institution. *See* 12 CFR 574.6.

Also, the Board is amending its rebuttal procedures to require that, when the Board or its delegate agrees to accept a rebuttal of control, the acquiror must transmit a copy of the executed agreement to the insured institution or holding company to which the rebuttal pertains. This step should enhance the effectiveness of the rebuttal process since the affected institution is best situated to know whether or not an acquiror is complying with the undertakings contained in the rebuttal agreement.

The Board is also taking this opportunity to make a technical amendment to Part 574. Section 574.6(b)(1), (3), (4), and (5) (filing requirements for acquisition applications and notices and rebuttal submissions) is being merged into one omnibus paragraph regarding filing procedures, thereby eliminating a substantial amount of duplicative text from Part 574.

Finally, the Board has directed the Office of Regulatory Activities and the Office of General Counsel to develop guidelines and methods for alerting the FHLBanks to issues and types of transactions that present significant issues of law or policy. These guidelines will be issued to the FHLBanks concurrently with the delegation. The Board also anticipates that in conjunction with the significantly enhanced delegations implemented by these amendments, that a post audit function of all rebuttal decisions made by the FHLBanks will be performed in order to monitor the decisions rendered at the FHLBank level.

The foregoing changes are effective August 30, 1988 and are applicable to filings made after such date.

Because these changes are nonsubstantive, the Board finds that observance of the notice and comment procedure prusuant to 5 U.S.C. 553(b) and 12 CFR 508.11 and the 30-day delay of effective date pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary and contrary to the public interest. However, the Board is soliciting comments from interested parties as to how the Board's current regulations related to the review and processing of rebuttal submissions, and the changes adopted today, may be further improved. Comments should be submitted within sixty days of the effective date of this final rule.

List of Subjects in 12 CFR Part 574

Administrative practice and procedure, Holding companies, Savings and loan associations, Securities.

Accordingly, the Board hereby amends Part 574, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 574—ACQUISITION OF CONTROL OF INSURED INSTITUTIONS

1. The authority citation for Part 574 continues to read as follows:

Authority: Sec. 407, 48 Stat. 1260, as amended (12 U.S.C. 1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a).

2. Amend Section 574.4 by revising paragraphs (e)(1)(i) and (e)(3) to read as follows and by removing the reference to "§ 574.6(b)(6)" in paragraph (f)(2) and

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encourage frequent exchange of inforamtion so as to promote the highest possible quality of review of acquisition applications and notices and securities filings.

by inserting in lieu thereof the phrase "§ 574.6(b)(3)":

§ 574.4 Control.

* * * * *

(e) *Procedures for rebuttal*—(1) *Rebuttal of control determination.* * * *

(i) An acquiror seeking to rebut the determination of control arising under paragraph (b)(1) of this section shall submit to the Corporation and executed agreement materially conforming to the agreement set forth at § 574.100 of this Part. Unless agreed to by the Corporation or its delegate in writing, no other agreement or filing shall be deemed to rebut the determination of control arising under paragraph (b)(1) of this section. If accepted by the Corporation or its delegate, the acquiror shall furnish a copy of the executed agreement to the institution to which the rebuttal pertains.

* * * * *

(3) *Determination.* A rebuttal filed pursuant to paragraph (e) of this section shall not be deemed sufficient unless it includes all the information, agreements, and affidavits required by the Corporation and this Part, as well as any additional relevant information as the Corporation or its delegate may require by written request to the acquiror. Within 20 calendar days after proper filing of a rebuttal submission, the Corporation or its delegate will provide written notification of its determination to accept or reject the submission; request additional information in connection with the submission; or return the submission to the acquiror as materially deficient. Within 15 calendar days after proper filing of any additional information furnished in response to a specific request by the Corporation or its delegate, the Corporation or its delegate shall notify the acquiror in writing as to whether the rebuttal is thereby deemed to be sufficient. If the Corporation or its delegate fails to notify an acquiror within such time, the rebuttal shall be deemed to be accepted. The Corporation or its delegate may reject any rebuttal which is inconsistent with facts and circumstances known to them or where the rebuttal does not clearly and convincingly refute the rebuttable determination of control or presumption of action in concert, and may determine to reject a submission solely on such bases.

* * * * *

§ 574.5 [Amended.]

3. Amend § 574.5 by removing the reference to "§ 574.6(b)(7)" in paragraph (a)(1) and by inserting in lieu thereof the phrase "§ 574.6(b)(4)".

4. Amend § 574.6 by revising paragraph (b)(1) to read as follows; by removing paragraphs (b)(3), (4), and (5) and by redesignating paragraphs (b)(6), (7), (8), and (9) as the paragraphs (b)(3), (4), (5), and (6); and by amending newly redesignated paragraphs (b)(4), (5), and (6) by removing the reference to "paragraph (b)(6)" in these paragraphs and by inserting in lieu thereof the phrase "paragraph (b)(3)".

§ 574.6 Procedural requirements.

* * * * *

(b) *Filing requirements*—(1) *Applications, notices, and rebuttals.* (i) Complete copies including exhibits and all other pertinent documents of applications, notices, and rebuttal submissions that are not eligible to be processed under delegated authority pursuant to § 574.8(a) of this Part shall be filed as follows: one copy with the Office of the Secretariat, Federal Home Loan Bank Board, Washington, DC 20552, labeled "Dockets Copy;" one (manually executed) copy with the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, Washington, DC 20552; one copy with the Corporate Activities Section, Office of Regulatory Activities, 801 Seventeenth Street NW., Washington, DC 20552; and one copy with the Principal Supervisory Agent of the district in which the insured institution or institutions involved in the transaction have their home office or offices. Unsigned copies shall be conformed.

(ii) Complete copies including exhibits and all other pertinent documents of applications, notices, and rebuttal submissions eligible to be processed under delegated authority pursuant to § 574.8(a) of this Part shall be filed as follows: two copies with the Principal Supervisory Agent of the district in which the insured institution or institutions involved in the transaction have their home office or offices (including one manually executed copy); and one copy with the Office of the Secretariat, Federal Home Loan Bank Board, Washington, DC 20552. Unsigned copies shall be conformed. Each copy shall include a summary of the proposed transaction including an explanation of why the application, notice, or rebuttal submission may be processed under delegated authority, and an affirmative representation that none of the factors specified in § 574.8(a) that would preclude action under delegated authority are present. Such statement shall be clearly labeled "Statement Regarding Eligibility for Processing Under Delegated Authority." If the person or company making the submission subsequently becomes aware of additional information or changed circumstances that would alter the eligibility of the application, notice, or rebuttal submission of processing under delegated authority, the company or person shall promptly so advise the Principal Supervisory Agent in writing.

(iii) All companies submitting applications under Section 574.3 of this Part shall comply with Section 7A of the Clayton Act (15 U.S.C. 18A) and regulations issued thereunder (Parts 801, 802, and 803 of Title 16 of the *Code of Federal Regulations*).

(iv) Any acquiror filing a notice with respect to acquisition of a state-chartered institution shall file an additional copy of the notice with the Principal Supervisory Agent and label such copy "State Supervisor Copy."

(v) Any person or company may amend an application, notice, or rebuttal submission, or file additional information with respect thereto, upon request of the Principal Supervisory Agent or the Corporation or its delegate or, in the case of the party filing an application, notice, or rebuttal, upon such party's own initiative.

* * * * *

5. Amend § 574.8 by removing paragraphs (a)(1)(i) and (v) and by redesignating existing paragraphs (a)(1)(ii), (iii), (iv), and (vi) as the new paragraphs (a)(1)(i), (ii), (iii), and (iv); by redesignating paragraphs (a)(2), (3), and (4) as the new paragraphs (a)(3), (4), and (5); by adding a new paragraph (a)(2); and by revising newly redesignated paragraphs (a)(3), (a)(4) introductory text, (a)(4)(ii), and (a)(5) to read as follows:

§ 574.8 Delegations of authority.

(a) *Actions by the Principal Supervisory Agent*—(1) *Approval.* * * *

(2) *Acceptance.* The Principal Supervisory Agent is authorized to accept a rebuttal filed under Section 574.4(e) of this Part where the following conditions are met:

(i) With a rebuttal of control, the acquiror submits an executed rebuttal agreement that conforms in material respects to the agreement set forth in § 574.100;

(ii) The rebuttal does not raise significant issues of law or policy;

(iii) The proposed acquisition of securities or other action covered by the rebuttal is not opposed by the institution whose securities are to be acquired and there is no competing acquiror for the institution's securities; and

(iv) The acquisition is not part of a conversion under Part 563b of this chapter.

(3) *Denial.* The Principal Supervisory Agent is authorized to disapprove any application or notice that he is authorized to approve or for which he is authorized to issue a statement of intent not to disapprove under paragraph (a)(1) of this section. The Principal Supervisory Agent is authorized to reject any rebuttal that he is authorized to accept under paragraph (a)(2) of this section. Such disapproval or rejection shall be in writing, shall set forth with specificity the basis for disapproval or rejection, and shall be furnished promptly to the acquiror.

(4) *Other actions.* For notices filed pursuant to Section 574.3(b) of this Part, and applications filed pursuant to Section 574.3(a) of this Art, and rebuttals filed pursuant to Section 574.4(e) of this Part, which may be approved under paragraph (a) of this section, the Principal Supervisory Agent may take the following actions:

* * * * *

(ii) A determination that an application or notice is sufficient or requires additional information under Section 574.6(c)(1) of this Part, or that a rebuttal of control is sufficient or requires additional information under Section 574.4(e)(3) of this Part;

* * * * *

(5) *Appeal.* Denial of an application or notice or rejection of a rebuttal by a Principal Supervisory Agent pursuant to paragraph (a) of this section may be appealed to the Corporation under the following procedures: Within 20 days after notification of the Principal Supervisory Agent's decision as provided herein, the acquiror must notify the Office of the Secretariat in writing of the acquiror's desire to appeal the Principal Supervisory Agent's decision. Two copies of such request for review must be submitted to the Office of the Secretariat, Federal Home Loan Bank Board, Washington, DC 20552, with one copy indicated "Attention: Corporate Activities Section, Office of Regulatory Activities" and a second copy indicated "Attention: Corporate and Securities Division, Office of General Counsel." A third copy should be sent to the appropriate Principal Supervisory Agent. The request for review must identify the party seeking review and describe with specificity the action taken for which review is sought and the reasons why the Principal Supervisory Agent's denial or notice of disapproval or rejection is contended to be erroneous. If an applicant does not file an appeal with in the time permitted under this section, any objection to the Principal Supervisory Agent's action is waived. A timely appeal filed with the Secretariat in accordance with the provisions of this section shall be mandatory for securing judicial review of an initial determination.

* * * * *

6. Add a new § 574.100 to read as follows:

§ 574.100 Rebuttal of control agreement.

Agreement

Rebuttal of Rebuttable Determination Of Control Under Part 574

I. WHEREAS

A. [ ] is the owner of [ ] shares (the "Shares") of the [ ] stock (the "Stock") of [name and address of institution], which Shares represent [ ] percent of a class of "voting stock" of [ ] as defined under the Federal Home Loan Bank Board's ("Board") Acquisition of Control Regulations ("Regulations") 12 C.F.R. Part 574 ("Voting Stock");

B. [ ] is an "insured institution" within the meaning of the Regulations;

C. [ ] seeks to acquire additional shares of stock of [ ] ("Additional Shares"), such that [ ]'s ownership thereof will exceed 10 percent of a class of Voting Stock but will not exceed 25 percent of a class of Voting Stock of [ ];

[and/or]

[ ] seeks to [ ], which would constitute the acquisition of a "control factor" as defined in the Regulations ("Control Factor");

D. [ ] does not seek to acquire the [Additional Shares or Control Factor] for the purpose or effect of changing the control of [ ] or in connection with or as a participant in any transaction having such purpose or effect;

E. The regulations require a company or a person who intendes to hold 10 percent or more but not in excess of 25 percent of any class of Voting Stock of an insured institution or holding company thereof and that also would possess any of the control factors specified in the Regulations, to file and obtain approval of an application ("Application") under the Savings and Loan Holding Company Act ("Holding Company Act"), 12 U.S.C. Section 1730a, or file and obtain clearance of a notice ("Notice") under the Change in Savings and Loan Control Act of 1978 ("Control Act"), 12 U.S.C. Section 1730(q), prior to acquiring such amount of stock and a Control Factor unless the rebuttable determination of control has been rebutted.

F. Under the Regulations, [ ] would be determined to be in control, subject to rebuttal, of [ ] upon acquisition of the [Additional Shares or Control Factor];

G. [ ] has no intention to manage or control, directly or indirectly, [ ];

H. [ ] has filed on [ ], a written statement seeking to rebut the determination of control, attached hereto and incorporated by reference herein, (this submission referred to as the "Rebuttal");

I. In order to rebut the rebuttable determination of control, [ ] agrees to offer this Agreement as evidence that the acquisition of the [Additional Shares or Control Factor] as proposed would not constitute an acquisition of control under the Regulations.

II. The FSLIC has determined, and hereby agrees, to act favorably on the Reubuttal, and in consideration of an FSLIC determination and agreement to act favorably on the Rebuttal, [ ] and any other existing, resulting a successor of [ ] agree with the FSLIC that:

A. Unless [ ] shall have filed a Notice under the Control Act, or an Application under the Holding Company Act, as appropriate, and either shall have obtained approval of the Application or clearance of the Notice in accordance with the Regulations, [ ] will not, except as expressly permitted otherwise herein or pursuant to an amendment to this Rebuttal Agreement.

1. Seek or accept representation of more than one member of the board of directors of [insert name of institution and any holding company thereof];

2. Have or seek to have any representative serve as the chairman of the board of directors, or chairman of an executive or similar committee of [insert name of institution and any holding company thereof]'s board of directors or as president or chief executive officer of [insert name of institution and any holding company thereof];

3. Engage in any intercompany transaction with [ ] or [ ]'s affiliates;

4. Propose a director in opposition to nominees proposed by the management of [insert name of institution and any holding company thereof] for the board of directors of [insert name of institution and any holding company thereof] other than as permitted in paragraph A–1;

5. Solicit proxies or participate in any solicitation of proxies with respect to any matter presented to the stockholders [ ] other than in support of, or in opposition to, a solicitation conducted on behalf of management of [ ];

6. Do any of the following, except as necessary solely in connection with [ ]'s performance of duties as a member of [ ]'s board of directors:

(a) Influence or attempt to influence in any respect the loan and credit decisions or policies of [ ], the pricing of services, any personnel decisions, the location of any offices, branching, the hours of operation or similar activities of [ ];

(b) Influence or attempt to influence the dividend policies and practices of [ ] or any decisions or policies of [ ] as to the offering or exchange of any securities;

(c) Seek to amend, or otherwise take action to change, the bylaws, articles of incorporation, or character of [ ];

(d) Exercise, or attempt to exercise, directly or indirectly, control or a controlling influence over the management, policies or business operations of [ ]; or

(e) Seek or accept access to any non-public information concerning [ ].

B. [ ] is not a party to any agreement with [ ].

C. [ ] shall not assist, aid or abet any of [ ]'s affiliates or associates that are not parties to this Agreement to act, or act in concert with any person or company, in a manner which is inconsistent with the terms hereof or which constitutes an attempt to evade the requirements of this Agreement.

D. Any amendment to this Agreement shall only be proposed in connection with an amended rebuttal filed by [ ] with the FSLIC for its determination or a determination pursuant to delegated authority;

E. Prior to to acquisition of any shares of "Voting Stock" of [ ] as defined in the Regulation in excess of the Additional Shares, any required filing will be made by [ ] under the Control Act or the Holding Company Act and either approval of the acquisition under the Holding Company Act shall be obtained from the FSLIC or any Notice filed under the Control Act shall be cleared in accordance with the Regulations;

F. At any time during the 10 percent or more of any class of Voting Stock of [ ] is owned or controlled by [ ], no action which is inconsistent with the provisions of this Agreement shall be taken by [ ] until [ ] files and either obtains from the FSLIC a favorable determination with respect to either an amended rebuttal, approval of an Application under the Holding Company Act, or clearance of a Notice under the Control Act, in accordance with the Regulations;

G. Where any amended rebuttal filed by [ ] is denied or disapproved, [ ] shall take no action which is inconsistent with the terms of this Agreement, except after either (1) reducing the amount of shares of Voting Stock of [ ] owned or controlled by [ ] to an amount under 10 percent of a class of Voting Stock, or immediately ceasing any other actions that give rise to a conclusive or rebuttable determination of control under the Regulations; or (2) filing a Notice under the Control Act, or an Application under the Holding Company Act, as appropriate, and either obtaining approval of the Application or clearance of the Notice, in accordance with the Regulations;

H. Where any Application or Notice filed by [ ] is disapproved, [ ] shall take no action which is inconsistent with the terms of this Agreement, except after reducing the amount of shares of Voting Stock of [ ] owned or controlled by [ ] to an amount under 10 percent of any class of Voting Stock, or immediately ceasing any other actions that give rise to a conclusive or rebuttable determination of control under the Regulations;

I. Should circumstances beyond [ ]'s control result in [ ] being placed in a position to direct the management or policies of [ ], then [ ] shall either (1) promptly file an Application under the Holding Company Act or a Notice under the Control Act, as appropriate, and take no affirmative steps to enlarge that control pending either a final determination with respect to the Application or Notice, or (2) promptly reduce the amount of shares of [ ] Voting Stock owned or controlled by [ ] to an amount under 10 percent of any class of Voting Stock or immediately cease any actions that give rise to a conclusive or rebuttable determination of control under the Regulation;

J. By entering into this Agreement and by offering it for reliance in reaching a decision on the request to rebut the presumption of control under the Regulations, as long as 10 percent or more of any class of Voting Stock of [ ] is owned or controlled, directly or indirectly, by [ ], and [ ] possesses any Control Factor as defined in the Regulations, [ ] will submit to the jurisdiction of the Regulations, including (1) the filing of an amended rebuttal or Application or Notice for any proposed action which is prohibited by this Agreement, and (2) the provisions relating to a penalty for any person who willfully violates the [Holding Company Act or Control Act] and the Regulations thereunder, and any regulation or order issued by the FSLIC.

K. Any violation of this Agreement shall be deemed to be a violation of the [Holding Company Act or Control Act] and the Regulations, and shall be subject to such remedies and procedures as are provided in the [Holding Company Act or Control Act] and the Regulations for a violation thereunder and in addition shall be subject to any such additional remedies and procedures as are provided under any other applicable statutes or regulations for a violation, willful or otherwise, of any agreement entered into with the FSLIC.

III. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which counterparts collectively shall constitute one instrument representing the Agreement among the parties thereto. It shall not be necessary that any one counterpart be signed by all of the parties hereto as long as each of the parties has signed at least one counterpart.

IV. This Agreement shall be interpreted in a manner consistent with the provisions of the Rules and Regulations of the Board.

V. This Agreement shall terminate upon (i) the approval by the Board of [ ]'s Application under the Holding Company Act or clearance by the Board of [ ]'s Notice under the Control Act to acquire [ ], and consummation of the transaction as described in such Application or Notice, or in the disposition by [ ] of a sufficient number of shares of [ ], or the taking of such other action that thereafter [ ] is not in control and would not be determined to be in control of [ ] under the Control Act, the Holding Company Act or the Regulations of the Board under either in effect at that time.

VI. IN WITNESS THEREOF, the parties thereto have executed this Agreement by their duly authorized officer.

[Acquiror]

Federal Savings and Loan Insurance Corporation.

Date: _____

By: _____

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-19572 Filed 8-29-88; 8:45 am]

BILLING CODE 6720-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1201

Statement of Organization and General Information

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR Part 1201, "Statement of Organization and General Information," to reflect the current organizational structure and to make editorial corrections. This regulation sets forth NASA's policy and functions as established by the National Aeronautics and Space Act of 1958, as amended.

EFFECTIVE DATE: August 30, 1988.

ADDRESS: General Management Division, Code NPN–1, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, 20.2 453–2922.

SUPPLEMENTARY INFORMATION: NASA is revising §§ 1201.200 and 1201.400 to reflect the current organizational structure and to make editorial corrections. In § 1201.200(a)(1) the position title "Associate Deputy Administrator (Policy)" is changed to "Associate Deputy Administrator." § 1201.200(a)(3) is rewritten for clarification. § 1201.200(b)(8) is changed from the National Space Technology Laboratories to the John C. Stennis Space Center, Stennis Space Center, MS 39529. A correction is also made to § 1201.400(c) which corrects "48 U.S.C." to "48 CFR."

Since this revision involves internal administrative decisions and editorial changes, no public comment period is required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1201

Organization and functions (Goverment agencies).

For reasons set forth in the Preamble, 14 CFR Part 1201 is amended as follows:

PART 1201—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. The authority citation for 14 CFR Part 1201 continues to read as follows:

Authority: 5 U.S.C. 552, as amended.

2. Section 1201.200 is amended by revising paragraphs (a)(1), (a)(3), and (c)(8) to read as follows:

§ 1201.200 General.

(a) * * *

(1) The Office of the Administrator which includes the Administrator, Deputy Administrator, Associate Deputy Administrator, Associate Deputy Administrator (Institution), Assistant Deputy Administrator, and the Executive Officer.

* * * * *

(3) Fourteen Headquarters Offices. Thirteen of these offices provide agencywide leadership in certain administrative and specialized areas and one office provides administrative operations for Headquarters. All of these offices report directly to the Office of the Administrator.

* * * * *

(c) * * *

(8) John C. Stennis Space Center, Stennis Space Center, MS 39529.

* * * * *

3. Section 1201.400 is amended by revising paragraph (c) to read as follows:

§ 1201.400 NASA procurement program.

* * * * *

(c) All procurements are made in accordance with the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) and the Federal Acquisition Regulation Supplement (NASA/FAR Supplement) (48 CFR Chapter 18). Copies of these publications are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, on an annual subscription basis.

James C. Fletcher,

Administrator.

August 23, 1988.

[FR Doc. 88–19674 Filed 8–29–88; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 87N–0160]

D&C Red No. 33

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDS) is permanently listing D&C Red No. 33 for general use in drugs and cosmetics, except for use in the area of the eye. This action is in response to petitions filed by several petitioners. This rule will remove D&C Red No. 33 from the provisional list of color additives for general use in drugs and cosmetics.

DATES: Effective September 30, 1988, except for any provisions that may be stayed by the filing of proper objections; written objections and requests for a hearing by September 29, 1988.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In 1960, Congress passed the Color Additive Amendments (the amendments). In *Certified Color Mfg. Ass'n* v. *Mathews*, 543 F.2d 284, 286–287 (D.C. Cir. 1976), the United States Court of Appeals for the District of Columbia Circuit explained the purpose of this legislation:

> The Color Additive Amendments of 1960 reflect a Congressional and administrative response to the need in contemporary society for a scientifically and administratively sound basis for determining the safety of artificial color additives, widely used for coloring food, drugs, and cosmetics. The Amendments reflect a general unwillingness to allow widespread use of such products in the absence of scientific information on the effect of these products on the human body. The previously used system had some glaring deficiencies, and the 1960 Amendments were designed to overcome them. * * *
>
> (Footnotes omitted)

As amended, section 706(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376(a)) provides that a color additive will be deemed unsafe for use in food, drugs, cosmetics, and some medical devices unless FDA has issued a regulation permanently listing that color additive for its intended use. FDA will issue such a regulation only if it has been presented with data that establish with reasonable certainty that no harm will result from the use of the color additive. The burden of presenting such data is on the person who is seeking approval of the use of the additive.

In passing the amendments, Congress provided for the provisional listing of the color additives in use at that time, pending completion of the scientific investigations needed for a determination about the safety of these additives (section 203(b) of the transitional provisions of the amendments, Title II, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note)). Section 81.1 (21 CFR 81.1) of the agency's color additive regulations enumerates those color additives that are still provisionally listed. Among them is D&C Red No. 33 for use in drugs and cosmetics.

II. Regulatory History

A. The Color Additive

D&C Red No. 33, a dull bluish red dye of the monoazo class, is identified in *Chemical Abstracts* as the disodium salt of 5-amino-4-hydroxy-3-(phenylazo)-2,7-naphthalenedisulfonic acid (CAS Reg. No. 3567–66–6). It is indentified in § 82.1333 (21 CFR 82.1333) as the disodium salt of 8-amino-2-phenylazo-1-naphtol-3,6-disulfonic acid. Other names include Colour Index Food Red 12 (C.I. No. 17200), C.I. Acid Red 33, Fast Acid Magenta B, and Acid Fuchsin D.

In manufacturing the additive, the product obtained from the nitrous acid diazotization of aniline is coupled with 4-hydroxy-5-amino-2,7-naphthalenedisulfonic acid in a alkaline aqueous medium. D&C Red No. 33 is soluble in water and glycerol and slightly soluble in methanol and ethanol.

D&C Red No. 33 is used in ingested drug preparations and in cosmetics subject to ingestion, such as lipsticks, dentifrices, mouthwashes, and breath fresheners. It is also used in externally applied cosmetics such as noncoloring hair preparations, skin care, fragrance, and make-up products.

The color additive D&C Red No. 33 has been in use for many years. Because D&C Red No. 33 was in use at the time the Color Additive Amendments of 1960 were enacted, it was provisionally listed for drug and cosmetic use in the Federal Register of October 12, 1960 (25 FR 9759).

In the Federal Register of October 12, 1960 (25 FR 9759), the agency established temporary tolerances for the provisional listing of certain color additives, including D&C Red No. 33, for use in lipsticks, ingested drugs, and other products subject to ingestion, such as mouthwashes and dentifrices. The original temporary tolerances, based on preliminary usage information and toxicity data available at that time, were intended to limit use of the color additive to safe levels until all required toxicity tests were completed. The agency has revised the temporary tolerances over the years as additional data became available, the lastest revision being on August 21, 1979 (44 FR 48964). D&C Red No. 33 usage is limited under the temporary tolerances in 21 CFR 81.25 to 3.0 percent by weight in lip cosmetics, to 0.75 milligram (mg) per daily dose of drugs, and to amounts consistent with current good manufacturing practice in mouthwashes and dentifrices.

Between 1960 and February 4, 1977, FDA postponed the closing date for the provisional listing of D&C Red No. 33 several times. The agency granted these postponements in response to requests for additional time to complete the scientific investigations necessary for listing the color additive under section 706 of the act.

B. Color Additive Petitions

In the Federal Register of November 20, 1968 (33 FR 17205), FDA announced that a petition (CAP 8C0086) for the permanent listing of D&C Red No. 33 as a color additive for use in ingested drugs, lipsticks, and externally applied drugs and cosmetics had been filed by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association (CTFA)), the Pharmaceutical Manufacturers Association (PMA), and the Certified Color Industry Committee (now the Certified Color Manufacturers Association, Inc. (CCMA)), c/o Hazleton Laboratories, Inc., P.O. Box 30, Falls Church, VA 22046 (now 9200 Leesburg Turnpike, Vienna, VA 22180).

The petition was filed under section 706 of the act (21 U.S.C. 376). A later notice (41 FR 9584; March 5, 1976) amended the notice of filing of the petition to include the use of D&C Red No. 33 in all types of cosmetics subject to ingestion and the additional use of D&C Red No. 33 in cosmetics intended for use in the area of the eye.

FDA notified the petitioners by letters dated May 14, 1976, August 15, 1977, and August 4, 1978, of the need for data to support the use of D&C Red No. 33 in cosmetics intended for use in the area of the eye. In a fourth letter, dated October 24, 1978, FDA advised the petitioners to consider withdrawing the portion of the petition that sought approval of the use of D&C Red No. 33 in cosmetics intended for use in the area of the eye because it appeared that the required data from eye-area studies were not readily available.

The petitioners have not submitted the required data on eye-area use. Therefore, FDA considers that portion of the petition that relates to the listing of D&C Red No. 33 for eye-area use to be withdrawn without prejudice in accordance with the provisions of § 71.4

(21 CFR 71.4). Use of D&C Red No. 33 in the area of the eye has never been covered by the provisional listing of this color additive.

The petitioners for CAP 8C0086 originally requested a regulation permitting up to 5.5 mg of D&C Red No. 33 per daily dose in ingested drugs, up to 3 percent of the color additive in cosmetics subject to ingestion, and use in amounts consistent with current good manufacturing practice in other cosmetics and topically applied drugs.

In February 1988, the petitioners amended their proposed tolerances to request that use of D&C Red No. 33 be limited to 0.75 mg per daily dose in ingested drugs. These uses and limitations are the same as the current uses and limitations under the provisional listing of this color additive.

In the **Federal Register** of August 6, 1973 (38 FR 21200), FDA announced that a petition (CAP 7C0059) for the permanent listing of D&C Red No. 33 as a color additive for use in drugs and cosmetics for external applications also had been filed by the Procter and Gamble Co., Toilet Goods Division, 6000 Center Hill Rd., Cincinnati, OH 45224. The petition was filed under section 706 of the act (21 U.S.C. 376).

C. Toxicological Testing of D&C Red No. 33

In the **Federal Register** of February 4, 1977 (42 FR 6992), FDA published revised regulations that required new chronic toxicity studies on 31 color additives, including D&C Red No. 33, as a condition for continued provisional listing for ingested uses. FDA required the new toxicity studies because the earlier toxicity studies that the petitioners had submitted to support the safe use of these color additives were deficient in several respects. FDA described these deficiencies in the **Federal Register** of September 23, 1976 (41 FR 41860);

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that are too small to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color. The small number of animals used does not, in and of itself, cause this result, but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.

2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.

3. In a number of the studies, an insufficient number of animals was reviewed histologically.

4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.

5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

In the February 4, 1977 rule, FDA postponed the closing date for the provisional listing of the color additives until January 31, 1981, for the completion of required toxicity studies. Subsequently, FDA published amendments to the provisional regulations in the **Federal Register** of April 7, 1978 (43 FR 14642), that required a new multigeneration reproduction study for D&C Red No. 33 as another condition of its continued provisional listing. The deficiency in the reproduction study previously submitted by the petitioners to support the safe use of the color additive was described in the **Federal Register** of December 13, 1977 (42 FR 62497; Docket No. 76N–0366). FDA found the study to be inadequate for assessing the potential for the color additive to affect reproduction adversely following ingestion. The selection of test animals for the succeeding generations was not made randomly, introducing a possible bias in the outcome of the studies. Evaluation of weaning weights of the animals to be used for subsequent generations disclosed that heavier, and, therefore, presumably healthier, test animals were selected in more instances than would have been dictated by random selection. This is an improper manner of selection as test animals selected for subsequent breeding should be representative of the available animals as a whole. The possible bias that was introduced by not selecting animals randomly but rather by weight may have resulted in the nonselection of animals exhibiting adverse effects.

In the **Federal Register** of March 27, 1981 (46 FR 18954), FDA established the closing date of March 31, 1983, for the completion of the evaluation of D&C Red No. 33. Because its review of the data and of the scientific and legal issues raised on this color additive took longer than the agency anticipated, FDA had to extend the provisional listing of the color additive on a number of occasions. On June 26, 1985 (50 FR 26377), FDA proposed a longer extension of the provisional listing for several color additives, including D&C Red No. 33, to provide for the submission of additional information. On September 4, 1985 (50 FR 35783), the agency published a final rule extending the provisional listing for D&C Red No. 33 until March 3, 1987. On July 30, 1986, CTFA submitted additional information, which is discussed below. To provide time for the completion of its review and preparation of the appropriate documents, the agency further extended the closing date several times. The most recent extension was announced in the Federal Register on July 1, 1988 (53 FR 25127), establishing the current closing data of August 30, 1988.

d. Citizen Petition Filed by Public Citizen Health Research Group

On December 17, 1984, the Public Citizen Health Research Group (Public Citizen) petitioned FDA to ban the use of the color additives that remained provisionally listed. On January 22, 1985, Public Citizen filed a complaint in the District Court for the District of Columbia seeking the same relief. Public Citizen alleged that, by continuing to provisionally list the color additives, including D&C Red No. 33, FDA had violated the Color Additive Amendments to the act, as well as those provisions of the Administrative Procedure Act (5 U.S.C. 706(1)) that pertain to unreasonable delay of agency action. Public Citizen sought to enjoin FDA from using the provisional list or any other means to allow the marketing of the provisionally listed color additives.

On June 21, 1985, the Commissioner of Food and Drugs sent to Public Citizen a detailed response to the petition. In his response, the Commissioner carefully reviewed and discussed the arguments and information submitted in support of the petition. The Commissioner concluded that the public health would not be endangered by the continued marketing of the color additives while scientific, legal, and policy issues were addressed and, therefore, the Commissioner denied the petition.

On February 13, 1986, Judge Stanley S. Harris granted FDA's motion for summary judgment and dismissed Public Citizen's complaint. *Public Citizen, et al.* v. *DHHS, et al.*, No. 85–1573 (D.D.C. February 13, 1986). Public Citizen's appeal of this decision was denied by the U.S. Court of Appeals, No. 86–5150 (October 23, 1987).

III. Evaluation of the Safety of D&C Red No. 33

A. *Statutory Safety Requirements*

Under section 706(b)(4) of the act (21 U.S.C. 376 (b)(4)), the so-called "general safety clause" for color additives, a color additive cannot be listed for a particular use unless the data presented to FDA establish that it is safe for that use. Although what is meant by "safe" is not explained in the general safety clause, the legislative history makes clear that this word is to have the same

meaning for color additives as for food additives. (See H. Rept. No. 1761, "Color Additive Amendments of 1960," Committee on Interstate and Foreign Commerce, 86th Cong., 2d Sess. 11 (1960).) The Senate report on the Food Additives Amendment of 1958 states:

> The concept of safety used in this legislation involves the question of whether a substance is hazardous to the health of man or animal. Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances.
>
> This was emphasized particularly by the scientific panel which testified before the subcommittee. The scientists pointed out that it is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of any chemical substance.

S. Rept. No. 2422, "Food Additives Amendment of 1958," Committee on Labor and Public Welfare, 85th Cong., 2d Sess. 6 (1958).

FDA has incorporated this concept of safety into its color additive regulations. Under 21 CFR 70.3(i), a color additive is "safe" if "there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive." Therefore, the general safety clause prohibits approval of a color additive if doubts about the safety of the additive for a particular use are not resolved to an acceptable level in the minds of competent scientists.

The general safety clause is buttressed by the anticancer or Delaney clause (section 706(b)(5)(B) of the act), which provides that a color additive shall be deemed to be unsafe "for any use which will or may result in ingestion of all or part of such additive, if the additive is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of the safety of additives for use in food, to induce cancer in man or animal," and it shall be deemed unsafe "for any use which will not result in ingestion of any part of such additive, if, after tests which are appropriate for the evaluation of the safety of additives for such use, or after other relevant exposure of man or animal to such additive, it is found by the Secretary to induce cancer in man or animal" (21 U.S.C. 376(b)(5)(B)).

The application of the Delaney clause to color additives was amplified recently by a decision concerning D&C Orange No. 17 and D&C Red No. 19 in *Public Citizen, et al.* v. *Young, et al.* (D.C. Cir. No. 86–1548, October 23, 1987):

> In sum, we hold that the Delaney Clause of the Color Additive Amendments does not contain an implicit *de minimis* exception for carcinogenic dyes with trivial risks to humans. We based this decision on our understanding that Congress adopted an "extraordinarily rigid" position, denying the FDA authority to list a dye once it found it to "induce cancer in * * * animals" in the conventional sense of the term.

B. Earlier Studies

Among the earlier toxicity studies on the color additive, submitted by the petitioners before 1977, were acute oral toxicity studies in rats, dogs, and mice; short-term and chronic feeding studies in dogs and rats; a three-generation reproduction study in rats; teratology studies in rats and rabbits; dermal studies in rabbits; and 2-year skin-painting studies in mice. Some toxic effects, including hemolytic anemia and enlarged spleens, were observed at higher doses in the pre-1977 feeding studies, but the agency concluded that the color additive could be used safely until the completion of further testing.

From the earlier studies with D&C Red No. 33 submitted by the petitioners, the agency has evaluated the dermal safety of the color additive. The data from these studies demonstrate that D&G Red No. 33 is nonirritating when applied repeatedly to either intact or abraded skin. Furthermore, D&C Red No. 33 was not found to be carcinogenic in two studies in which it was applied periodically to the skin of mice over their lifetimes.

FDA has evaluated the genetic toxicity tests related to D&C Red No. 33 found in the literature. The available information is fragmentary and inconsistent, and the agency considers the full complement of animal toxicity studies to provide more pertinent information on safety than these in vitro tests. FDA finds no basis for further concerns in this information.

C. New Studies

In the new reproduction study required by the April 7, 1978, order, Sprague-Dawley (Charles River) COBS CD rats were fed dietary levels of 0, 0.25, 2.5, 7.5, and 25 milligrams per kilogram (mg/kg) per day of D&C Red No. 33. Twenty females and 20 males for each group were used to initiate the study, which was conducted for three generations. The selection of test animals for the succeeding generations was made randomly. Examination of a number of indices of viability, health, reproductive abnormality, and developmental toxicity in offspring and mothers did not reveal any pattern of adverse effects. From evaluation of the new multigeneration reproduction study in rats and of earlier teratology studies, agency scientists have concluded that there have been no reproductive or teratogenic effects related to treatment with the color additive.

Reports were submitted to FDA on the new chronic toxicity studies in rats and mice required by the February 4, 1977, order. These new studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity protocols. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of the two species tested, significantly increase the power of these tests to detect dose-related effects.

The reproduction and chronic studies were conducted for the petitioner by International Research and Development Corp., Mattawan, MI 49071. The color additive fed to the animals in theses studies contained 88 percent total color.

In the new chronic mouse study, D&C Red No. 33 was fed to Charles River CD–1 mice at dietary levels of 0, 0.1, 1, and 5 percent. Sixty females and 60 males were used for each dietary level and in each of 2 control groups. The male mice fed 5 percent D&C Red No. 33 were sacrificed at 57 weeks and the female mice fed 5 percent were sacrificed at 74 weeks due to reduced survival. All other groups were sacrificed at 104 weeks of feeding. The mice fed 1 and 5 percent of D&C Red No. 33, compared to the controls, showed hemolytic anemia and associated adverse effects, but no adverse effects were seen in mice fed 0.1 percent. No increased incidence of tumors was related to feeding of the test substance. Based on the evaluation of the results of this chronic mouse toxicity study, the agency has determined that D&C Red No. 33 did not cause cancer in Charles River CD–1 mice.

In one chronic study, Sprague-Dawley (Charles River CD) rats were fed dietary levels of 0, 0.25, 0.05, and 0.2 percent D&C Red No. 33 for 129 weeks. These rats were exposed in utero and during lactation by the feeding of the same dietary levels of D&C Red No. 33 to their parents. Seventy females and 70 males were used for each dietary level and in each of 2 control groups.

A related second study was performed with the same strain of rats, in which the animals, similarly exposed in utero and during lactation, were fed

either 0 or 2 percent of D&C Red No. 33. FDA requested that this feeding level be added to provide testing at the highest level compatible with completion of the test. The agency's analysis of data from earlier studies suggested that this maximum level of 2 percent could be used without jeopardizing completion of the study. The males were sacrificed at 113 weeks of feeding and the females at 117 weeks. There were 70 animals of each sex in each group.

Tests rats in both studies showed adverse effects associated with hemolytic anemia. Decreases in erythrocyte counts, decreases in hemoglobin levels, and increases in reticulocyte counts were seen at the 0.2 percent and the 2 percent doses. Also at the 0.2 percent dose, the males had increased spleen/body weight ratios at the 12-month sacrifice and the females had increased spleen weights at the end of the study. No adverse effects were seen at the 0.05 percent level or below.

In the second rat study, survival of males fed 2.0 percent was less than the controls and the body weights of treated rats were decreased compared to controls. The treated rats of both sexes showed enlargement of the spleen at 12 months and also at termination of the study. Both sexes of the treated group showed a marked increase in parenchymal fibrosis of the spleen compared to their controls. Both sexes also had splenic capsular fibrosis, and, in addition, the males showed fatty metamorphosis. In the spleens of the 140 treated rats, the agency also found a few uncommon tumors: three fibrosarcomas and one hemangioma in males and one fibroma in females. One male control rat had a hemangiosarcoma. The incidences of the various tumors are not sufficient to show carcinogenicity. Based on the evaluation of the results of both chronic rat studies, the agency has determined that D&C Red No. 33 did not cause cancer in Sprague-Dawley rats.

D. The Issue of Whether More Testing is Necessary

1. *Statement of the issue.* In a notice of proposed rulemaking (50 FR 26377; June 26, 1985), FDA stated that the chronic testing of both D&C Red No. 33 and D&C Red No. 36 did not reveal a carcinogenic effect in the animals in which they were tested. FDA noted increased incidences of unusual, nonneoplastic splenic lesions in Sprague-Dawley rats fed high doses of D&C Red No. 33. There were higher incidences of parenchymal fibrosis, enlargement, capsular fibrosis, and (in males) fatty metamorphosis of the spleen in animals fed the test compound than in the control animals. In the 140 rats fed D&C Red No. 33 there were three fibrosarcomas, one hemangioma, and one fibroma.

In the proposal, FDA stated that if it had only results of the testing of D&C Red No. 33 and D&C Red No. 36 before it, the agency would likely have approved the use of these color additives in spite of the observed effects. However, the proliferative effects seen in the testing of D&C Red No. 33 and D&C Red No. 36 indicated to FDA that there was a similarity between these color additives and certain other compounds, such as D&C Red No. 9, that have been shown to be carcinogenic. When D&C Red No. 9 was fed to Sprague-Dawley rats, a few rare tumors and numerous rare lesions of the spleen were produced. These rats had the same kinds of nonneoplastic lesions as with D&C Red No. 33 and D&C Red No. 36. When D&C Red No. 9 was fed to Fischer 344 rats, however, numerous rare tumors of the spleen were produced, and D&C Red No. 9 was found to be a splenic carcinogen in this strain.

The association of the nonneoplastic splenic lesions with tumor occurrence suggested to FDA that the nonneoplastic lesions may be precursors or indicators of the start of a carcinogenic process. This similarity of effects in the Sprague-Dawley strain of rats between D&C Red No. 33, on the one hand, and D&C Red No. 9, on the other, raised concerns that D&C Red No. 33 may be carcinogenic in the Fischer 344 rat. To clarify the significance of this similarity of effects, FDA proposed that new studies be conducted on D&C Red No. 33 and D&C Red No. 36 (50 FR 26377; June 26, 1985). The agency stated that it believed that such studies would be the best way to resolve the ambiguities about these color additives that had been created by the results of the testing with D&C Red No. 9 and other compounds in Fischer 344 rats. The agency also noted, however, that it would reconsider the issue of additional testing if data and information were received that showed that such testing was not necessary.

As part of its effort to resolve this problem, FDA, in 1984, had asked that a panel of experts from the National Toxicology Program's Board of Scientific Counselors examine the data on D&C Red No. 33 in conjunction with the data on D&C Red No. 9. FDA sought the guidance of the Board on two questions: "(1) Do the results of the long-term feeding studies of D&C Red No. 33 in CD–1 (Charles River) mice and Sprague-Dawley (Charles River) rats indicate a possible carcinogenic effect that could be attributed to exposure to this color additive? (2) In particular, do the splenic changes in rats constitute evidence of neoplastic potential?"

The Board met on July 26, 1984, and provided the following response:

> 1. Quantitatively, the low incidence rates for primary mesenchymal neoplasms of the spleen in male and female Charles River CD–1 rats given long term dietary administration of 2% D&C Red No. 33 could not be considered sufficient to be categorized as a demonstrated carcinogenic response to chemical treatment.
>
> 2. Qualitatively, there appears to be treatment-related nonneoplastic target organ (spleen) toxic responses which are similar to those previously described for certain other aromatic azo compounds, aromatic nitro compounds, and amines.
>
> 3. Further research is necessary and should be directed toward developing understanding of the mechanisms of the toxic action of this particular family of compounds in the spleen of rats. (Ref. 1).

FDA agrees with the Board's first point and concludes that the evidence does not establish D&C Red No. 33 to be a carcinogen. The incidences of splenic tumors in Sprague-Dawley rats (produced by Charles River) do not show carcinogenicity.

The agency agrees with the Board's second point, that there were similar nonneoplastic splenic effects produced with D&C Red No. 33 as there were with others in this family of compounds. FDA acted on this basis in publishing the proposal on June 26, 1985 (50 FR 26377).

The Board's third recommendation was intended to apply to the narrow question of what is needed to further scientific understanding, and not what is needed to protect the public health.

The petitioners' comments on the 1985 proposal suggested that conducting a risk assessment based on the comparative toxicities of D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36 in Sprague-Dawley rats would show that additional testing would not be necessary to protect the public health. The petitioner later submitted a lengthy comparative assessment on the relative splenic toxicities of the three color additives.

2. *Resolution of the issue.* The agency carefully considered the petitioners' comments and concluded that, if the splenic toxicity associated with the use of these color additives were produced by the major components of the colors, then it should be possible to evaluate the health concern raised by the color additives using the data from the studies involving the Sprague-Dawley rat and the D&C Red No. 9 study in the Fischer 344 rat. FDA concluded that knowledge of the relative toxicities of these additives would enable the agency to make a determination about the safety

of D&C Red No. 33 and D&C Red No. 36 without requiring new long-term studies (50 FR 35783 at 35788; September 4, 1985).

FDA has conducted its own comparative evaluation based on the relative toxicities of D&C Red No. 9 and D&C Red No. 33 (Ref. 2). The assessment shows that, even assuming that D&C Red No. 33 were carcinogenic if subjected to further testing in a strain of rat other than the Sprague-Dawley, the theoretical, upper-bound, lifetime risk associated with exaggerated use exposure to the compound would be extremely small, that is, less than 3×10^{-7} (Ref. 3).

In light of this comparative evaluation, the agency has reconsidered whether additional chronic testing of D&C Red No. 33 is necessary to establish the safety of the compound. When deciding whether to require additional testing for a compound under review, the agency routinely follows the principle articulated in its toxicology guidelines that "the degree of effort expended in reducing uncertainty about the safety of an additive ought to relate in some concrete way to the likelihood that the substance poses a potential for health risk to the public * * *." (Ref. 4, p. 10). By showing that the splenic toxicity presents no reasonable likelihood of harm to the public, the assessment adequately responds to the agency's initial concern that additional testing of the additive would be necessary to protect the public health. In fact, in light of the assessment, to require additional testing would be pointless from a public health perspective and contrary to agency practice.

Accordingly, the agency concludes that the existing carcinogenicity studies concerning D&C Red No. 33 are adequate for the evaluation of the color additive.

E. Summary of the Safety Evidence for D&C Red No. 33

1. *Adequacy of the submitted studies to demonstrate safety.* The series of studies completed by the petitioner satisfies the usual requirements to demonstrate safety for a color additive that will be ingested and applied dermally. The studies were properly conducted and are acceptable under today's standards of toxicity testing. Agency scientists have found no adverse effects related to treatment with the color additive in doses up to the highest dose of 25 mg/kg in the teratology studies or in the 3-generation reproduction studies. The long-term studies in dogs, mice, and rats all showed the hemolytic anemia syndrome prominently at high doses. The highest dose level that did not show this syndrome was 150 mg/kg (0.1 percent) in mice, 12.5 mg/kg in dogs, and 25 mg/kg (0.05 percent) in rats. Thus, the safety studies established a no-observed-effect-level of 12.5 mg/kg body weight or higher in all species tested.

Based on its evaluation of these studies and on its analysis of concerns raised by studies on D&C Red No. 9, the agency concludes that the data show that no harm will result from using D&C Red No. 33 under the conditions prescribed.

2. *Negative results of carcinogenicity studies.* As discussed above, the agency believes that these studies are adequate to determine whether D&C Red No. 33 is carcinogenic. No significant increased incidence of any type of tumor, in any of the many tissues examined, in either sex, in any dose group, in any strain of any species tested, by either ingestion or skin application, was associated with D&C Red No. 33 treatment in any of the studies. Thus, after thorough evaluation of these studies, which meet modern design standards for tests to determine carcinogenicity, the agency finds that D&C Red No. 33 has not induced cancer in any of the laboratory testing. As stated above, the National Toxicology Program's Board of Scientific Counselors has also concluded that the data do not demonstrate a carcinogenic response to treatment. Accordingly, the Delaney clause is not applicable to the decision on this color additive.

3. *Conclusion.* For the foregoing reasons, the agency considers that the direct testing of D&C Red No. 33 show that the color additive is safe for use in drugs and cosmetics.

IV. Potential Carcinogenic Impurities

For the reasons discussed above, the agency considers that the direct testing of D&C Red No. 33 shows that the color additive is safe for use in drugs and cosmetics. The agency must still consider, however, any risk posed by possible carcinogenic impurities in D&C Red No. 33.

A. The Impurities Found

During the safety review, the agency developed a new analytical methodology for examining the color additive for the presence of trace level impurities. Analyses by this new methodology found six carcinogenic impurities in commercial, certified batches of D&C Red No. 33 (Refs. 5 and 6). The carcinogenic impurities that the agency detected are 4-aminoazobenzene, 4-aminobiphenyl, aniline, azobenzene, benzidine, and 1,3-diphenyltriazene. These impurities result from impurities in the starting materials used to manufacture the color additive, remaining traces of starting material, and from reactions involving these impurities during the manufacturing process. The regulation set forth below establishes specifications that would limit the concentrations of all six of these impurities in future batches.

Because of its concerns about the carcinogenic impurities, the agency has analyzed representative samples from 10 certified batches of the color additive (Refs. 5 and 6). The results of the analyses, expressed as concentration in parts per billion (ppb), for the 6 carcinogenic impurities in these 10 batches are summarized in Table I.

TABLE I.—LEVELS OF IMPURITIES FOUND IN D&C RED NO. 33

Impurity	No. of batches (out of 10)[a] containing detectable amounts of impurity	Range of impurity concentration (ppb)[b]	Average impurity level in 10 samples (ppb)[c]
4-Aminoazobenzene.	10	50–3, 100	500
4-Aminobiphenyl.	10	40–530	260
Aniline	10	2,000–19,900	8,300
Azobenzene	2	ND–2,200	410
Benzidine	4	ND–60	15
1,3-Diphenyltriazene.	8	ND–410	100

[a] Thirteen certified batches were analyzed but each batch was not necessarily analyzed for all six impurities. Ten batches were examined for each impurity.

[b] Approximately detectability limits: Azobenzene—200 ppb; Benzidine—1 ppb; 1,3-Diphenyltriazene—10 ppb.

[c] Impurity assumed to be present at detectability limit if not detected.

The detectability limit mentioned in the table is the approximate concentration of the impurity sufficient to cause a visible response on the chromatogram. This limit is lower than the concentration that will produce a response that can be reproducibly quantitated with good precision.

B. Prior Actions by FDA

The current testing of D&C Red No. 33 has not proven it to be a carcinogen, and, thus, the anticancer clause does not apply to it. Nevertheless, the agency must still consider whether the color additive, in light of the fact that it may contain carcinogenic impurities, may be safely used in drugs and cosmetics.

The agency is using the same approach for this situation concerning impurities in D&C Red No. 33 as it used to examine the risk associated with the presence of minor carcinogenic impurities in FD&C Yellow No. 5 (50 FR 35774; September 4, 1985), and FD&C Yellow No. 6 (51 FR 41765; November 19, 1986), both of which may contain the same impurities as those found in D&C Red No. 33. These color additives had not been shown to be carcinogenic by appropriate bioassays. FDA concluded that the use of each of these color additives, within prescribed specifications, is safe.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5 (47 FR 24278; June 4, 1982), which contains a carcinogenic chemical but has not itself been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list D&C Green No. 5, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulations.

The assessment procedure used to estimate risk from an impurity has two aspects: (1) Assessment of the probable exposure to the impurity from the proposed use of the additive, and (2) extrapolation of carcinogenic potency observed in the animal bioassay with the impurity to the conditions of probable human exposure.

C. Exposure to Carcinogenic Impurities in D&C Red No. 33

The agency has estimated the maximum risk from exposure to the carcinogenic impurities that may result from use of D&C Red No. 33 in drugs and cosmetics. The lifetime exposure to D&C Red No. 33 is not expected to exceed 160 micrograms/person/day (θg/person/day) internally and 800 θg/person/day from dermal exposure, for the high users (Ref. 2). With these estimates, the agency has examined the likely exposures to the carcinogenic impurities in D&C Red No. 33.

In adopting specifications for D&C Red No. 33, FDA considered the concentrations of the carcinogenic impurities that were present in the certified batches of the color additive that the agency recently surveyed and in the batches used for the toxicological testing.

The agency believes that the specifications listed in the first column of Table II are readily obtainable under current good manufacturing practice and will assure safe use of the color additive.

TABLE II—ESTIMATED IMPURITY EXPOSURE AT THE SPECIFICATION LIMITS

Impurity	Specification (ppb)	High User Exposure (ng/day) [1] Systemic	Dermal
4-Aminoazobenzene	100	0.02	0.08
4-Aminobiphenyl	275	.04	.....
Aniline	25,000	4.0	.....
Azobenzene	1,000	.2	.....
Benzidine	20	.003	.....
1,3-Diphenyl-triazene	125	.02	.1

[1] ng=Nanograms (1 billionth of a gram).

Table II also gives the estimated high user exposure to the impurities if each batch of the color additive contained each impurity at the maximum level allowed by the specifications. The systemic exposure is calculated by multiplying the high user exposure for the color additive itself (160 θg/day by ingestion) by each specification. Systemic exposure to these impurities from dermal application will be negligible compared to ingestion because the major fraction of exposure to this color additive results from its ingested uses and because only a small fraction of a dermally applied product is likely to be absorbed.

Two of the impurities, 4-aminoazobenzene and 1,3-diphenyltriazene, have been shown not only to be systemic carcinogens when ingested but also to be skin carcinogens when applied dermally. Accordingly, for these two impurities, the agency has estimated the risks from dermal exposure as well as those from systemic exposure. FDA has based its estimates of dermal exposure on the high user exposure to D&C Red No. 33 (800 θg/day) multiplied by each specification (Ref. 7).

D. Risk Estimations for Impurities

The second part of the evaluation of the risk presented by the presence of the impurities is an extrapolation from the actual compound-related incidence of tumors found in animal bioassays, under conditions of exaggerated exposure, to the conditions of much lower probable exposure for humans.

The agency has used estimates of carcinogenic potency and estimates of exposures to the carcinogenic impurities for high users of D&C Red No. 33 (with all carcinogenic impurities at the maximum concentrations allowed by the specifications) to estimate risks for exposure to each impurity (Ref. 7). The agency then summed these risks to derive the maximum upper bound risk associated with lifetime exposure to D&C Red No. 33.

The agency searched the scientific literature for evidence on the carcinogenicity of the impurities found in D&C Red No. 33. If more than one study found one of these impurities to be carcinogenic, the agency identified the study that was most suitable to estimate risk. Although, in general, these studies were not designed to estimate risk and were often deficient under current standards, they are the only studies available and can not be ignored. Also, the reports did not always provide all the information necessary for a risk estimate. The agency has thus attempted to make assumptions and corrections that would provide estimates that are reasonable while not underestimating the risk. These assumptions and corrections are discussed more fully in the discussions of each constituent.

1. *4-Aminoazobenzene.* The agency has evaluated reports showing that 4-aminoazobenzene is carcinogenic in the diet of rats (Refs. 8 and 9), and that it is carcinogenic when applied dermally to rats (Ref. 10). The agency has developed a risk estimate from each of these studies.

A study implicating 4-aminoazobenzene as a carcinogen by dietary administration to Wistar rats was reported by Kirby et al. (Ref. 9). The study reported that 7 of the 16 animals in the treated group were found to have liver cell neoplasms after a total of 120 weeks. Six rats in this group displayed papillomas of the stomach. No information is available to determine whether any of the individual rats had neoplasms in both the liver and the stomach. The dose was allowed to vary throughout the experiment. The agency calculated the average dose over 120 weeks to be 0.25 percent in the diet (Ref. 11).

4-Aminoazobenzene was also implicated as a carcinogen in a skin painting study in which 1.0 milliliter (mL) of a 0.2 percent acetone solution containing 4-aminoazobenzene (corresponding to a dose of 2 mg of 4-aminoazobenzene per application) was applied to the skin twice weekly on six male albino rats. This was part of a larger study utilizing a number of azo compounds (Ref. 10). All six male rats in the treatment group displayed skin neoplasms after 123 weeks compared to none in the control group.

The agency has estimated that the lifetime risk of cancer from systemic exposure to 4-aminoazobenzene is less than 3 in 1 trillion from products containing D&C Red No. 33 (Refs. 5 and 11). The data indicate, however, that 4-aminoazobenzene may be a more potent carcinogen at the site of application to

the skin than when absorbed systemically. The agency has estimated that the lifetime risk of skin cancer from dermal application is less than 2 in 1 billion (Refs. 5 and 11). Because the risk estimate for dermally applied products is larger than for ingested products, FDA is using this higher estimate to evaluate total risk.

2. *4-Aminobiphenyl.* A number of studies in different species have been performed on 4-aminobiphenyl. The agency has chosen a dog study reported both by Block et al. and by Rippe et al. for quantitative risk assessment because the data on this study yield a higher risk estimate than data from other studies (Refs. 12, 13, and 14).

In this study, 24 pure-bred female beagle dogs were administered 4-aminobiphenyl orally, by capsule, at a dosage level of 5 mg/kg body weight for 5 days a week. Cystoscopic examinations were made routinely starting at 16 months and continuing up to 41 months after commencement of treatment. Diagnoses at 24 months showed that 22 of 24 treated dogs had bladder papillomas. Because this incidence is so high, data at later times show essentially the same incidence. Data at earlier times show a lower incidence, proportional to the lesser exposure time. The agency concludes that data obtained at 24 months are the most reliable for risk assessment because, among other reasons, more complete histopathology was performed at this time (Ref. 14).

Under circumstances in which lifetime risk must be estimated from studies that are performed for less than a lifetime, the data must be corrected to account for the fact that the animals were at risk for less than a lifetime. Typically, tumor incidence has been thought to be proportional to some power of time (Ref. 15). The agency believes that, in the absence of specific data, it is reasonable to make adjustments based on a model that uses the third power of the time exposed (Refs. 14 and 15).

Because 24 months represent approximately one-fifth of the lifetime of a beagle dog, the agency has corrected for the rapid induction of these neoplasms in the calculation of lifetime risk. Extrapolating directly from the data and making a correction for less than lifetime exposure, the agency estimates that the lifetime risk of cancer from systemic exposure to 4-aminobiphenyl in products containing D&C Red No. 33 is less than 2 in 100 million (Refs. 5 and 14).

3. *Aniline.* Data reported by the National Cancer Institute (NCI) demonstrated that aniline was carcinogenic to the spleen of Fischer 344 rats (Ref. 16). This finding has subsequently been verified by a dietary study performed by the Chemical Industry Institute of Toxicology (CIIT) using the same strain of rat (Ref. 17). FDA used data from the CIIT study to estimate that the lifetime risk of cancer from systemic exposure to aniline in products containing D&C Red No. 33 is less than 4 in 100 billion (Refs. 5 and 18).

4. *Azobenzene.* In an NCI-sponsored bioassay reported in 1979, azobenzene induced a dose-related increase in the incidence of sarcomas of the abdominal cavity, particularly the spleen, in both sexes of Fischer 344 rats (Ref. 19). Three groups of animals of both sexes were given 0, 200, and 400 parts per million (ppm) in the diet. From this study, the agency estimates that systemic exposure to azobenzene in products containing D&C Red No. 33 presents a lifetime risk of less than 2 in 100 billion (Refs. 6 and 20).

5. *Benzidene.* FDA used a human epidemiology study by Zavon (Ref. 21) and a study performed by Rinde and Troll in the rhesus monkey (Ref. 22) as the basis for a quantitative risk assessment on benzidine. Zavon attempted to obtain good data on exposure to benzidine by analyzing the urine of workers in a plant that manufactures this substance. The workers were monitored until a number of them were diagnosed as having bladder neoplasms. Urine levels of benzidine in workers were measured before each work shift, after each work shift, and on every Monday morning. Average levels were: before work, 0.01 milligram per liter (mg/L); after work, 0.04 mg/L; and on Monday morning before work, somewhat below 0.005 mg/L.

No controlled study with the administration of benzidine and the concomitant measurement of benzidine in the urine in humans has been performed. Thus, the conversion from urine concentration to total exposure cannot be made from human data alone. However, the Rinde and Troll study related ingestion of benzidine to amounts of benzidine and monoacetylbenzidine in the urine of rhesus monkeys. The agency believes it is reasonable to use this study to relate urine concentration to exposure for humans (Ref. 23). This procedure yields a higher risk estimate than if the risk was estimated solely from an animal feeding study and thus is less likely to underestimate risk.

In the Rinde and Troll study, benzidine was administered orally to rhesus monkeys, and the 72-hour urine collection was analyzed for benzidine and monoacetylbenzidine. In two trials the amount of benzidine and monoacetylbenzidine excreted in the urine was 1.4 percent and 1.5 percent of the initial input. The agency used these data, and applied a safety factor of two to compensate for uncertainties, to estimate that the amount of benzidine and monoacetylbenzidine excreted in the urine of humans is approximately 3 percent of that consumed. The agency then calculated that the average human worker in the Zavon study was exposed to approximately 0.8-mg benzidine per work day. Based on these two studies, the agency estimates that systemic exposure to benzidine from products containing D&C Red No. 33 presents a lifetime risk of less than 2 in 100 million (Refs. 5 and 23).

6. *1,-Diphenyltriazene.* The agency has evaluated reports showing that 1,3-diphenyltriazene is carcinogenic in the diet, and that it is carcinogenic when applied dermally. A study performed by Otsuka (Ref. 24), while deficient in certain aspects, showed that 1,3-diphenyltriazene produced forestomach tumors in mice upon dietary exposure. The compound was administered in the diet at a concentration of 0.04 percent for 483 days. Although this dietary study is quite old and was terminated after 16 months, the agency believes that it is usable if corrected for less than lifetime exposure. Assuming that the average lifetime of a mouse is 24 months, the agency has corrected for less than lifetime exposure by assuming the risk of cancer increases as the third power of the time exposed (Refs. 15 and 25). Therefore, the agency has used a correction factor of 3.4, i.e., (24 months/16 months) ^{3}, which increases the estimated risk.

Using this correction, the agency estimates that systemic exposure to 1,3-diphenyltriazene from products containing D&C Red No. 33 presents a lifetime risk of less than 4 in 1 trillion (Refs. 6 and 25).

A lifetime skin-painting study using 1,3-diphenyltriazene on mouse skin was performed by Kirby (Ref. 26). This skin study involved a thrice weekly application of a 5-percent solution of the test compound in acetone. In 16 mice surviving more than 300 days, 3 developed squamous cell papilloma and 3 developed squamous cell carcinoma. One mouse that developed a carcinoma could not be identified as part of this experiment or a parallel experiment. The agency has assumed that this mouse was part of this experiment so as not to underestimate risk. As was often the case in the 1940's, when this study was conducted, the amount of solution applied to the skin of the animals was

not accurately measured and thus not reported for this experiment. The failure to measure and to report this information creates problems in conducting a quantitative risk assessment. However, in later years, the standard protocol for this kind of study in mice became the application of 0.20 mL of solution to the skin. Because the agency does not know whether as much as 0.20 mL was applied, it has made a more conservative assumption that 0.10 mL was used in order to estimate the risk. Using this procedure, the agency estimates that dermal exposure to 1,3-diphenyltriazene from products containing D&C Red No. 33 presents a lifetime risk of less than 1 in 100 billion (Refs. 6 and 25).

E. Cumulative Risk Estimates

In evaluating FD&C Yellow No. 5, the agency established a procedure of setting specifications for more than one carcinogenic constituent for the same color additive (50 FR 35774; September 4, 1985). The agency used the same procedure when it evaluated the safety of FD&C Yellow No. 6 (51 FR 41765; November 19, 1986) and is using it again in evaluating the safety of D&C Red No. 33 because it is necessary to consider the most appropriate way to evaluate the risk from simultaneously consuming small amounts of several carcinogenic agents.

The Office of Science and Technology Policy discussed the issue of exposure to multiple carcinogenic agents in a document entitled "Chemical Carcinogens; A Review of the Science and Its Associated Principles" (50 FR 10371, 10394; March 14, 1985) as follows:

> Since people are exposed to many different agents at the different times in different sequences, the effect of multiple agents on carcinogenesis is of major concern. However there is little information of general import in the field. Models for interaction are generally limited by lack of information on dose-response curves for carcinogens in the area of interest. The great number of permutations of possible agents and doses makes understanding interaction of multiple agents very difficult.
>
> In general, the action of two or more agents can be additive (if the agents are given in a dose range where the biological response is a linear function of dose) or multiplicative (if the response is a simple exponential response to dose), synergistic (greater than expected) or antagonistic (less than expected).

The agency knows of no method where by potential multiplicative, synergistic, or antagonistic interactions can be incorporated into a generalized risk assessment process. Furthrmore. at the dose levels under consideration (far below those having measurable pharmacologic or physiologic activity), the agency sees no reason to consider synergistic or antagonistic interactions. When one extrapolates carcinogenicity data downward to very low doeses, one is, in effect, assuming that the carcinogens are acting independently, and that no interactions occur. Thus, if the probability of developing cancer from one substance is independent of the probability of developing cancer from another substance, then the probability of developing cancer from either substance may be obtained from summing the individual probabilities. Therefore, in the absence of specific information on the interactions among the carcinogenic impurities, the agency believes that, operationally, the risks incurred from the presence of multiple carcinogenic impurities in a color or food additive can be considered independent, and that the estimated upper bound risks should be summed.

The individual risk estimates discussed earlier show that the impurities other than 4-aminobiphenyl and benzidine make negligible contributions to the total risk. Table III shows the total upper bound risk, estimated by summing the risk estimate from each carcinogenic impurity when present at the highest level, consistent with specifications, to be 4 in 100 million.

TABLE III—UPPER BOUND RISK ESTIMATES BASED ON SPECIFICATIONS FOR CARCINOGENIC IMPURITIES IN D&C RED NO. 33

Impurity	Lifetime cancer risk	
4-Aminoazobenzene [1]	0.000000002	($2X10^{-9}$)
4-Aminobiphenyl [1]	0.00000002	($2X10^{-8}$)
Aniline	0.000000000004	($4X10^{-12}$)
Azobenzene	0.00000000002	($2X10^{-11}$)
Benzidine	0.00000002	($2X10^{-8}$)
1,3-Diphenyltriazene [1]	0.000000000001	($1X10^{-11}$)
Sum [2]	0.00000004	($4X10^{-8}$)

[1] The risk for skin cancer is used here because it is higher than the risk estimated for systemic cancer.
[2] In summing risk estimates, numbers have been rounded off to the nearest significant figure.

The agency emphasizes that these upper bound risk estimates are worst case estimates that are used to assure that there is a reasonable certainty that use of an additive will not cause harm. Consequently, several assumptions used for the estimate tend to overestimate rather than underestimate risk. For example, the linear model used to extrapolate risk to low dose exposure is a conservative model. It is used to generate an upper bound estimate of an unknown risk, not to predict an actual risk.

Furthermore, the agency's risk estimates are based on the assumption that all carcinogenic impurities are present at the maximum concentrations allowed by the regulations. In reality, any batch with any impurity concentration above a specification would be rejected while batches with lower concentrations would be allowed. Therefore, unless all batches of certified color additive have impurity concentrations exactly at the specification limits, the average concentration of each impurity will be lower than the maximum allowed.

Finally, the agency points out that the levels of the impurities found in D&C Red No. 33 are so low that under no circumstances could a bioassay detect a carcinogenic effect from these impurities.

The agency has considered the potential presence of these impurities in other color additives as part of this evaluation. D&C Red No. 33, FD&C Yellow No. 5, and FD&C Yellow No. 6 all can contain the same carcinogenic impurities (50 FR 35774 at 35776; September 4, 1985 and 51 FR 41765 at 41774; November 19, 1986). Currently, the agency can estimate risks only for products containing these three color additives with these impurities. Simple addition of the upper bound risks for high users of each color additive (all projected to have the impurities present at the levels of the specifications) would give a value of less than 8 in 10 million. Although this value is clearly exaggerated, FDA sees no need to refine the analysis when the risk is so low.

The agency believes that the maximum risk to consumers from the use of D&C Red No. 33 alone or in combination with the other additives is sufficiently low that it can conclude that the use of batches of D&C Red No. 33 that meet the specifications adopted by this rule is safe. The agency is aware that some of these carcinogenic impurities may occur also in some color additives other than FD&C Yellow No. 5 and FD&C Yellow No. 6. Due to the small amounts of these other color additives that are manufactured, or the limited usage, FDA does not expect any noticeable risk from these sources. The agency will review any risk resulting from exposure to these impurities in other color additives, and will take whatever regulatory action is needed to protect the public health, when sufficient information is available for an appropriate decision.

V. Refrences

The following references have been placed on file at the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. National Toxicology Program, "Peer Review of the Data from the Chronic Carcinogenesis Animal Bioassay of D&C Red No. 33 by the Technical Reports Review Subcommittee and Panel of Experts," July 26, 1984.

2. Memorandum, McLaughlin, P.J., to File for D&C Red No. 33, "Comparative Evaluation for Additional Safety Considerations, D&C Red No. 33," July 5, 1988.

3. Memorandum, Quantitative Risk Assessment Committee, "Carcinogenicity Risk Analysis for D&C Red No. 33 and D&C Red No. 36, Including a Discussion of ENVIRON/CTFA's Risk Analysis and Incorporation of Recommendations of the Color Additive Scientific Review Panel," March 12, 1987.

4. FDA, Bureau of Foods, "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food," 1982.

5. Memorandum, Link, W.B., to E. Coleman, "Amines in D&C Red No. 33," August 12, 1983.

6. Memorandum, Bailey, J.E., to E. Coleman, "1,3-Diphenyltriazene and Azobenzene in D&C Red No. 33," September 19, 1983.

7. Memorandum, Quantitative Risk Assessment Committee, "Upper Bound Risks from Carcinogenic Impurities in D&C Red No. 33 and D&C Red No. 36," March 31, 1987.

8. Kirby, A.H.M., "Studies in Carcinogenesis with Azo Compounds," *Cancer Research*, 7:333–341, 1947.

9. Kirby, A.H.M. and P.R. Peacock, "The Induction of Liver Tumors by 4-Aminoazobenzene and its N,N-Dimethyl Derivative in Rats on a Restricted Diet," *Journal of Pathology and Bacteriology*, 59:1–18, 1947.

10. Fare, G., "Rat Skin Carcinogenesis by Topical Applications of Some Azo Dyes," *Cancer Research*, 26:2406–2408, 1966.

11. Memorandum, Quantitative Risk Assessment Committee, "Report of the Committee on 4-Aminoazobenzene (Dietary and Skin Exposures)," December 20, 1983.

12. Block, N.L., et al., "The Initiation, Progress and Diagnosis of Dog Bladder Cancer Induced by 4-Aminobiphenyl," *Investigative Urology*, 16:50–54, 1978.

13. Rippe, D.F., et al., "Urinary Bladder Carcinogenesis in the Dog: Preliminary Studies on Cellular Immunity," *Transplantation Proceedings*, 7:495–501, 1975.

14. Memorandum, Quantitative Risk Assessment Committee, "Report of the Committee on 4-Aminobiphenyl," December 20, 1983.

15. Druckrey, H., "Quantitative Aspects in Chemical Carcinogenesis," U.I.C.C. Monograph Series, 7:60–78, 1967.

16. National Cancer Institute, "Bioassay of Aniline Hydrochloride for Possible Carcinogenicity," NCI Technical Report No. 130, NCI–CG–TR–130, U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health, 1978.

17. Chemical Industry Institute of Toxicology, Research Triangle Park, NC, "104 Week Chronic Toxicity Study in Rats: Aniline Hydrochloride," Final Report, January 4, 1982.

18. Memorandum, Quantitative Risk Assessment Committee, "Committee Report on Aniline," December 20, 1983.

19. National Cancer Institute, "Bioassay of Azobenzene for Possible Carcinogenicity," NCI Technical Report No. 154, NCI–CG–TR–154, U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health, 1979.

20. Memorandum, Quantitative Risk Assessment Committee, "Committee Report on Azobenzene," December 20, 1983.

21. Zavon, M.R., et al., "Benzidine Exposure as a Cause of Bladder Tumors," *Archives of Environmental Health*, 27:1–7, 1973.

22. Rinde, E., and W. Troll, "Metabolic Reduction of Benzidine Azo Dyes to Benzidine in the Rhesus Monkey," *Journal of the National Cancer Institute*, 55: 181–182, 1975.

23. Memorandum, Quantitative Risk Assessment Committee, "Committee Report on Benzidine," December 20, 1983.

24. Otsuka, I., "Uber die Experimentelle Papillomerzeugung im Vormagen der Mausen durch Diazoaminobenzol," *Gann*, 29:209–214, 1935.

25. Memorandum, Quantitative Risk Assessment Committee, "Committee Report on 1,3-Diphenyltriazene (Dietary and Dermal Exposures)," December 20, 1983.

26. Kirby, A.H.M., "Further Experiments in Mice With p-Diazoaminobenzene," *British Journal of Cancer*, 2:290–294, 1948.

VI. Conclusions

The agency concludes that D&C Red No. 33 is safe under the conditions of use set forth below for general use in drugs and cosmetics, and that certification is necessary for the protection of the public health. In reaching this conclusion, the agency evaluated a full battery of animal feeding and dermal studies adequate to demonstrate the safety of a color additive. The agency also performed a comparative evaluation on the splenic toxicity of D&C Red No. 33 and D&C Red No. 9 to determine whether additional animal safety testing was needed to achieve a reasonable certainty that no harm would result from use of D&C Red No. 33. Based on all the relevant data, including the comparative splenic toxicity evaluation, the agency concludes that there is a reasonable certainty of no harm from use of the additive and that further testing is unnecessary and of no benefit to the public health.

The final toxicity study reports, interim reports, and the agency's evaluations of these studies are on file at the Dockets Management Branch (address above) and may be reviewed there between 9 a.m. and 4 p.m., Monday through Friday.

The agency concludes that it is necessary to have limitations on the levels of D&C Red No. 33 that may be used in drugs and cosmetics to assure safe use.

The petitioners have not submitted the required data for eye-area use. Therefore, FDA now considers that portion of the petition that included the permanent listing of D&C Red No. 33 for eye-area use to be withdrawn without prejudice in accordance with the provisions of § 71.4 (21 CFR 71.4). Use of D&C Red No. 33 in the area of the eye has never been covered by provisional listing. The agencys listing of a color additive for general use in drugs and cosmetics does not encompass eye-area use.

The agency is describing the color additive in this regulation according to the current Chemical Abstracts nomenclature, which differs somewhat from the nomenclature FDA previously used.

The agency concludes that it is necessary to include in the listing regulations for D&C Red No. 33 a brief description of its manufacturing process to ensure the safety of the color additive. FDA has included that description to define as closely as possible the color additive that has been tested and shown to be safe. The agency is doing so because use of a different manufacturing process is likely to produce different impurities that have not been considered in establishing specifications for this color additive. The agency is not able at this time to set specifications that would control the presence of all such impurities. FDA is willing to consider petitions for alternative manufacturing processes, but those petitions should contain evidence that demonstrates that those processes will not produce impurities that will make use of the color additive unsafe.

The agency has contracted with the National Academy of Sciences/National Research Council (NAS/NRC) to develop appropriate specifications for color additives for use in food as part of the Food Chemical Codex. Similarly, appropriate specifications for color additives for use in drugs and cosmetics will be developed following the general guidelines used by NAS/NRC in its evaluation of color additives used in food. The agency concludes that specifying, through a general decription, the manufacturing process in the regulations for this color additive will provide an adequate assurance of safety until suitable specifications can be developed.

The agency finds that because of the presence, or possible presence, of carcinogenic impurities in the color additive, specifications for impurities are necessary to protect the public health. Therefore, specifications as listed in Table II, column 2, of this preamble are included in the regulation.

In the past, D&C lakes have been permitted to be prepared from uncertified straight color additives. The resulting lakes would subsequently be certified. However, to assure that all lakes meet the specification limits for the carcinogenic impurities and that the use of lakes remains consistent with the evaluation, the agency is establishing the requirement that all lakes of D&C Red No. 33 be prepared from certified batches of the straight color additive. Accordingly, § 82.1333 is amended to reflect this requirement.

This order does not permanently list D&C Red No. 33 lakes. FDA published a notice of intent in the **Federal Register** of June 22, 1979 (44 FR 36411), which discussed the additional information that the agency believes is needed before final regulations on lakes can be issued. FDA intends to publish proposed regulations governing the use of color additives in lakes in the **Federal Register** in the near future and concludes that the listing of color additives for use in lakes can best be implemented by general regulations. D&C Red No. 33 lakes will, therefore, continue to be provisionally listed for coloring drugs and cosmetics under Parts 81 and 82 (21 CFR Parts 81 and 82).

The agency has determined under 21 CFR 25.24(b)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before September 29, 1988, file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

2. Section 74.1333 is added to Subpart B to read as follows:

§ 74.1333 D&C Red No. 33.

(a) *Identity.* (1) The color additive D&C Red No. 33 is principally the disodium salt of 5-amino-4-hydroxy-3-(phenylazo)-2,7-naphthalenedisulfonic acid (CAS Reg. No. 3567–66–6). To manufacture the additive, the product obtained from the nitrous acid diazotization of aniline is coupled with 4-hydroxy-5-amino-2,7-naphthalenedisulfonic acid in an alkaline aqueous medium. The color additive is isolated as the sodium salt.

(2) Color additive mixtures for drug use made with D&C Red No. 33 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* D&C Red No. 33 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practices:

Sum of volatile matter at 135 °C (275 °F) and chlorides and sulfates (calculated as sodium salts), not more than 18 percent.
Water-insoluble matter, not more than 0.3 percent.
4-Amino-5-hydroxy-2,7-naphthalenedisulfonic acid, disodium salt, not more than 0.3 percent.
4,5-Dihydroxy-3-(phenylazo)-2,7-naphthalenedisulfonic acid, disodium salt, not more than 3.0 percent.
Aniline, not more than 25 parts per million.
4-Aminoazobenzene, not more than 100 parts per billion.
1,3-diphenyltriazene, not more than 125 parts per billion.
4-Aminobiphenyl, not more than 275 parts per billion.
Azobenzene, not more than 1 part per million.
Benzidine, not more than 20 parts per billion.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 82 percent.

(c) *Uses and restrictions.* The color additive D&C Red. No 33 may be safely used for coloring ingested drugs, other than mouthwashes and dentifrices, in amounts not to exceed 0.75 milligram per daily dose of the drug. D&C Red No. 33 may be safely used for coloring externally applied drugs, mouthwashes, and dentifrices in amounts consistent with current good manufacturing practice.

(d) *Labeling requirements.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Red No. 33 shall be certified in accordance with regulations in Part 80 of this chapter.

3. Section 74.2333 is added to Subpart C to read as follows:

§ 74.2333 D&C Red No. 33.

(a) *Identity and specifications.* The color additive D&C Red No. 33 shall conform in identity and specifications to the requirements of § 74.1333(a) (1) and (b).

(b) *Uses and restrictions.* The color additive D&C Red No. 33 may be safely used for coloring cosmetic lip products in amounts not to exceed 3 percent total color by weight of the finished cosmetic products. D&C Red No. 33 may be safely used for coloring mouthwashes (including breath fresheners), dentifrices, and externally applied

cosmetics in amounts consistent with current good manufacturing practice.

(c) *Labeling requirements.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Red No. 33 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

4. The authority citation for 21 CFR Part 81 continues to read as folows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

5. Section 81.1 *Provisional lists of color additives* is amended by removing the entry for "D&C Red. No. 33" from the table in paragraph (b).

§ 81.25 [Removed]

6. Section 81.25 *Temporary tolerances* is removed.

§ 81.27 [Amended]

7. Section 81.27 *Conditions of provisional listing* is amended by removing the entry for "D&C Red. No. 33" from the table in the introductory text of paragraph (d).

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

8. The authority citation for 21 CFR Part 82 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

9. Section 82.1333 is revised to read as follows:

§ 82.1333 D&C Red No. 33.

(a) The color additive D&C Red. No. 33 shall conform in identity and specifications to the requirements of § 74.1333(a) (1) and (b) of this chapter.

(b) All lakes of D&C Red. No. 33 shall be manufactured from previously certified batches of the straight color additive.

Dated: August 23, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–19541 Filed 8–29–88; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 314

[Docket No. 82N–0293]

Technical Revision in Regulations Governing Drug Master File Submissions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is making a minor revision of the rules governing the submission to FDA of Drug Master Files (DMF's). DMF's are reference files submitted to FDA generally in support of investigational and marketing applications for human drugs. The final rule reduces from three to two the number of copies of a DMF required to be submitted. This change will eliminate the submission of unneeded material and will reduce the volume of submissions.

DATES: Effective September 29, 1988; comments by October 31, 1988.

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

FOR FURTHER INFORMATION CONTACT: Adele S. Seifried, Center for Drug Evaluation and Research (HFD–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8046.

SUPPLEMENTARY INFORMATION: DMF's are reference files submitted to FDA that generally are used in the review of investigational and marketing applications for human drugs. DMF's are often submitted to the agency to allow another party to reference this material without disclosing to that party the contents of the file. In the Federal Register of February 22, 1985 (50 FR 7452 at 7493), FDA adopted new regulations governing the submission and content of DMF's. The agency is now making a minor change in these requirements.

The current regulation requires that DMF's be submitted in triplicate (21 CFR 314.420(c)). FDA has found that two copies of the drug master file are adequate and has revised the regulation accordingly.

This revision is consistent with the guidance provided in the "Draft Guideline for Drug Master Files" made available under a notice published in the Federal Register of October 15, 1987 (52 FR 38276).

Notice and comment procedure is not necessary before issuing this technical revision (5 U.S.C. 553(b)(B); 21 CFR 10.40(e)(1)). This regulation does not impose any new requirements but merely makes a minor technical revision of the DMF regulations already in place. This revision is intended to assist both DMF submitters and FDA by eliminating submission of an unneeded copy. No useful purpose would be served by notice and comment. The Commissioner has therefore determined for good cause that notice and comment are unnecessary and contrary to the public interest.

This technical revision becomes effective on September 29, 1988. However, interested persons may, on or before October 31, 1988, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Such comments will be considered in determining whether amendments, modifications, or revisions to the final rule are warranted. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

In accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354), the agency has carefully analyzed the economic consequences of this final rule. This final rule is merely a technical revision of an existing rule which will have minor but beneficial economic consequences, and the agency has determined that it is, therefore, not a major rule as defined in Executive Order 12291. Further, the Commissioner certifies that this clarification will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

Paperwork Reduction Act

The minor technical changes under this rule relate to collection of

information requirements already submitted to the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980 and previously approved under OMB control number 0910–0001.

List of Subjects in 21 CFR Part 314

Administrative practice and procedure, Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, 21 CFR Chapter I, Part 314 is amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

1. The authority citation for 21 CFR Part 314 continues to read as follows:

Authority: Secs. 501, 502, 503, 505, 506, 507, 701, 52 Stat. 1049–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 351, 352, 353, 355, 356, 357, 371); 21 CFR 5.10, 5.11.

§ 314.420 [Amended]

2. Section 314.420 *Drug master files* is amended in paragraph (c) in the first and fourth sentences by revising the word "three" to read "two".

Dated: August 24, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–19682 Filed 8–29–88; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 81

[Docket No. 76N–0366]

Provisional Listing of FD&C Red No. 3, D&C Red No. 33, and D&C Red No. 36; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listings of FD&C Red No. 3 for use in coloring cosmetics and externally applied drugs; of the lakes of FD&C Red No. 3 for use in coloring food, drugs, and cosmetics; and of D&C Red No. 33 and D&C Red No. 36 for use as color additives in drugs and cosmetics. The new closing date for the provisional listing of these color additives will be October 28, 1988. FDA has decided that this postponement is necessary to provide time for the receipt and evaluation of any objections and comments submitted in response to two final rules and a proposal published in the **Federal Register** concerning these color additives.

EFFECTIVE DATE: August 30, 1988. The new closing date for FD&C Red No. 3 and its lakes, D&C Red No. 33, and D&C Red No. 36 will be October 28, 1988.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5676.

SUPPLEMENTARY INFORMATION: FDA has established the current closing date of August 30, 1988, for the provisional listing of FD&C Red No. 3, D&C Red No. 33, and D&C Red No. 36 by a regulation published in the **Federal Register** of July 1, 1988 (53 FR 25127). In the **Federal Register** of August 2, 1988 (53 FR 29024), FDA permanently listed the drug and cosmetic use of D&C Red No. 36. Elsewhere in this issue of the **Federal Register**, FDA is permanently listing the drug and cosmetic uses of D&C Red No. 33 and proposing to postpone the closing date for the provisional listing of the cosmetic and external drug uses of FD&C Red No. 3 and of the use of FD&C Red No. 3 lakes in coloring food, drugs, and cosmetics. The regulation set forth below will postpone the August 30, 1988, closing date for the provisional listing of these color additives until October 28, 1988.

The two final rules referred to above provide 30 days for any person who will be adversely affected by these rules to file written objections. The proposal provides 30 days for the submission of comments by interested persons. The postponement of the closing dates for the provisional listing of these color additives for 60 days will provide time for receipt and evaluation of, and appropriate agency action to, objections or requests for a hearing submitted in response to the final rules and comments on the proposed rule.

FDA believes that it is reasonable to postpone the closing date for these color additives until October 28, 1988, to provide a short period of time for its receipt and evaluation of any comments or objections and subsequent agency action. FDA concludes that this extension is consistent with the public health and the standards set forth for continuation of provisional listing in *McIlwain* v. *Hayes*, 690 F.2d 1041 DC Cir. 1982).

Because of the shortness of time until August 30, 1988, closing date, FDA concludes that notice and public procedure on this regulation are impracticable and that good cause exists for issuing the postponement as a final rule and for an effective date of August 30, 1988. This regulation will permit the uninterrupted use of these color additives until further action is taken. In accordance with 5 U.S.C. 553(b), (d)(1), and (d)(3), this postponement is issued as a final regulation, effective August 30, 1988.

List of Subject in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10

§ 81.1 [Amended]

2. Section 81.1 *Provisional lists of color additives* is amended in the tables of paragraph (a) for the entry "FD&C Red No. 3" and of paragraph (b) for the entries "D&C Red No. 33" and "D&C Red No. 36" by revising the closing date to read "October 28, 1988".

§ 81.27 [Amended]

3. Section 81.27 *Conditions of provisional listing* is amended in the table, appearing in the introductory text in paragraph (d), by revising the closing dates for the entries "FD&C Red No. 3", "D&C Red No. 33", and "D&C Red No. 36" to read "October 28, 1988."

Dated: August 24, 1988.

John M. Taylor

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–19681 Filed 8–29–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 85

[DoD Directive 1010.10]

Health Promotion

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This Departmental health promotion Part emphasizes education about health risks associated with smoking, use of drugs and alcohol, diet, lack of exercise, and high blood pressure. It aims at creating an atmosphere that supports smoking prevention and cessation, discourages tobacco use and restricts smoking in Department buildings and facilities, and creates a healthy work environment.

EFFECTIVE DATE: July 18, 1988.

FOR FURTHER INFORMATION CONTACT: Colonel Hagey, Office of the Secretary of Defense (Health Affairs) (PA&QA), Room 3D368, the Pentagon, Washington, DC 20301, telephone (202) 695–6800.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 32 CFR Part 85

Federal buildings and facilities, Smoking.

Accordingly, Title 32, Chapter I, is amended by adding Part 85 as follows:

PART 85—HEALTH PROMOTION

Sec.

Authority: 5 U.S.C. 301.

§ 85.1 Purpose.

(a) This Part establishes a health promotion policy within the Department of Defense to improve and maintain military readiness and the quality of life of DoD personnel and other beneficiaries.

(b) This Part replaces 32 CFR Part 203 and establishes policy on smoking in DoD occupied buildings and facilities.

§ 85.2 Applicability and scope.

(a) This Part applies to the Office of the Secretary of Defense (OSD), the Military Departments, and the Defense Agencies.

(b) It is directed to all military personnel and retirees, their families, and, where specified, to civilian employees.

§ 85.3 Definitions.

Health Promotion. Any combination of health education and related organizational, social, economic or health care interventions designed to facilitate behavioral and environmental alterations that will improve or protect health. It includes those activities intended to support and influence individuals in managing their own health through lifestyle decisions and selfcare. Operationally, health promotion includes smoking prevention and cessation, physical fitness, nutrition, stress management, alcohol and drug abuse prevention, and early identification of hypertension.

Lifestyle. The aggregated habits and behaviors of individuals.

Military Personnel. Includes all U.S. military personnel on active duty, U.S. National Guard or Reserve personnel on active duty, and Military Service Academy cadets and midshipmen.

Self-Care. Includes acceptance of responsibility for maintaining personal health, and decisions concerning medical care that are appropriate for the individual to make.

Target Populations. Military personnel, retirees, their families, and civilian employees.

§ 85.4 Policy.

It is DoD policy to:

(a) Encourage military personnel, retirees, their families and civilian employees to live healthy lives through an integrated, coordinated and comprehensive health promotion program.

(b) Foster an environment that enhances the development of healthful lifestyles and high unit performance.

(c) Recognize the right of individuals working or visiting in DoD occupied buildings to an environment reasonably free of contaminants.

(d) Disallow DoD Components' participation with manufacturers or distributors of alcohol or tobacco products in promotional programs, activities, or contests aimed primarily at DoD personnel. This does not prevent accepting support from these manufacturers or distributors for worthwhile programs benefiting military personnel when no advertised cooperation between the Department of Defense and the manufacturer or distributor directly or indirectly identifying an alcohol or tobacco product with the program is required. Neither does it prevent the participation of military personnel in programs, activities, or contests approved by the manufacturers or distributors of such products when that participation is incidental to general public participation.

§ 85.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Health Affairs)* (ASD(HA)) shall coordinate and monitor the DoD health promotion program in accordance with this Part, executing this responsibility in cooperation with the Assistant Secretary of Defense (Force Management and Personnel) and the Assistant Secretary of Defense (Reserve Affairs). The Office of the Assistant Secretary of Defense (Health Affairs) (ASD(HA)) shall:

(1) Establish and chair the Health Promotion Coordinating Committee comprised of representatives of the Office of the Assistant Secretary of Defense (Force Management and Personnel) (OASD(FM&P)), Office of the Assistant Secretary of Defense (Acquisition and Logistics) (OASD(A&L)), the Office of the Assistant Secretary of Defense (Reserve Affairs) (OASD(RA)), each Military Service, and such other advisors as the OASD(HA) considers appropriate.

(2) Facilitate exchanges of technical information and problem solving within and among Military Services and Defense Agencies.

(3) Provide technical assistant, guidance and consultation.

(4) Coordinate health data collection efforts to ensure standardization and facilitate joint studies across DoD components.

(5) Review dietary standards for DoD dining facilities as specified in DoD Directive 3235.2 [1]

(b) The *Assistant Secretary of Defense (Force Management and Personnel)* (ASD(FM&P)) shall, in collaboration with the ASD(HA), coordinate and monitor relevant aspects of the health promotion program. These include:

(1) Use of tobacco products in DoD occupied facilities.

(2) Operation of health promotion and screening programs at the worksite and in Professional Military Education, DoD Dependents Schools, and Section 6 schools.

(3) Dietary regulation of DoD snack concessions, and vending machines.

(4) Reduction of stress in work setting.

(5) Designate two representatives to the Health Promotion Coordinating Committee.

(c) The *Assistant Secretary of Defense (Reserve Affairs)* (OASD(RA)) shall:

(1) Coordinate and monitor relevant aspects of the health promotion program as it pertains to National Guard and Reserve Personnel.

(2) Designate a representative to the Health Promotion Coordinating Committee.

(d) The *Secretaries of the Military Departments* shall:

(1) Develop a comprehensive health promotion program plan for their respective Service(s).

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1062, 5801 Tabor Avenue, Philadelphia, PA 19120.

(2) Establish and operate an integrated, coordinated and comprehensive health promotion program as prescribed by this Directive.

(3) Designate from their respective Service(s) a health promotion coordinator who shall also serve as representative to the Health Promotion Coordinating Committee.

(4) Evaluate the effectiveness of their respective health promotion program(s).

(e) The *Directors of Defense Agencies* shall develop and implement health promotion plans and programs for their civilian employees in accordance with this part.

(f) The *Assistant Secretary of Defense (Comptroller)* (ASD(C)) shall develop and implement a health program promotion for OSD civilian employees.

§ 85.6 Procedures.

(a) Each Military Service shall establish a health promotion program coordinator to serve as the focal point for all health promotion program issues and to integrate the activities of the medical and personnel departments.

(b) A Health Promotion Coordinating Committee shall be established to enhance communication among the Military Services, recommend joint policy and program actions, review program implementation, and recommend methodologies and procedures for program evaluation. The Committee shall be chaired by the Assistant Secretary of Defense (Health Affairs) (ASD(HA)) or designee. Additional members shall include two representatives from the Office of the Assistant Secretary of Defense (Force Management and Personnel); one representative from the Office of the Assistant Secretary of Defense (Reserve Affairs); one representative from the office of the Assistant Secretary of Defense (Acquisition & Logistics); and the health promotion coordinator from each Military Service.

(c) Each Component shall prepare a plan for the implementation of a comprehensive health promotion program that includes specific objectives (planned accomplishments) with measurable action steps. The plan shall address all of the program elements identified in the definition of health promotion for each group in the target populations. The plan shall consider workload, systems support, and training needs of individuals charged with responsibility at all organizational levels.

(d) Health promotion plans and programs shall address smoking prevention and cessation, physical fitness, nutrition, stress management, alcohol and drug abuse, and early identification of hypertension.

(1) Smoking prevention and cessation programs shall aim to create a social environment that supports abstinence and discourage use of tobacco products, create a healthy working environment, and provide smokers with encouragement and professional assistance in quitting. In addition to these aims, smoking prevention and cessation programs shall include the following elements.

(i) Smoking shall be permitted in buildings only to the extent that it does not endanger the life or property, or risk impairing nonsmokers' health.

(ii) The smoking of tobacco products within DoD occupied space shall be controlled in accordance with the following guidelines:

(A) Smoking shall be prohibited in auditoriums, conference rooms and classrooms. No Smoking signs shall be prominently displayed, and ashtrays shall not be permitted. Receptacles may be placed at entrances so that visitors may dispose of lighted smoking material when entering a nonsmoking area.

(B) Nonsmoking areas shall be designated and posted in all eating facilities in DoD occupied buildings. Smoking areas shall be permitted only if adequate space is available for nonsmoking patrons and ventilation is adequate to provide them a healthy environment.

(C) Elevators shall be designated as nonsmoking areas.

(D) Smoking shall be prohibited in official buses and vans.

(E) Within the confines of medical treatment facilities, smoking shall be restricted to private offices and specially designated areas. Smoking by patients shall be limited to specially designated areas, and health care providers shall not smoke in the presence of patients while performing their duties. Smoking is permitted in visitor waiting areas only where space and ventilation capacities permit division into smoking and nonsmoking sections.

(F) Smoking shall not be permitted in common work areas shared by smokers and nonsmokers unless adequate space is available for nonsmokers and ventilation is adequate to provide them a healthy environment. Where feasible, smoking preference should be considered when planning individual work stations so that smoking and nonsmoking areas may be established.

(G) When individual living quarters are not available and two or more individuals are assigned to one room, smoking and nonsmoking preferences shall be considered in the assignment of rooms.

(H) Smoking by students attending DoD Dependents Schools or Section 6 schools shall not be permitted on school grounds except as provided by policy regulations promulgated by the Director, DoDDS. Faculty and staff shall smoke only in specifically designated areas and shall not smoke in the presence of students.

(iii) Installations shall assess the current resources, referral mechanisms, and need for additional smoking cessation programs. Occupational health clinics shall consider the feasibility of smoking cessation programs for civilian employees or, at a minimum, be able to refer employees to such programs. While smoking cessation should be encouraged, care shall be taken to avoid coercion or pressure on employees to enter smoking cessation programs against their will. Smoking prevention programs shall be made available in DoD Dependents Schools and Section 6 schools.

(iv) Information on the health consequences of smoking shall be incorporated with the information on alcohol and drug abuse provided to military personnel at initial entry and at permanent change of station as specified in 32 CFR Part 62a. At initial entry, nonsmokers shall be encouraged to refrain from smoking. Smokers shall be encouraged to quit and be offered assistance in quitting.

(v) As part of routine physical and dental examinations and at other appropriate times, health care providers should be encouraged to inquire about the patient's tobacco use, including use of smokeless tobacco products; to advise him or her of the risks associated with use, the health benefits of abstinence, and of where to obtain help to quit.

(vi) Appropriate DoD health care providers should advise all pregnant smokers of the risks to the fetus.

(vii) The Military Services shall conduct public education programs appropriate to various target audiences on the negative health consequences of smoking.

(2) Physical fitness programs shall aim to encourage and assist all target populations to establish and maintain the physical stamina and cardiorespiratory endurance necessary for better health and a more productive lifestyle. In addition to the provisions of DoD Directive 1308.1 [2] and Secretary of

[2] See footnote 1 to § 85.5(a)(5).

Defense Memorandum physical fitness programs shall include the following elements.

(i) Health professionals shall consider exercise programs conducive to improved health, and encourage appropriate use by patients. For military personnel, recommendations shall accord with military readiness requirements.

(ii) Commanders and managers should assess the availability of fitness programs at or near work sites and should consider integrating fitness regimens into normal work routines for military personnel as operational commitments allow.

(iii) The chain of command should encourage and support community activities that develop and promote fitness among all target populations. Activities should be designed to encourage the active participation of many people rather than competition among a highly motivated few.

(3) Nutrition programs shall aim to encourage and assist all target populations to establish and maintain dietary habits contributing to good health, disease prevention, and weight control. Weight control involves both nutrition and exercise, and is addressed in part in DoD Directive 1308.1. Nutrition programs include efforts not only to help individuals develop appropriate dietary habits, but also to modify the environment so that it encourages and supports appropriate habits. Additionally, nutrition programs shall include the following elements.

(i) Nutritional advice and assistance shall be provided by appropriate DoD health care professionals to military personnel, retirees, and family members.

(ii) In military and civilian dining facilities, where feasible, calorie information and meals with reduced amounts of fat, salt, and calories shall be made readily available.

(iii) Snack concessions and vending machines, when feasible, shall offer nutritious alternatives, such as fresh fruit, fruit juices, and whole grain products.

(iv) Public information campaigns shall be conducted by the Military Services to alert all target populations about the relationship between diet and risk of chronic diseases.

(4) Stress management programs shall aim to reduce environmental stressors and help target populations cope with stress. Additionally, stress management programs shall include the following elements.

(i) Commanders should develop leadership practices, work policies and procedures, and physical settings that promote productivity and health for military personnel and civilian employees.

(ii) Health and fitness professionals are encouraged to advise target groups on scientifically supported stress management techniques.

(iii) The topic of stress management should be considered for integration into the curricula at appropriate Professional Military Education programs and in the DoD Dependents Schools and Section 6 schools to familiarize students with scientifically supported concepts of stress management for day-to-day problems, life transitions, and life crises.

(5) Alcohol and drug abuse prevention programs shall aim to prevent the misuse of alcohol and other drugs, eliminate the illegal use of such substances, and provide counseling or rehabilitation to abusers who desire assistance in accordance with the provisions of 32 CFR Parts 62a and 62 and DoD Instruction 1010.6 [3] Additionally, alcohol and drug abuse prevention programs shall include the following elements.

(i) Appropriate DoD health care professionals shall advise all pregnant patients and patients contemplating pregnancy about the risks associated with the use of alcohol and other drugs during pregnancy.

(ii) The Military Services shall conduct public education programs appropriate to various target audiences. Programs should include such topics as alcohol and drug use and pregnancy, driving while intoxicated, and adolescent alcohol and drug abuse.

(6) Hypertension prevention programs shall aim to identify hypertension early, provide information regarding control and lifestyle factors, and provide treatment referral where indicated. Early identification of hypertension programs shall include the following elements.

(i) Hypertension screening shall be provided as part of all medical examinations and the annual dental examination for active duty service members. Screening shall also be provided to other beneficiaries, excluding those in the Children's Preventive Dentistry Program, at the time of their original request for care. Patients with abnormal screening results shall receive appropriate medical referrals.

(ii) Each DoD medical facility should periodically offer mass hypertension screening to encourage beneficiaries to monitor their blood pressure regularly.

(iii) Occupational health clinics shall make hypertension screening readily available to civilian employees, and shall encourage employees to use this service.

(iv) Public information campaigns emphasizing the dangers of hypertension and the importance of periodic hypertension screening and dietary regulation shall be conducted.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 24, 1988.

[FR Doc. 88-19567 Filed 8-29-88; 8:45 am]

BILLING CODE 3810-01-M

[3] See footnote 1 to § 85.5(a)(5).

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD8-88-16]

Special Local Regulations; Fireworks Display, Morgan City, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for The Fireworks Display. This event will be held on 4 September 1988 from 9:00 p.m. until 11:00 p.m. on Berwick Bay in the Atchafalaya River at Morgan City. These regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 4 September 1988 at 8:30 p.m. and terminate on 4 September 1988 at 11:30 p.m.

FOR FURTHER INFORMATION CONTACT: CWO William G. Whitehouse, Eighth U.S. Coast Guard District, Tel: (504) 589-2972.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published. Following normal rulemaking procedures would have been impracticable. The details of the event were not finalized until 17 August 1988 and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data or arguments. Comments should include their name and address, identify this notice (CGD8-88-16) and the specific section of the proposal to which the comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-

addressed envelope is enclosed. The regulations may change in light of comments received.

Drafting Information

The drafters of this regulation are CWO William G. Whitehouse, Project Officer, Eighth Coast Guard District, New Orleans, LA, and CDR J.A. Unzicker, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulations

The marine event requiring this regulation is a Fireworks Display called "The Fireworks Display." This event is sponsored by the Louisiana Shrimp and Petroleum Festival and Fair Association, Inc. It will consist of 1 tugboat with 1 or 2 barges for the launching of fireworks. Approximately 25–30 spectator boats are expected for the event. While viewing the event at any point outside the regulated area is not prohibited, spectators will be encouraged to congregate within areas designated by the sponsor.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–8–88–16 is added to read as follows:

§ 100.35–8–88–16 Berwick Bay, Atchafalaya River, Louisiana

(a) *Regulated area:* The following area will be closed to all vessel traffic: Berwick Bay from the junction of the Lower Atchafalaya River and Bayou Boeuf at Morgan City, LA to the Highway 90 Bridge.

(b) *Special local regulations:* All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol the event.

(1) No spectator shall anchor, block, loiter or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled, by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. He may terminate the event at any time it is deemed necessary for the protection of life and/or property. He may be reached on VHF–FM Channel 16, when required, by the call sign "PATCOM."

(c) *Effective dates:* These regulations will be effective from 8:30 p.m. to 11:30 p.m. 4 September 1988.

Dated: August 18, 1988.

W.F. Merlin,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 88–19600 Filed 8–29–88; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Removal of National Forest Timber

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes additional standards for a Contracting Officer to use in determining whether a prospective purchaser is responsible and capable of performing a particular contract before the Government enters into a contract with that prospective purchaser. In addition, this rule requires increased downpayments from those purchasers of National Forest System timber with a recent record of failure to perform timber sale contracts but who otherwise may meet the responsibility requirements and who are determined to be responsible. These changes should improve timber sale contracting and reduce the number of unperformed and violated contracts with a corresponding reduction in negative effects on management of the National Forests.

EFFECTIVE DATE: This rule is effective September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Questions about this final rule may be addressed to: Ed Whitmore, Timber Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20013–6090, (202) 475–3758.

SUPPLEMENTARY INFORMATION:

Background

Since 1982 the Forest Service has witnessed a significant upsurge in the number of National Forest timber purchasers who do not complete their sale contracts. Over 1,900 timber sale contracts have been defaulted by approximately 1,300 purchasers. Under contract provisions governing default, the Government estimates it has sustained damages valued in excess of $230 million as a result of these defaults. In addition, there is potential for another estimated $200 million dollars in damages in the event of default of some high-priced sales bid prior to 1982. These sales are vulnerable to default because they were bid when the lumber market was extremely high compared to current prices. Following default, sales are reappraised and reoffered. Damages are determined by subtracting the resale value of the timber from the original bid price.

A timber sale program is designed so that every year the cumulative effects of the program are compatible with and contribute to the planned management of a National Forest. When a timber sale contract is defaulted, the harvest of that timber is delayed until the timber can be resold and cut under the resale contract. In addition to causing a tremendous administrative burden on the agency associated with the rescheduling, reappraising, and reoffering the timber for sale, the delayed harvesting of Federal timber sale contracts can adversely affect management of the natural resources of the National Forest System. A default-delayed harvest may result in adverse economic, resource, and environmental effects which are both direct and indirect, as well as cumulative. Among the major impacts are:

(1) Some timber sales are sold to remove trees for the benefit of other resources. Timber harvest can improve cover/forage ratios for wildlife, increase available water supplies, open vistas for public viewing along roadsides, improve range conditions for wildlife and livestock, or remove potentially hazardous trees in a recreation area. A default-caused delay in the harvest of such a sale will delay these benefits.

(2) Some timber harvests are timed to minimize logging damage to the remaining timber or to reduce the spread of pathogens from the overstory to the understory (for example, to reduce the spread of mistletoe). When operations are delayed, the logging may be too late to minimize damage to the remaining timber or to reduce the spread of pathogens.

(3) Some logging is planned to remove some or all of the overstory in order to maintain or increase the growth of the understory. Delays in harvesting the overstory can slow the growth of the remaining smaller trees, resulting in increase brush competition or can postpone needed precommercial thinning of the remaining timber.

(4) If a timber sale contract was planned and offered to achieve commercial thinning of the timber in the sale area, a harvest delay could delay the increased growth of the remaining timber.

(5) Other silviculture treatments such as timber stand improvement in nearby areas may be delayed because the slash in the default-delayed area was not treated when originally planned. This can result in growth losses in those stands and/or an increased cost of treating the logging debris.

(6) Sales are designed to leave a healthy residual stand of timber. Default-caused delays may mean that the planned residual stand would not meet management objectives if the sale were logged as originally designed. This can result in additional delay and expense if the sale has to be redesigned to meet the objectives.

(7) Many sales are made to salvage timber that has been damaged by fire, insects, diseases, or other causes. Such timber is often subject to rapid deterioration. Default-caused delay in the harvest of this timber can cause a significant loss in the timber's volume and value and thus a significant loss of benefits to the American public.

(8) Some sales are prepared to assist control of Forest pest epidemics. Failure to remove such timber in a timely manner can increase the damage to adjacent stands.

(9) If a timber sale default delays construction of a road, the resulting delay in access could affect management of the other resources which would be tributary to the road.

In addition to serious resource problems caused by defaults, the economies of many communities, particularly in the West, are heavily dependent upon the employment generated by the harvest and manufacture of timber from the National Forests. Timber sale defaults can interrupt the flow of timber to those communities.

Defaults may also reduce receipts to the Federal Treasury and revenue sharing payments to local counties that are based on those receipts. The public services provided by many western counties are heavily dependent on these payments. State and county Governments, which depend upon an orderly source of income from the National Forests for funding of roads and schools, are subjected to budget fluctuations when purchasers fail to perform their contracts.

Inequities among purchasers also result from timber sale defaults. Purchasers who default with the exception of delaying the payment of damages are in a stronger financial position to bid on new contracts than they would have been had they performed the defaulted contracts. An inequity exists when purchasers, who have conscientiously performed their high-priced contracts and have suffered economic losses as a result, are required to compete for new contracts against purchasers whose financial ability to bid has been enhanced as a result of their failure to perform their own high-priced contracts.

These adverse impacts are magnified when a high incidence of default occurs. This recent history of defaults and deficient performance is an unacceptable situation requiring better business practices in future sales of public timber.

In light of the upsurge in defaults of timber sale contracts and the attendant adverse effects on National Forest System management, the Department of Agriculture proposed a revision of its regulations at 36 CFR Part 223 governing the sale of timber on National Forest System lands. The proposed rule, published May 20, 1987, at 52 FR 18926, proposed additional criteria for determining a purchaser to be qualified for award of a timber sale contract as well as a requirement for increased downpayments from purchasers with a deficient performance record. Public comment was requested by June 19, 1987. That date was later extended to July 6, 1987 [52 FR 23188].

Response to Public Comments

The Forest Service received comments on the proposed rule from 40 individuals and entities. Comments came from individual timber sale purchasers, timber sale purchaser associations, attorneys, Forest Service employees, a private consulting forester, and a forester employed by another Federal agency but expressing private views. About two-thirds of the responses came from the Pacific Northwest. Eighty-five percent of the responses were from West of the 100th Meridian.

Eighty percent of the respondents supported the proposal for increased downpayments either in its entirety or with suggested modifications to strengthen it. Five precent did not support any part of the increased downpayment proposal.

About 20 percent of the respondents expressed support for the proposal to determine bidder responsibility. Most of the comments pertaining to bidder responsibility expressed a concern that either the standards were too subjective or the pre-bid qualifications should be established.

The following summarizes the major comments and suggestions received and the Department's response to these in the final rule. This final rule reflects full consideration of all comments received.

General Comments

Two respondents disagreed with the statement in the supplementary information section of the proposed rule document that default of timber sale contracts might create certain adverse environmental impacts. They maintained that the identified impacts had not occurred as a result of default-delayed harvest, and, therefore, should not be listed. The agency disagrees. The discussion in the proposed rule made clear that not all the listed effects on the environment occur from any one default but that these effects *may* occur as a result of default-delayed timber harvest. The National Forests are, in fact, experiencing these impacts either singly or in combination. Therefore, the general findings stand.

Section-by-Section Comments

Section 223.49 Downpayment.

Under the proposed rule, if a purchaser or affiliate has defaulted a Forest Service or Bureau of Land Management (BLM) timber sale contract, and the contract value of the defaulted timber sale(s) was $100,000 or more, the downpayment on the new contract, if awarded to that purchaser, would be twice the amount as that normally required. Further, the purchaser would not be able to apply funds deposited as the downpayment to other uses utnil the last timber on the sale is being harvested. Under the proposal, this provision would apply to defaults occurring 30-calendar days after the effective date of the final rule.

One respondent stated that defaults of BLM timber sales should not be considered with respect to bidders of National Forest timber while another stated that they should be included. Because the two agencies have similar timber sale programs and frequently have common purchasers, purchaser performance on a BLM sale is a valid indicator of the purchaser's likely performance on a National Forest timber sale. Therefore, consideration of defaults of BLM sales is retained in the

final rule. Although performance on other Federal timber sales was considered, it is not included due to the dissimilarity of programs involved.

A few respondents expressed concern that the requirement for an additional downpayment would create unequal bidder classes, in violation of the precept of Government contracting which requires that all bidders be treated equally. This concern is not well-founded. All bidders are treated equally. Should any company choose to default a contract(s) at values exceeding the established threshold, the requirement for a double downpayment applies on new sales. In seeking competitive bids for timber sales, the Forest Service attempts to maintain a balance between protecting the public and the Government's interests and recognizing the interests of the private sector. When a company fails to perform a contract or defaults a contract, the Forest Service is obligated to protect the interests of the public and the Government. Where there are future dealings with that purchaser, this final rule provides increased security via the increased downpayment to reflect the increased risk of nonperformance by a party that has previously failed to perform in accordance with contract terms. The requirement for an increased downpayment applies equally to all purchasers with a deficient performance record as identified in the rule and does not establish two classes of purchasers.

A few respondents expressed concern that the proposed rule would not accomplish the objectives of securing performance and reducing risk to the Government. Reasons were varied and conflicting: the additional downpayment requirements might create additional defaults; the additional downpayment may create a penalty while issues are being litigated; or the additional downpayment requirement is too meager. The Forest Service does not agree with these concerns. Timber sale contracting experience indicates that stronger downpayment requirements will not create additional defaults, but instead will serve as an incentive to the orderly completion of contracts for any purchaser who intends to compete for future National Forest timber sale contracts. As to the view that the additional downpayment is too meager, the agency believes a doubling of downpayment should help meet the objective of reducing risk of nonperformance of contracts and of completion of contracts in a timely manner. Those companies who have defaulted contracts will pay no more for timber than purchasers who have not defaulted, although the purchaser with a deficient performance record will have to put more money down upfront and meet more stringent performance standards before the downpayment can be applied to other uses. The Department believes this is in accordance with sound business practices and good policy. Therefore, this final rule retains the requirement of doubling the downpayment for purchasers with a record of deficient performance.

Several respondents including two industry associations recommended removal of the 12-month stipulation, thus requiring the increased downpayment for so long as default damage claims remained unpaid. Additionally, it was suggested that the increased downpayments, including the requirement for 40 percent of bid premium, should apply without regard to average bid ratios. Because these suggestions would strengthen the protection to the Government and simplify administration of the regulation, they are adopted with the proviso remaining that the Chief may determine, prior to advertisement, that timber sales in some areas may have another downpayment rate to achieve the objectives of National Forest System management.

Therefore, the final rule will require that any purchaser or affiliate who defaults a Forest Service or BLM timber sale contract within 30 days after the effective date of this rule shall make a minimum downpayment of 20 percent of the total advertised value of the sale, plus 40 percent of the total bid premium when that purchaser is determined to be the successful bidder on a Forest Service timber sale. The final rule eliminates the reference to bid ratios in determining the additional 40 percent downpayment for overbid. All bid premiums regardless of bid ratios will be subject to the 40 percent downpayment rule once the criteria for the additional downpayment requirement have been established. The requirement of an increased downpayment on Forest Service timber sales shall continue until it is determined (1) that the Government improperly classified the contract(s) as expiring uncompleted or as terminated for cause or (2) the contract value damages claimed by the Government have been paid and corrective actions have been taken by the purchaser to avoid future deficient performance.

The respondents specifically agreed with holding the downpayment deposits until the last timber on the contract was reached with one of them further suggesting that the downpayment be held on all contracts until *after* the final timber was removed whether or not the purchaser had previously defaulted. The retention of downpayments in excess of the value of the remaining timber would be unnecessary are might the considered to be punitive in nature. The intent of the rule is to protect the Government proportionate to increased risks, to minimize defaults, and to assure the orderly completion of contracts, rather than to punish those who do default. Therefore, this final rule retains the requirement that the downpayments required under this rule will not be available for other uses until the amount of unremoved timber is equal to or less than the amount of the downpayment. This is consistent with the concept that a downpayment is intended to protect the Government and public.

A few respondents suggested that the requirements for additional downpayments should not include default of sales bid prior to 1982 when bidding was generally higher and which is resulting in more contract defaults. This suggestion has been carefully evaluated but not incorporated into the final rule. The objective of the additional downpayment is to protect the Government's interest where there is additional risk of nonperformance as indicated by past conduct. Given all of the circumstances, there is no basis to differentiate among defaulted contracts based on speculative reasons for an individual default. The additional downpayment requirement needs to apply to all contractors who default contracts of a certain amount of timber and who have outstanding damages remaining to be paid, including sales bid prior to 1982.

A few respondents offered that defaulters should not be allowed to bid on Forest Service or BLM timber sales either in perpetuity or so long as outstanding default damages remain uncollected. Adoption of this proposed change would result in de facto debarment and would deny due process and the opportunity to consider mitigating circumstances provided under the debarment and suspension procedures. Debarment regulations at 36 CFR Part 223, Subpart C will continue to guide the Forest Service Debarring Official in the determination of whether a purchaser who has failed to perform in accordance with contract terms will be excluded from bidding on or award of Forest Service timber sale contracts. Therefore, this suggestion is not adopted as part of this rulemaking.

A few respondents recommended that the requirement for additional

downpayments should not include defaults that were in dispute. To adopt this recommendation would likely increase the number of defaults that are disputed or litigated in order to delay or avoid the additional downpayments. Additionally, adoption of this suggestion would undermine incentives for minimizing defaults of future sales while disputes exist. Therefore, this suggestion is not incorporated in the final rule. The requirement for additional downpayment for new sales applies until the default damage claims are resolved. Should it be determined that no contract or contracts were properly classified as expiring uncompleted or terminated for cause with a value of $100,000 or more, or it is determined that the remaining value of those terminated or expired contracts is less than $100,000, any existing contract(s) would no longer be subjected to the requirement of an additional downpayment and any remaining unobligated portion of a required extra downpayment would be refunded or credited towards existing balances on the contract requiring the extra downpayment. This has been clarified in the final rule.

One respondent suggested that the requirement for additional downpayments should recognize default situations arising from good faith efforts to complete the contract as opposed to those where little or no effort was made. This suggestion is not incorporated into the final rule since the reasons for a particular default would be difficult to determine and the results of defaulted contracts are essentially the same regardless of the reason; that is, management of the National Forest System is adversely affected. To differentiate would not address the purpose of the proposed rule: To improve purchaser responsibility and to reduce risk to the Government.

One respondent recommended that the value of unscaled timber, or value of timber not cut and removed be increased from $100,000 to $500,000 before the increased downpayment be required on new sales. Conversely, several respondents suggested that all defaulters regardless of the value of remaining timber should be subjected to the increased downpayment requirement. Should the limit be increased to $500,000, it appears that too many defaulters would not be covered by the increased downpayment requirement, and the objectives of the rulemaking would not be achieved. Under Forest Service analyses, the $100,000 threshold reflects a balance between impacts on small business concerns and increased administration of impacted contracts, on the one hand, and an appropriate point at which the Government needs additional security in the form of an increased downpayment. Whether a purchaser's default(s) fall above or below the threshold, the Contracting Officer will be required to affirmatively find that the purchaser is responsible following the guidance of 36 CFR 223.101. Therefore, the final rule retains the $100,000 level of the proposed rule.

A few respondents recommended that additional bid deposits should be imposed as an incentive to assure that contracts are signed once they are bid. One respondent suggested that failure to execute a contract once it was bid should cause the sale to be treated as a default for purposes of triggering a double downpayment. The situation of the high bidder refusing to execute the contract has not been a common occurrence up to this point in time. The agency already has established procedures for recovering damages through bid deposits when contracts are not executed after bidding. The additional standards for determining purchaser responsibility as a prerequisite to award of a timber sale, which are being incorporated in the new 36 CFR 223.101, should provide adequate incentives against refusal to execute contracts.

In response to comments, the final rule clarifies that once a higher downpayment is triggered, it applies throughout the National Forest System except in those areas where the Chief determines that another downpayment rate is necessary to achieve the management objectives of the National Forest System.

Section 223.101 Determination of purchaser responsibility.

In addition to revising downpayment requirements, the Forest Service proposed to incorporate many of the bidder responsibility standards found in the Federal Acquisition Regulations [48 CFR 9.104] into the rules governing timber sale contracts. Under the proposal, before any bidder could be awarded a Forest Service timber sale contract, the Contracting Officer would have to determine that the bidder has met all of the conditions of the sale offer and that the bidder is responsible. To be determined responsible for award of a timber sale contract, the Contracting Officer must determine that the purchaser has adequate financial resources to perform the contract or can obtain them, can perform within the contract term, has a satisfactory record of performance, has a satisfactory record of integrity and business ethics, is able to obtain necessary equipment and supplies, and is otherwise qualified and eligible to receive an award of the contract.

Although not as popular as the proposal for increased downpayments, several respondents supported the proposal for determining purchaser responsibility. In addition, a few indicated support if it were modified. Suggested modifications were to establish more specific criteria for determining tenacity, perseverance, and integrity and that the determination of responsibility should rest with an authority higher than the Contracting Officer.

The standards for determining responsibility of Government procurement contractors in the Federal Acquisition Regulations (48 CFR 9.104) have been used successfully by Contracting Officers for other than timber sale contracts for several years without establishing additional criteria. A "cookbook" approach is inappropriate. The intent is to allow sufficient flexibility to ensure that all relevant information is considered. It is believed that Forest Service timber sale Contracting Officers will be equally successful in applying these established standards.

Fiscal personnel of the agency will be available to and consulted by the Contracting Officer. If there is disagreement with the Contracting Officer's determination, the prospective purchaser may submit to the Contracting Officer additional information for reconsideration. If a prospective purchaser believes a determination on respsonbibility is without a reasonable basis, that determination may be reviewed by the General Accounting Office (4 CFR Part 21). Therefore, additional guidelines have not been added to the final rule.

A few reviewers suggested that the standards for determining purchaser responsibility presume that the prospective purchaser is not responsible until proven otherwise. The Department disagrees. The regulation implements the Department's policy that the Government should only do business with those responsibile business interests who are willing and able to operate under the terms of the contracts. Accordingly, the Contracting Officer cannot award a timber sale contract until that purchaser's responsibility has been affirmatively determined. Since the information necessary to establish responsbility can only be provided by the prospective purchaser, the burden of proof is properly placed on the

prospective purchaser. It is only logical that the Contracting Officer must conclude that a prospective purchaser is not responsbile if there is no information clearly indicating responsibility.

A few respondents expressed concern that the provision for Small Business Administration (SBA) review and issuance of a Certifcate of Competency would create two classes of bidders by allowing another agency to conclusively determine whether a small business is responsbile where the Forest Service initiatlly determined they were not responsible, while providing only Forest Service review for large business. This provision would not establish a new policy. Under existing law, the Small Business Administration has authority to conclusively determine any or all elements of a small business concern's responsibility by issuing or declining to issue a Certificate of Competency (15 U.S.C. 637(b)(7)). This authority applies to the sale of Federal property as well as Government procurement. Therefore, the final rule retains this provision.

One of the respondents further suggested that the Forest Service was improperly defining the 12-month period within which it may be presumed that a purchaser is not responsible as being before the bid date rather than the award date. In light of several comments, the final rule has been clarified and revised to follow the language of the Federal Acquisition Regulations. The presumption that a purchaser is not responsible will exist where the purchaser is or recently has been seriously deficient in performance of timber sale contracts. As a general guideline, deficient performance within the last 12 months will be considered to be recent performance. Because responsibility shall be determined before *award* of each timber sale contract, it is the purchaser's performance up to that point in time that is to be considered. While current and recent performance are the best indicators of present responsibility and are the basis for the rebuttable presumption, a purchaser's entire performance record should be considered in determining whether or not the purchaser is presently responsible.

Several respondents suggested that the Forest Service should establish additional pre-bid qualifications rather than determine whether a prospective purchaser is responsible after the date of any oral auction but prior to award. The agency believes that additional pre-bid standards may help protect the Government's and timber purchasers' interests and is examining the opportunities available, including establishing more restrictive pre-bid qualifications. The Forest Service will continue to study pre-bid qualifications to complement the purchaser responsibility determinations made prior to award. Any such action would be by a separate rulemaking.

One respondent expressed concern that financial information should not be available to others, including Freedom of Information Act (FOIA) inquiries, and that Contracting Officers should be the only persons to have access to financial statements. The Forest Service will provide confidentiality to information submitted for purposes of determining responsibility to the maximum extent allowed by law. Any FOIA requests for information submitted for this purpose will be handled with full consideration of available exemptions from disclosure, particularly where disclosure of the information could reasonably be expected to cause substantial competitive harm. If, after careful agency review, the agency determines that it may be required to disclose any portion of the records, the Forest Service will notify the submitter of any records containing confidential commercial information when those records have been requested under the Freedom of Information Act and allow an opportunity for the purchaser to object to disclosure of the records. (See Executive Order 12600 of June 23, 1987, 52 FR No. 122.) Current Forest Service policy strictly limits access to the information solely to personnel who use these data on a need to know basis.

Summary of the Final Rule

This final rule has substantial support in the agency record, viewed as a whole, and full attention has been given to the comments received in preparing the final regulations.

The final rule adds additional criteria and a procedure for determining a purchaser to be qualified for award of a timber sale contract. It further implements this Department's policy established in the public interest and for the Government's protection that the Forest Service shall award timber sale contracts only to responsible business concerns and individuals. The Department believes these requirements are necessary and follow good business practices while allowing flexibility and without being unduly burdensome on either party to the proposed transaction.

When reviewing bids, a Contracting Officer shall not award a timber sale contract unless he or she is able to determine from information in his or her possession that the prospective purchaser is a responsible individual or entity. Determining responsibility requires analysis of the particular facts involving that prospective purchaser. For example, when an analysis of the purchaser's financial ability to perform all contracts in a portfolio indicates the purchaser is in financial jeopardy, award of a new sale would be withheld. The prospective purchaser's past record of performance and business dealings is also clearly a factor to be considered. Section 223.101(b)(3) will require that the purchaser have a satisfactory performance record on timber sale contracts in order to be found responsible. This is sound business practice consistent with other Government contracting.

However, because of the recent large number of defaulting purchasers, the requirement of a satisfactory performance record alone could result in numerous determinations that prospective purchasers are not responsible and that contracts should not be awarded to those prospective purchasers. Many purchasers with previously good performance records have failed to perform or to satisfactorily perform contracts in recent years. Due to the unique structure of the timber industry, there may be some districts or communities where no existing purchaser would qualify to buy additional timber under a strict application of this standard. Such a large-scale result under current circumstances would not be in the public interest for the ongoing recovery of the timber industry, for dependent communities, or for proper management of the National Forest System.

Therefore, this rule provides a degree of flexibility, at § 223.101(b)(3), which provides that a Contracting Officer may determine a prospective purchaser that has been seriously deficient in previous contract performance to be responsible if the Contracting Officer determines that the circumstances of previous deficiencies were (1) properly beyond the purchaser's control, or (2) that the purchaser has taken appropriate corrective action.

With respect to the first criterion and defaults of high-priced timber, the price a purchaser bids for a particular sale generally is within the control of that purchaser. As to the second criterion, corrective action taken by the purchaser to avoid future deficiencies in performance and the corresponding reduction of risk to the Government in doing business with that prospective purchaser are also clearly relevant to the determination of current responsibility. Among actions taken by the purchaser which reduce the risk of

deficient performance to the Government and which will be among the facts considered by the Contracting Officer, is an increased downpayment required of a purchaser with the serious performance deficiencies identified in § 223.49(e).

Under the final rule, if a purchaser or its affiliates have outstanding obligations to the Government through defaulting of Forest Service or Bureau of Land Management timber sale contracts after the effective date of this rule, and the contract value of the previously defaulted timber is $100,000 or more, the downpayment on any new contract, if awarded to that purchaser, will be approximately twice the amount as that currently required pursuant to 36 CFR 223.49. The additional downpayment required by this final rule reflects some of the additional risk of doing business with a purchaser who has failed to perform on another contract but who otherwise meets all of the requirements of the sale and is determined to be a responsible entity. For example, the decision by a company to default a contract may be an economic one. The company may otherwise have had a good performance record and generally be on sound economic footing but choose to default a contract to reduce its economic losses.

The standard downpayment represents a monetary commitment to perform the contract at issue and reduces the risk of nonperformance. Where a timber sale purchaser has failed to perform under one contract, the Government may reasonably assume that that purchaser may fail to perform on another contract in the future. The additional downpayment required by this rule reflects the additional risk of doing business with a purchaser who has failed to perform on another contract but who otherwise meets all of the requirements of the sale and is determined to be a responsible entity. Sound business practice requires this additional security where it is determined to do further business with a concern even though that concern has failed to perform on one or more other contracts.

By contrast, a prospective purchaser who has been seriously deficient in contract performance, absent mitigating circumstances, is not a responsible entity with which the Government should do business. Under this final rule, such a prospective purchaser would be denied award (36 CFR 223.101(b)(3)). Furthermore, failure to perform and serious contract violations are listed causes for debarment which, dependent upon the seriousness of the purchaser's acts or omissions and any mitigating factors, may lead to a debarment decision by the Forest Service Debarring Official (36 CFR 223.137, 52 FR 43324–43334, November 12, 1987).

Affiliates are included in the requirement for additional downpayments and, where appropriate, in determining purchaser responsibility to assure that the Government's interests are protected when doing business. When one company or individual directly or indirectly controls or has the power to control the other, an affiliation is determined to exist. Common management, common ownership, and contractual relationships are among the factors considered in determining affiliation. The Forest Service will use the Small Business Administration regulations on affiliation found at 13 CFR 121.3 as guidance in determining whether or not concerns are affiliated. The inclusion of affiliates will help to assure that sales are operated and to reduce the risk of nonperformance.

The intent of this rulemaking is to improve procedures for the sale of public timber in light of recent experiences. The Department believes better timber sale contracting may prevent or at least minimize the adverse effects of delayed performance discussed above.

Regulatory Impact

This action has been submitted to the Office of Management and Budget for review pursuant to Executive Order 12291. It has been determined that this regulation is not a major rule. It does not change the total amount a purchaser would pay for National Forest System timber, although it would affect when a purchaser with a recent history of poor timber sale contract performance would pay for timber.

The procedures implemented in this rule will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs for consumers, individual industries, Federal, State or local Government agencies or geographic regions, and will not have significant adverse effects on the ability of United States-based industries to compete with foreign-based enterprises in domestic or export markets. On the contrary, the proposed requirements will contribute to the economic well-being of timber dependent communities, the orderly flow of timber to market and of receipts to the Treasury, strengthen the orderly accomplishment of resource management objectives, and reduce administrative costs associated with settling claims against defaulting purchasers.

It has also been determined that this rule will not have significant economic impact on a substantial number of small entities. There are very few small entities that have defaulted more than $100,000 worth of Federal timber. While it cannot be predicted with certainty how many small business concerns will choose to default in the future, this final rule would affect less than 50 small entities were it to be applied to existing defaulters. In addition, the Certificate of Competency procedures as applied by the Small Business Administration will continue to cover small firms under the proposed bidder responsibility standards.

Based on both experience and environmental analysis, the rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4) Furthermore, the proposed rule will not result in additional procedures or paperwork not already required by law. Therefore, no additional reviews or clearances pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), or implementing regulations at 5 CFR Part 1320 are required.

Lists of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting and recordkeeping requirements, Timber.

Therefore, for the reasons set forth above, Subpart B of Part 223, chapter II of Title 36 of the Code of Federal Regulations is amended as follows:

PART 223—[AMENDED]

1. The authority citation for Part 223 continues to read as follows:

Authority: Sec. 14, Pub. L. 94–588, 90 Stat. 2958, 16 U.S.C. 472a, unless otherwise noted. Secs. 223.49 and 223.50 also issued under Sec. 2, Pub. L. 98–478, 98 Stat. 2213, 16 U.S.C. 618.

Subpart B—[Amended]

2. Amend § 223.49 by adding new paragraphs (a)(5), and (e) through (i) to read as follows:

§ 223.49 Downpayment.

(a) * * *

(5) *Affiliate.* Concerns or individuals are affiliates if directly or indirectly, either one controls or has the power to control the other, or a third party controls or has the power to control both. In determining whether or not

affiliation exists, the Forest Service shall consider all appropriate factors, including, but not limited to, common ownership, common management, and contractual relationships.

* * * * *

(e) A purchaser or any affiliate of that purchaser, awarded a Forest Service timber sale contract must meet the additional downpayment requirements of paragraph (g) of this section under the following circumstances:

(1) The purchaser or its affiliate after September 29, 1988 has failed to perform in accordance with the terms of a Forest Service or Bureau of Land Management timber sale contract which results in notification by a Contracting Officer that a contract has expired uncompleted or is terminated for cause; and

(2) The estimated value of the unscaled timber on scaled sales, or the estimated value of the timber outstanding on tree measurement sales, included in those terminated or expired contracts exceeds $100,000, and

(3) Unpaid damages claimed by the Government remain outstanding prior to award of the new sale at issue and corrective action has not been taken to avoid future deficient performance.

(f) A subsequent final determination by the Contracting Officer or by a court of competent jurisdiction that a contract was improperly classified under the criteria in paragraph (e) of this section will result in the refund or credit of any unobligated portion of the amount of downpayment exceeding that required by paragraphs (c) and (d) and the limitations of paragraph (h) on application of downpayment shall no longer apply.

(g) Notwithstanding the provisions of paragraphs (c) and (d) of this section, a purchaser meeting the criteria of paragraph (e) of this section must make a minimum downpayment equal to 20 percent of the total advertised value of that sale, plus 40 percent of the total bid premium. This higher downpayment requirement applies throughout the National Forest System, except in those areas where the Chief of the Forest Service determines, before advertisement of the sale, that another downpayment rate is necessary to achieve the management objectives of the National Forest System.

(1) In calculating bid premiums for the downpayment requirement, the Forest Service shall not include the portion of the bid premium that offsets ineffective purchaser credit.

(2) To determine the amount of the downpayment due on a sale where the timber is measured in units other than board feet, the Forest Service shall convert the measure to board feet, using appropriate conversion factors with any necessary adjustments.

(h) A purchaser subject to the additional downpayment requirements of paragraph (g) of this section cannot apply the amount deposited as a downpayment to other uses until:

(1) *On scaled sales,* the estimated value of the unscaled timber is equal to or less than the amount of the downpayment; or

(2) *On tree measurement sales,* the estimated value remaining to be cut and removed as shown on the timber sale statement of account is equal to or less than the amount of the downpayment.

(i) For the purpose of releasing funds deposited as downpayment by a purchaser subject to paragraph (f) of this section, the Forest Service shall compute the estimated value of timber as follows:

(1) *On scaled sales,* the estimated value of the unscaled timber is the sum of the products obtained by multiplying the current contract rate for each species by the difference between the advertised volume and the volume that has been scaled of that species.

(2) *On tree measurement sales,* the estimated value of the timber outstanding (that not shown on the timber sale statement of account as cut and removed) is the sum of the products obtained by multiplying the current contract rate for each species by the difference between the advertised volume and the volume that has been shown on the timber sale statement to have been cut and removed of the species. The current contract rate for each species is that specified in each Forest Service timber sale contract.

3. Revise the introductory text and paragraph (c) of § 223.100 to read as follows:

§ 223.100 Award to highest bidder.

The sale of advertised timber shall be awarded to the responsible bidder submitting the highest bid that conforms to the conditions of the sale as stated in the prospectus unless:

* * * * *

(c) The highest bidder is notoriously or habitually careless with fire.

* * * * *

§§ 223.101 and 223.102 [Redesignated as §§ 223.102 and 223.103]

§ 223.103 [Removed]

4. Remove § 223.103, redesignate §§ 223.101 and 223.102 as §§ 223.102 and 223.103 respectively, and add a new § 223.101 to read as follows:

§ 223.101 Determination of purchaser responsibility.

(a) A Contracting Officer shall not award a timber sale contract unless that officer makes an affirmative determination of purchaser responsibility. In the absence of information clearly indicating that the prospective purchaser is responsible, the Contracting Officer shall conclude that the prospective purchaser does not qualify as a responsible purchaser.

(b) To determine a purchaser to be responsible, a Contracting Officer must find that:

(1) The purchaser has adequate financial resources to perform the contract or the ability to obtain them;

(2) The purchaser is able to perform the contract within the contract term taking into consideration all existing commercial and governmental business commitments;

(3) The purchaser has a satisfactory performance record on timber sale contracts. A prospective purchaser that is or recently has been seriously deficient in contract performance shall be presumed not to be responsible, unless the Contracting Officer determines that the circumstances were beyond the purchaser's control and were not created through improper actions by the purchaser or affiliate, or that the purchaser has taken appropriate corrective action. Past failure to apply sufficient tenacity and perseverance to perform acceptably under a contract is strong evidence that a purchaser is not a responsible contractor. The Contracting Officer shall consider the number of contracts involved and extent of deficiency of each in making this evaluation;

(4) The purchaser has a satisfactory record of integrity and business ethics;

(5) The purchaser has or is able to obtain equipment and supplies suitable for logging the timber and for meeting the resource protection provisions of the contract;

(6) The purchaser is otherwise qualified and eligible to receive an award under applicable laws and regulations.

(c) If the prospective purchaser is a small business concern and the Contracting Officer determines that the purchaser does not qualify as a responsible purchaser on an otherwise acceptable bid, the Contracting Officer shall refer the matter to the Small Business Administration which will decide whether or not to issue a Certificate of Competency.

(d) Affiliated concerns, as defined in § 223.49(a)(5) of this subpart are normally considered separate entities in

determining whether the concern that is to perform the contract meets the applicable standards for responsibility. However, the Contracting Officer shall consider an affiliate's past performance and integrity when they may adversely affect the prospective purchaser's responsibility.

Date: August 23, 1988.

Peter C. Myers,

Deputy Secretary of Agriculture.

[FR Doc. 88-19703 Filed 8-29-88; 8:45 am]

BILLING CODE 3410-11-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6805]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office of the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

1. The authority citation for Part 64 continues to read as follows:

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

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region II—Minimal Conversions				
New York:				
Carlisle, Town of, Schoharie County	361193	Sept. 26, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp.	9-1-88	Sept. 1, 1988.
Seward, Town of, Schoharie County	361199	Oct. 3, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp.	9-1-88	Do.

State and location	Community	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region IV				
Alabama: Avon, Town of, Houston County	010100	Dec. 30, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Region V				
Indiana:				
White County, Unincorporated areas	180447	Aug. 3, 1979, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Williamsport, Town of, Warren County.	180272	June 3, 1976, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Attica, City of, Fountain County	180065	July 28, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Austin, Town of, Scott County	180233	Dec. 30, 1976, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Covington, City of, Fountain County	180066	July 1, 1975, Emerg.; Sept. 1, 1988, Reg.; Spet. 1, 1988, Susp	9-1-88	Do.
Clinton County, Unincorporated Areas.	180029	Feb. 13, 1976, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Fayette County, Unincorporated Areas.	180417	Apr. 11, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Franklin County, Unincorporated Areas.	180068	May 15, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Laurel, Town of, Franklin County	180306	May 27, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Tipton County, Unincorporated Areas	180475	Nov. 1, 1979, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Michigan:				
Banks, Township of, Antrim County	260643	Oct. 29, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Big Rapids, Township of, Mecosta County.	260135	Aug. 20, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Ely, Township of, Marquette County	260449	Nov. 9, 1981, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Minnesota:				
Carlton County, Unincorporated Areas.	270039	Aug. 16, 1974, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Todd County, Unincorporated Areas	270551	Feb. 1, 1974, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Douglas County, Unincorporated Areas.	270623	Apr. 16, 1974, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Martin County, Unincorporated Areas	270641	May 20, 1974, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Meeker County, Unincorporated Areas.	270280	Apr. 22, 1974, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Wisconsin:				
Adams, City of, Adams County	550002	May 31, 1974, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Bayfield County, Unincorporated Areas.	550539	June 6, 1974, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Neskoro, Village of, Marquette County.	550267	June 9, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Rosholt, Village of, Portage County	550377	June 24, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Superior, Village of, Douglas County	550117	June 28, 1975, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Region VII				
Nebraska: Bayard, City of, Morrill County	310347	Aug. 13, 1976, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp	9-1-88	Do.
Region I—Regular Program				
Connecticut: Canaan, Town of, Litchfield County.	090044	July 3, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Maine: Hallowell, Town of, Kennebec County.	230069	Jan. 13, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Region II				
New York: Union Vale, Town of, Dutchess County.	381146	July 28, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Region III				
Pennsylvania:				
Barrett, Township of, Monroe County	421884	Dec. 26, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Bedford, Borough of, Bedford County	421228	July 30, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Carroll Valley, Borough of, Adams County.	422635	Dec. 4, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Paradise, Township of, Monroe County.	421891	Jan. 30, 1980, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Regular Program				
Pennsylvania:				
Price, Township of, Monroe County	421894	Sept. 29, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Rockland, Township of, Berks County	421098	July 29, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Lackawaxen, Township of, Pike County.	421966	July 7, 1975, Emerg.; Aug. 4, 1988, Reg.; Sept. 2, 1988, Susp	8-4-88	Do.
Region IV				
North Carolina: Mitchell County, Unincorporated Areas.	370161	July 18, 1979, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Tennessee: Lexington, City of, Henderson County.	470089	Feb. 26, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.
Georgia: Woodstock, City of, Cherokee County.	130264	Jan. 20, 1976, Emerg.; July 15, 1988, Reg.; Sept. 2, 1988, Susp	9-2-88	Do.

State and location	Community	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region V				
Illinois: Elkhart, Village of, Logan County.....	171010	Feb. 12, 1982, Emerg.; Feb. 12, 1982, Reg.; Sept. 2, 1988, Susp.....	9-2-88	Do.
Regular Program				
Illinois:				
Greenview, Village of, Menard County.	170754	Aug. 7, 1985, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp.....	9-2-88	Do.
Lincoln, City of, Logan County.....	170428	June 16, 1975, Emerg.; Oct. 16, 1979, Reg.; Sept. 2, 1988, Susp.....	9-2-88	Do.
Logan County, Unincorporated Areas..	170427	May 11, 1973, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp.....	9-2-88	Do.
Menard County, Unincorporated Areas.	170505	May 1, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp.....	9-2-88	Do.
Morton, Village of, Tazewell County.....	170652	June 23, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp.....	9-2-88	Do.
Minnesota: Mahnomen, City of, Mahnomen County.	270266	May 8, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp.....	9-2-88	Do.
Ohio: Port Jefferson, Village of, Shelby County.	390506	May 14, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp.....	9-2-88	Do.
Region III—Minimal Conversions				
West Virginia: Pennsboro, City of, Ritchie County.	540182	July 2, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Sept. 18, 1988
Region IV				
Mississippi: Yalobusha County, Unincorporated Areas.	280239	June 15, 1983, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Region V				
Indiana:				
Gentryville, Town of, Spencer County..	180394	July 3, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Huntingburg, City of, Duboise County...	180362	Apr. 1, 1976, Emerg.; Sept. 18, 1988, Reg.; Sept. 18, 1988, Susp.....	9-16-88	Do.
Michigan: Cannon, Township of, Kent County.	260734	Apr. 8, 1983, Emerg.; Sept. 16, 1988, Reg.; Sept. 18, 1988, Susp.....	9-16-88	Do.
Wisconsin:				
Brandon, Village of, Fond du Lac County.	550132	Mar. 31, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Pigeon Falls, Village of, Trempealeau County.	550446	Mar. 26, 1976, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Minimal Conversions				
Wisconsin:				
Shell Lake, City of, Washburn County..	550469	Nov. 8, 1974, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Tony, Village of, Rusk County.....	550377	July 22, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Region III—Regular Program				
Virginia: Buchanan County Unincorporated Areas.	510024	Nov. 4, 1974, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Region IV				
Kentucky:				
Augusta, City of, Bracken County.....	210022	Feb. 26, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Smithland, City of, Livingston County...	210147	Nov. 3, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Region V				
Michigan:				
Colon, Township of, St. Joseph County.	260510	Mar. 9, 1977, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Colon, Village of, St. Joseph County....	260511	Mar. 9, 1977, Emerg.; Sept. 16, 1988, Reg.; Sept. 18, 1988, Susp.....	9-16-88	Do.
Minnesota: Stearns County, Unincorporated Areas.	270548	Mar. 23, 1973, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Ohio: Zanesville, City of, Muskingum County.	390427	Apr. 15, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Region VI				
Arkansas: White Hall, City of, Jefferson County.	050375	Aug. 11, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Region VIII				
North Dakota: Valley City, City of, Barnes County.	380002	Apr. 11, 1974, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Region IX				
Arizona: Mohave County, Unincorporated Areas.	040058	May 6, 1974, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
California: Redland, City of, San Bernardino County.	060279	Apr. 12, 1974, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.....	9-16-88	Do.
Hawaii: Hawaii County, Unincorporated Areas.	155166	June 5, 1970, Emerg.; Sept. 16, 1988, Reg.; Sept. 18, 1988, Susp.....	9-16-88	Do.

Code for reading third colum: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

[FR Doc. 88-19622 Filed 8-29-88; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6804]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

1. The authority citation for Part 64 continues to read as follows:

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

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Arizona: Colorado City, Town of, Mohave County [1]	040059	July 1, 1988, Emerg	
Missouri: Keytesville, City of, Chariton County, Eff. FIRM: 7-4-88.	290723	July 4, 1988, Emerg.; July 4, 1988, Susp	
Iowa:			
Guthrie Center, City of, Guthrie County	190135	July 8, 1975, Emerg.; June 1, 1987, Reg.; June 1, 1987, Susp.; July 5, 1988, Rein	6-1-87
Kiron, City of, Crawford County	190098	Nov. 23, 1976, Emerg.; Aug. 1, 1986, Reg.; June 3, 1988, Susp.; July 5, 1988, Rein.	8-1-86
Marquette, City of, Clayton County	195182	Apr. 16, 1971, Emerg.; Jan. 19, 1982, Reg.; June 3, 1988, Susp.; July 5, 1988, Rein.	1-19-72
What Cheer, City of, Keokuk County	190179	Jan. 28, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; July 5, 1988, Rein	8-1-87
Louisa County, Unincorporated Areas	190193	Oct. 16, 1974, Emerg.; June 1, 1987, Reg.; June 3, 1988, Susp.; July 6, 1988, Rein	6-1-87
Texas:			
Crystal City, City of, Zavala County	480688	Nov. 29, 1974, Emerg.; Sept. 1, 1987, Reg.; Sept. 1, 1987, Susp.; July 1, 1988, Rein.	9-1-87
Frankston, City of, Anderson County	480003	Feb. 1, 1977, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.; July 1, 1988, Rein	6-1-88
Iowa:			
Hiawatha, City of, Linn County	190441	Aug. 3, 1976, Emerg.; Feb. 3, 1982, Reg.; June 3, 1988, Susp.; July 1, 1988, Rein	2-3-82
Hinton, City of, Plymouth County	190224	Aug. 27, 1976, Emerg.; Sept. 27, 1982, Reg.; June 3, 1988, Susp.; July 1, 1988, Rein.	9-27-82
Lawton, City of, Woodbury County	190292	Aug. 8, 1975, Emerg.; Sept. 1, 1988, Reg.; June 3, 1988, Susp.; July 1, 1988, Rein	9-1-86
Manning, City of, Carroll County	190046	Nov. 8, 1974, Emerg.; Sept. 1, 1986, Reg.; June 3, 1988, Susp.; July 1, 1988, Rein	9-1-86
New York:			
Esperance, Village of, Schoharie County	36152	July 27, 1976, Emerg.; Sept. 16, 1982, Reg.; May 17, 1988, Susp.; July 7, 1988, Rein.	9-16-82
Plandome, Village of, Nassau County*	360484	June 18, 1975, Emerg.; May 25, 1978, Reg.; June 15, 1988, Susp.; July 7, 1988, Rein.	NSFHAs
Mechanicville, City of, Saratoga County*	360721	July 1, 1975, Emerg.; Jan. 5, 1984, Reg.; June 15, 1988, Susp.; July 7, 1988, Rein	1-5-84
Smithville, Town of, Chenango County*	361040	Apr. 17, 1980, Emerg.; Nov. 4, 1983, Reg.; June 15, 1988, Susp.; July 7, 1988, Rein.	11-4-83
Taghkanic, Town of, Columbia County*	361324	Aug. 5, 1975, Emerg.; Jan. 3, 1986, Reg.; June 15, 1988, Susp.; July 7, 1988, Rein	1-3-86
Van Etten, Village of, Chemung County [2]*	361056	July 11, 1975, Emerg.; June 15, 1988, Susp.; July 7, 1988, Rein	7-1-88

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Syracuse, City of, Onodaga County	360595	Aug. 2, 1974, Emerg.; May 3, 1982, Reg.; June 15, 1988, Susp.; July 7, 1988, Rein	5-3-82
Pennsylvania: Greenwood, Township of, Juniata County.	421741	July 28, 1975, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp.; July 7, 1988, Rein	12-3-87
New York: Shoreham, Village of, Suffolk County	361506	May 30, 1975, Emerg.; May 25, 1978, Reg.; June 15, 1988, Susp.; July 8, 1988, Rein.	NSFHAs
Colorado: Jefferson County, Unincorporated Areas	080087	July 5, 1973, Emerg.; Aug. 5, 1986, Reg.; Aug. 5, 1986, Susp.; July 6, 1988, Rein	8-5-86
Arizona: Cave Creek, Town of, Maricopa County [3]	040127-New	June 9, 1988, Emerg.; June 9, 1988, Reg	8-5-86
Alabama: Chambers County, Unincorporated Areas	010026	July 29, 1975, Emerg.; July 4, 1988, Reg.; July 4, 1988, Susp.; July 6, 1988, Rein	
Pennsylvania: Snake Spring, Township of, Bedford County.	421349	Feb. 28, 1977, Emerg.; July 4, 1988, Reg.; July 4, 1988, Susp.; July 6, 1988, Rein	7-4-88
Iowa:			
Vail, City of, Crawford County	190101	June 30, 1975, Emerg.; Aug. 19, 1986, Reg.; June 3, 1988, Susp.; July 11, 1988, Rein.	8-19-86
Aredale, City of, Butler County	190035	Nov. 3, 1975, Emerg.; Aug. 1986, Reg.; June 3, 1988, Susp.; July 12, 1988, Rein	8-19-86
Sibley, City of, Osceola County	190218	July 23, 1975, Emerg.; Sept. 27, 1985, Reg.; June 3, 1988, Susp.; July 12, 1988, Rein.	9-27-85
New York: Rushford, Town of, Allegany County	360033	June 9, 1975, Emerg.; Dec. 23, 1983, Reg.; June 15, 1988, Susp.; July 15, 1988, Rein.	12-23-83
Iowa: Brayton, City of, Audubon County	190920	June 9, 1975, Emerg.; Aug. 19, 1985, Reg.; June 3, 1988, Susp.; June 27, 1988, Rein.	8-19-85
Florida: Destin, City of, Okaloosa County	125158	July 6, 1988, Emerg.; July 6, 1988, Reg	1-15-88
North Carolina:			
Old Fort, Town of, McDowell County [4]	370149	July 12, 1988, Emerg	
Dallas County, Unincorporated Areas	050061	July 12, 1988, Emerg	6-17-77
Michigan: Morley, Village of, Mecosta County	260585	Oct. 12, 1976, Emerg.; July 16, 1987, Reg.; July 16, 1987, Susp.; July 15, 1988, Rein.	7-16-87
North Carolina: Whiteville, City of, Columbus County *.	370071	Sept. 3, 1974, Mar. 4, 1988, Susp.; June 24, 1988, Rein	6-18-76
South Carolina: Lancaster County, Unincorporated Areas.	450120	July 3, 1975, Emerg.; Jan. 6, 1983, Reg.; Jan. 6, 1983, Susp.; July 20, 1988, Rein	1-6-83
Iowa: Hamburg, City of, Fremont County	190133	Aug. 11, 1975, Emerg.; June 3, 1988, Susp.; July 20, 1988, Rein	8-11-75
Nebraska: Orlean, Village of, Harland County	310394	Mar. 20, 1984, Emerg.; May 1, 1988, Reg.; May 1, 1988, Susp.; July 20, 1988, Rein.	5-1-88
Florida: Blountstown, City of, Calhoun County	120060	Mar. 17, 1975, Emerg.; May 1, 1980, Reg.; June 18, 1987, Susp.; July 20, 1988, Reln.	6-18-88
Kentucky: Johnson County, Unincorporated Areas	210339	Oct. 30, 1978, Emerg.; May 4, 1988, Reg.; May 4, 1988, Susp.; July 18, 1988, Rein	5-4-88
Pennsylvania: Bethel, Township of, Armstrong County.	421300	Aug. 8, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.; July 25, 1988, Rein.	8-8-75
Texas: Quintana, Village of, Brazoria County	481301	May 8, 1971, Emerg.; May 8, 1971, Reg.; May 4, 1988, Susp.; July 26, 1988, Rein	6-5-85
Illinois: Hinckley, Village of, Dekalb County	170184	July 26, 1988, Emerg	3-1-74
Maine: Berwick, Town of, York County	230144	July 26, 1988, Emerg	8-9-74
New Hampshire: Kingston, Town of, Rockingham County.	330217	July 26, 1988, Emerg	
North Carolina: Rockingham County, Unincorporated Areas [5].	370350	Nov. 6, 1987, Emerg	6-16-78
Pennsylvania: Point Marion, Borough of, Fayette County.	421617	July 3, 1974, Emerg.; July 4, 1988, Reg.; July 4, 1988, Susp.; July 26, 1988, Rein	7-4-88
Montana: Flathead County, Unincorporated Areas	300023	Oct. 31, 1975, Emerg.; Sept. 5, 1984, Reg.; July 15, 1988, Susp.; July 27, 1988, Rein.	
New Mexico: Tatum, Town of, Lea County	350032	Oct. 16, 1980, Emerg.; July 1, 1988, Reg.; July 1, 1988, Susp.; July 27, 1988, Rein	7-1-88
New York: Buchanan, Village of, Westchester County.	361534	June 28, 1977, Emerg.; July 27, 1979, Reg.; May 17, 1988, Susp.; July 25, 1988, Rein.	7-27-79

[1] The Town of Colorado City, Arizona will be converted to the Regular Program on August 4, 1988.
[2] Reinstated into the Regular Program.
[3] The Town of Cave Creek, Arizona is a regular program entry. The Town will use the County's FIRM dated April 15, 1988, for floodplain management and flood insurance purposes.
[4] The Town of Old Fort, North Carolina converted to the Regular Program effective on July 15, 1988. The effective FIRM date is July 15, 1988.
[5] This community was erroneously omitted from the November 1987 FEDERAL REGISTER. Rockingham County is an emergency program entry.
* Minimal conversions.
Code for reading third column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension, Rein.—Reinstatement.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Region II—Minimal Conversions			
New York:			
Marion, Town of, Wayne County	361446	July 1, 1988, Suspension Withdrawn	7-1-88
Van Etten, Village of, Chemung County	361056	....do....	7-1-88
West Union, Town of, Steuben County	361437	....do....	7-1-88
Region IV			
Tennessee: McNairy County, Unincorporated Areas	470127	....do....	7-1-88
Region V			
Minnesota: Rock County, Unincorporated Areas	270642	....do....	7-1-88
Region VI			
New Mexico: Bayard, Village of, Grant County	350019	....do....	7-1-88

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Region VII			
Kansas: Delphos, City of, Ottawa County	200487	do	7-1-88
Nebraska: Dawson County, Unincorporated Areas	310058	do	7-1-88
Region I—Regular Conversions			
Massachusetts: Bedford, Town of, Middlesex County.	255209	July 4, 1988, Suspension Withdrawn.	7-4-88
Vermont: Pittsford, Town of, Rutland County	500098	do	7-4-88
Region II			
New Jersey: Bound Brook, Borough of, Somerset County.	340430	do	7-4-88
Region III			
Pennsylvania:			
Hamiltonban, Township of, Adams County	421252	do	7-4-88
Highland, Township of, Adams County	421253	do	7-4-88
Menallen, Township of, Adams County	421256	do	7-4-88
West Virginia: Harrison County, Unincorporated Areas.	540053	do	7-4-88
Region IV			
Alabama: Lanett, City of, Chambers County	010029	do	7-4-88
Region V			
Ohio: Jewett, Village of, Harrison County	390259	do	7-4-88
Region VII			
Missouri:			
Andrew County, Unincorporated Areas	290004	do	7-4-88
Clinton, City of, Henry County	290155	do	7-4-88
Region VIII			
North Dakota: Bowman, City of, Bowman County	330012	do	7-4-88
South Dakota: Fort Pierre, City of, Stanley County	465419	do	10-15-80
Region IX			
California: San Joaquin County, Unincorporated Areas.	060299	do	7-4-88
Region I—Regular Conversions			
Maine: Anson, Town of, Somerset County	230123	July 15, 1988, Suspension Withdrawn	7-15-88
Massachusetts:			
Holbrook, Town of, Norfolk County	255212	do	7-15-88
Huntington, Town of, Hampshire County	250165	do	7-15-88
Region III			
Pennsylvania:			
Bethel, Township of, Berks County	421052	do	7-15-88
Penn, Township of, Berks County	421091	do	7-15-88
Salem, Township of, Wayne County	422172	do	7-15-88
Tunkhannock, Township of, Wyoming County	422206	do	7-15-88
Virginia: Front Royal, Town of, Warren County	510167	do	7-15-88
Region IV			
Georgia:			
Cherokee County, Unincorporated Areas	130424	do	7-15-88
Canton, City of, Cherokee County	130039	do	7-15-88
Holly Springs, City of, Cherokee County	130425	do	7-15-88
Woodstock, City of, Cherokee County	130264	do	7-15-88
Region V			
Wisconsin:			
Almena, Village of, Barron County	550009	do	7-15-88
Hawkins, Village of, Rusk County	550373	do	7-15-88
Region VI			
New Mexico: Aztec, City of, San Juan County	350065	do	7-15-88
Region VIII			
Colorado: Boulder County, Unincorporated Areas	080023	do	7-15-88
Montana: Bozeman, City of, Gallatin County	300028	do	7-15-88
Region IX			
California:			
Coronado, City of, San Diego County	060287	do	7-15-88
Encinitas, City of, San Diego County	060726	do	7-15-88
San Marcos, City of, San Diego County	060296	do	7-15-88
Santa Maria, City of, Santa Barbara County	060336	do	7-15-88
Nevada: Lander County, Unincorporated Areas	320013	do	7-15-88
Region IV			
Florida: Arcadia, City of, Desoto County	120072	July 16, 1988, Suspension Withdrawn	6-3-88

Code for reading third column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension, Rein.—Reinstatement.

Harold T. Duryee,
Administrator, Federal Insurance Administration.
[FR Doc. 88-19623 Filed 8-29-88; 8:45 am]
BILLING CODE 6718-21-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 550 and 580

[Docket No. 85-19]

Tariff Publication of Free Time and Detention Charges Applicable to Carrier Equipment Interchanged With Shippers or Their Agents

AGENCY: Federal Maritime Commission.
ACTION: Final rule; stay of effective date.

SUMMARY: Because of numerous inquiries from carriers and conferences concerning various aspects of the Equipment Interchange Agreement (EIA) filing requirements, the Federal Maritime Commission has determined to provide an indefinite stay of the effective date of the Final Rule in Docket No. 85-19.

DATE: August 30, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, Telephone: (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission published the Final Rule in this proceeding in the Federal Register on February 26, 1988 (53 FR 5770) with an effective date of March 28, 1988. On March 9, 1988, a petition was filed by several conferences requesting a 90-day stay of the effective date. The purpose of the request was to allow carriers and conferences sufficient time to comply with the new rule. On March 21, 1988, (53 FR 9629, March 24, 1988) the Commission granted that request, extending the effective date of the Final Rule to June 26, 1988.

On June 17, 1988, (53 FR 23632, June 23, 1988) because of the continuing compliance difficulties faced by the industry, the Commission granted a further 90-day extension of the Rule's effective date until September 30, 1988. With a number of issues yet to be resolved regarding compliance with the various aspects of the Equipment Interchange Agreements filing requirements, the Commission had determined to grant an indefinite stay of the effective date of Docket No. 85-19. This stay will provide the Commission with an opportunity to address these issues either formally or informally and develop guidelines to assure compliance with the rule in a manner which both satisfies its intent and is not overly burdensome on the industry or the Commission.

By the Commission,
Joseph C. Polking,
Secretary.
[FR Doc. 88-19694 Filed 8-29-88; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-602; RM-6091]

Radio Broadcasting Services; Roseburg, OR

AGENCY: Federal Communications Commission.
ACTION: Final rule.

SUMMARY: The Commission, at the request of Michael R. Wyatt, substitutes Channel 276C2 for Channel 276A at Roseburg, Oregon, and modifies his license for Station KRSB-FM to specify the higher powered channel Channel 276C2 can be allotted to Roseburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 24.5 kilometers (15.2 miles) west to accommodate petitioner's desired transmitter site. The coordinates for this allotment are North Latitude 43-14-43 and West Longitude 123-38-15. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 26, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-602, adopted July 14, 1988, and released August 12, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Roseburg, Oregon, is revised by removing Channel 276A and adding Channel 276C2.

Federal Communications Commission.
Steve Kaminer,
Deputy Chief, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 88-19611 Filed 8-29-88; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-481; RM-6000]

Radio Broadcasting Services; Elkton, VA

AGENCY: Federal Communications Commission.
ACTION: Final rule.

SUMMARY: This document substitutes Channel 253B1 for Channel 252A at Elkton, Virginia and modifies the construction permit BPH-840607IA to specify operation on the higher class channel, at the request of Stonewall Broadcasting Company. The upgraded facility could provide Elkton with its first wide coverage area FM service. A site restriction of 10.3 kilometers (6.4 miles) west of the city is required, at coordinates 38-22-42 and 78-44-07. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 22, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-481, adopted June 30, 1988, and released August 10, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Virignia, by removing Channel 252A and adding Channel 253B1 at Elkton.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-19609 Filed 8-29-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 71147-8002]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA announces the apportionment of amounts of Atka mackerel from reserve to domestic fishermen, catching and processing fish or delivering fish to domestic processors (DAP) under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This action promotes optimum use of these groundfish by allowing domestic fisheries to proceed without interruption.

DATES: August 25, 1988. Comments will be accepted through September 9, 1988.

ADDRESS: Comments should be mailed to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK. 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Patricia Peacock, Fishery Management Specialist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the exclusive economic zone of the Bering Sea and Aleutian Islands Area (BSA) under the Magnuson Fishery Conservation and Management Act, is implemented by rules appearing at 50 CFR 611.93 and Part 675.

In 1988, 15 percent of Total Allowable Catch (TAC) for BSA groundfish was placed in the non-specific reserve, the initial specifications for DAP were determined, and the remaining amounts were provided to domestic fishermen delivering fish to foreign processors (JVP) (53 FR 894, January 14, 1988). No initial specification was provided for total allowable level of foreign fishing (TALFF) because domestic annual harvest (DAH) requirements exceeded TAC.

The following inseason actions have apportioned amounts from the reserve to DAP and/or JVP, or amounts from DAP to JVP: April 14 (53 FR 12772; April 19, 1988), May 5 (53 FR 16552, May 10, 1988), May 20 (53 FR 19303, May 25, 19988), June 17 (53 FR 23402, June 22, 1988), July 11 (53 FR 26599, July 14, 1988), and July 22 (53 FR 28229, July 27, 1988).

The Regional Director has determined from DAP catch-to-date and the DAP survey during May 1988, that DAP could harvest an additional 1,700 mt of Atka mackerel; therefore, 1,700 mt of Atka mackerel is transferred from the reserve to DAP (see Table 1).

This apportionment does not result in overfishing of Atka mackerel stocks because the sum of the adjusted DAP amount and initial JVP amount for Atka mackerel (53 FR 894, January 14, 1988) is less than the allowable biological catch for this species (see Table 1).

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

Because immediate effectiveness of this notice will allow DAP fishermen to continue fishing for Atka mackerel, the Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice, in accordance with § 675.20(b)(2)(i). The Secretary will consider all timely comments in deciding to modify an apportionment that has previously been made and will publish responses to those comments in the Federal Register as soon as practicable according to § 675.20(b)(2)(i). The Regional Director will make available to the public during business hours the aggregate data upon which this apportionment is based according to § 675.20(b)(2)(ii). See ADDRESSES.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

TABLE 1—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF INITIAL TAC

[All values are in metric tons]

		Current	This action	Revised
Atka Mackerel	DAH	17,850	+1,700	19,550
	DAP	80	+1,700	1,780
TAC=21,000; ABC=21,000	JVP	17,770	+0	17,770
Total (TAC=2,000,000)	DAP	796,320	+1,700	798,020
	JVP	1,176,284	+0	1,176,284
	Reserve	27,396	−1,700	25,696

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 25, 1988.

Ann D. Terbush,

Acting Director of Office Fisheries Conservation and Management National Marine Fisheries Service.

[FR Doc. 88-19709 Filed 8-25-88; 4:40 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 168
Tuesday, August 30, 1988

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loans, Fees

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would change the existing regulation on what fees a participating lender and others may charge an applicant borrower for services. Major changes: a lender would be permitted to charge the borrower reasonable packaging fees; the Agency would not automatically review and evaluate fees for reasonableness; where the Agency determines that fees are exessive, the lender must make a refund or face a suspension or revocation action.

DATE: Comments must be submitted on or before October 31, 1988.

ADDRESS: Comments may be mailed to: Charles R. Hertzberg, Deputy Associate Administrator for Financial Assistance, 1441 L Street, NW., Room 804–D, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, (202) 653–6574.

SUPPLEMENTARY INFORMATION: The present rules require the Small Business Administration (SBA) to review the fees which lenders charge borrowers and they prohibit fees that would defray the overhead of the lender. The Agency has now decided to ease the restrictions on the fees chargeable by a lender or its associate.

These proposed rules place on the borrower the initial responsibility for evaluating the reasonableness of the fees it is being charged a borrower. The Agency contemplates that as a general rule in the future it will only review fees if a borrower so requests, although SBA will continue to geneally monitor fees being charged across the country, and reserves the right to review any fees at any time. A lender or associate would be permitted to charge a borrower reasonable fees for packaging or other services. Reasonable is defined as customary for financial institutions in the geographic area where the loan is made. This will encourage a borrower to shop around. When the Agency does review fees being charged a borrower, it will use this community standard of reasonableness. If the Agency finds that the fees are excessive, the lender will be requested to refund the excessive fees to the applicant. If the lender refuses, the SBA reserves the right, under § 120.305 of these regulations (13 CFR 120.305) to take steps to revoke or temporarily suspend the eligibility of the lender to participate with SBA.

Under this proposed regulation, a lender or associate would be allowed to charge the applicant reasonable fees for services, including those services rendered by counsel, accountants, financial analysts, etc., who are salaried employees to defray overhead costs. A borrower would be permitted to pay a contingent fee for requested services actually rendered so long as the fee is based on time and hourly charges.

These proposed changes from the current regulations are the Agency's way of recognizing the reality of the commercial lending marketplace. The Agency is proposing to loosen its regulatory authority with respect to fees payable by borrowers, but it is not abidcating its authority to provide general oversight. Moreover, it will certainly undertake a detailed review in response to a borrower's complaint with respect to fees. The Agency is making no change in its present policy which permits a borrower to be charged for necessary out-of-pocket expenses incured for filing or recordation to perfect a security interest in borrower's assets, including obtaining title insurance. There is also no change in policy in which the Agency prohibits a lender from charging a borrower points or add-on interest.

For purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)), this proposed rule, if promulgated in final, will have a significant economic impact on a substantial number of small entities. In fiscal year 1987, SBA approved 16,436 guaranteed loans for an aggregate amount of $2.65 billion. In fiscal 1986, the Agency approved 16,093 guaranteed loans for an aggregate total of $2.52 billion. The Agency does not collect or maintain statistics on the fees participating lenders charge borrowers, but it may be presumed that each borrower paid some fees with respect to each loan, some payable to the borrower's own attorney or accountant (which is not covered by this regulation) and some payable to professional persons engaged by the lender at borrower's request. Based upon the largest conceivable estimate for fiscal 1987, the fees would not have exceeded $26 million. This proposed change does not contemplate any reporting or recordkeeping requirements to comply with this proposed rule. There are no Federal rules which duplicate, overlap or conflict with this proposed rule. The only alternatives to this proposed rule are to repeal any regulation on what charges a lender may impose on small business or to broaden the present regulation so that the Agency embraces greater regulatory control and oversight over the various fees imposed on borrowers.

SBA certifies that this proposed rule does not constitute a major rule for the purpose of Executive Order 12291, since, as above stated, the change is not likely to result in an annual effect on the economy of $100 million or more.

As stated above, this rule would not impose any additional reporting or recordkeeping requirements pursuant to the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

List of Subjects in 13 CFR Part 120

Loan programs/business, Small business.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend Part 120, Chapter I, Title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.104–2 is amended by revising paragraph (e) to read as follows:

§ 120.104–2 Service and commitment fees.

* * * * *

(e) *Fees for other services.* A Lender or Associate may charge an applicant reasonable fees for packaging and/or

other services. Reasonable is defined as customary for Financial Institutions in the geographic area where the loan is being made. The Lender shall advise the applicant that he, she, or it is not required to obtain or pay for services that are unwanted. However, the applicant must take responsibility for the decision as to whether fees are reasonable. As a general rule, SBA will not review fees in the absence of a complaint by the applicant, although it reserves the right to do so. Where SBA undertakes a review of fees, and determines that fees charged are excessive, Lender's or Associate's failure to refund excessive fees to the applicant may result in an action by SBA to suspend or revoke Lender participant status in accordance with § 120.305 of this Part. Contingent fees may be charged to an applicant provided they (1) are based upon requested services actually rendered, and (2) are based on time and hourly charges. Expenses for necessary out-of-pocket costs, such as filing or recordation to perfect security interests, may be passed on to the applicant. A Lender shall not require that borrower pay points, and add-on interest shall not be used.

* * * * *

(Catalog of Federal Domestic Assistance Programs, No. 59.012, Small Business Loans)

Date: August 4, 1988.

James Abdnor,

Administrator.

[FR Doc. 88-19647 Filed 8-29-88; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. 9211]

Pacific Resources Inc.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, that through March 1997, Pacific Resources Inc., a Hawaii based corporation, obtain FTC approval before acquiring any terminalling, refining, or gasoline retail marketing assets in the state of Hawaii. It must also obtain Commission approval before acquiring any terminalling agreement, such as a long term lease, for more than 50 percent of a terminal's capacity.

DATE: Comments must be received on or before October 31, 1988.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ronald B. Rowe, FTC/S-3302, Washington, DC 20580. (202) 326-2610.

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

List of Subjects in 16 CFR Part 13

Gas, Oil, Trade practices.

In the Matter of Pacific Resources, Inc., a corporation. Agreement Containing Consent Order to Cease and Desist.

The agreement herein, by and between Pacific Resources, Inc., a corporation, hereinafter referred to as respondent, by their duly authorized officers and their attorneys, and counsel, for the Federal Trade Commission ("Commission"), is entered into in accordance with the Commission's rules governing consent Order procedures. In accordance therewith the parties hereby agree:

1. Respondent Pacific Resources, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Hawaii, with its principal place of business at 733 Bishop Street, Honolulu, Hawaii 96842.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging respondent with entering into an acquisition agreement that violates section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18. Respondent has filed an answer to the complaint denying the charges.

3. Respondent admits all jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

a. Any further procedural steps;

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

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

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

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

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said complaint issued by the Commission.

7. This agreement contemplates that, if accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25 of the Commission's Rules, the Commission may, without further notice to respondent, (1) issue its decision containing the following Order to Cease and Desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the Order to Cease and Desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by stature for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or in the agreement may be used to vary or contradict the terms of the Order.

8. Respondent has read the complaint and Order contemplated hereby. Respondent understands that once the Order has been issued, respondent will

be required to file one or more compliance reports showing that it has fully complied with the Order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I.

As used in this Order, the following definitions shall apply:

(a) "Exchange agreement" means any arrangement or transaction or series of arrangements or transactions, other than a terminalling agreement as defined in subparagraph (j) of this paragraph, in which two or more persons or firms reciprocally transfer to each other or their respective consignees or assignees, quantities of petroleum products, without collecting a monetary price, except possibly some monetary accounting or settlement for the difference for differentials between quantity, transportation, storage, or handling of the exchanged products. An exchange agreement also includes a buy-sell arrangement or a purchase-and-sale transaction or any series of transactions or arrangements in which two or more firms or persons, at or about the same time, reciprocally agree to sell to and purchase from each other at some price but pursuant to mutual understanding, that one party's sale to the other is dependent or contingent upon the latter's reciprocal sale to the former.

(b) "Gasoline station" means a facility at which retail marketing is or has been conducted. "Gasoline station" does not include a facility that is closed and has not been used to sell gasoline to the public for a year or more.

(c) "Petroleum products" means any grade of leaded or unleaded gasoline and diesel fuel #2.

(d) "Refining" means converting crude oil into various refined petroleum products such as gasoline, diesel fuel and jet fuel.

(e) "Refinery" means a facility that converts crude oil into various refined petroleum products such as gasoline, diesel fuel and jet fuel.

(f) "Respondent" means Pacific Resources, Inc. ("PRI"), its predecessors, parent companies, subsidiaries, divisions, groups and affiliates controlled by respondent, and all their respective directors, officers, employees, agents and representatives and all their respective successors and assigns.

(g) "Retail marketing" means selling gasoline to the public.

(h) "Terminal" means any petroleum product facility in the State of Hawaii, not owned or operated by respondent on the date this Order becomes final, that has a total petroleum products storage capacity exceeding 10,000 barrels (42 U.S. gallons per barrel) and that has or had in the past two (2) years equipment to dispense smaller quantities from the storage tanks into tank trucks. "Terminal" does not include (i) an entire facility that has been closed and has not been used to store petroleum products for at least two (2) years prior to its proposed acquisition by respondent or (ii) any part of a facility that is used and has been used for the last two (2) years exclusively for the storage of products other than petroleum products.

(i) "Terminalling" means storing petroleum products at a terminal. A party is "engaged in terminalling" if it stores petroleum product at a facility that it owns or operates in whole or in part.

(j) "Terminalling agreement" means any arrangement whereby respondent (i) purchases or leases any part of a terminal, (ii) becomes the operator of any part of a terminal, or (iii) contracts for the use of any part of a terminal.

(k) "Throughput agreement" means any arrangement, other than a terminalling agreement as defined in subparagraph (j) of this paragraph, for receipt, storage and dispensing of petroleum products at a terminal owned or operated by another person or firm.

II.

It is ordered that for a period commencing on the date this Order becomes final and continuing through March 31, 1997, respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without prior approval of the Federal Trade Commission, any part of the stock or share capital of any person or firm engaged in terminalling, refining, or retail marketing in the State of Hawaii, or any assets of, or interest in a refinery, terminal or gasoline station in the State of Hawaii.

It is further ordered that for a period commencing on the date this Order becomes final respondent shall cease and desist from entering into, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, any terminalling agreement in the State of Hawaii that takes effect before March 31, 1997.

Provided, however, that nothing in paragraph II of this Order shall require prior approval of the Federal Trade Commission for, or prohibit respondent from:

(a) Acquiring in a transaction (not part of a series of transactions involving the acquistion for $375,000 or more of all or part of a terminal) a terminal the acquisition price of which is not more than $375,000;

(b) Acquiring any gasoline stations from any party who neither owns nor operates all or part of a terminal on the island of the State of Hawaii where such gasoline station or stations are located and has neither owned nor operated a terminal on that island within two (2) years of the time of the proposed acquisition;

(c) Acquiring from any one party any of the following: (i) Not more than ten (10) gasoline stations on the Island of Oahu; (ii) not more than four (4) gasoline stations on the Island of Maui; (iii) not more than three (3) gasoline stations on the Island of Hawaii; (iv) not more than two (2) gasoline stations on the Island of Kauai; (v) not more than one (1) gasoline station on the Island of Molokai;

(d) Leasing or contracting for the use of the petroleum products capacity of a terminal, provided that the lease or contract does not have the effect of excluding others from the use of 50 percent of the petroleum products capacity of the terminal;

(e) Making any lease or contract for the use of a terminal where neither the owner nor operator of that terminal has owned within two (2) years of the lease or contract any gasoline stations located on the same island as the terminal; or

(f) Making any lease or contract for the use of a terminal where the owner and the operator retains ownership of at least the same number of gasoline stations that it owns on the same island as the terminal for at least five (5) years after the lease or contract is consummated.

III.

One (1) year from the date this Order becomes final and annually thereafter, respondent shall file with the Commission a verified written report of its compliance with this Order, as well as a summary of the date, parties, location, volumes, duration and terms of each agreement respondent entered during the year concerning (i) any acquisition or lease from another party of a gasoline station in the state of Hawaii, (ii) any acquisition of a terminal in the state of Hawaii, and (iii) any arrangement that provides respondent with petroleum product storage at a terminal in the state of Hawaii not owned or operated by respondent, including exchange agreements, throughput agreements, leases or similar arrangements.

IV.

Nothing in this Order shall apply to, require Federal Trade Commission prior approval for the exercise of, or otherwise limit the respondent's rights under any terminalling or other agreement in effect prior to the date this Order becomes final, or to any extension of these rights if the assets, capacity, and throughput (as appropriate) available to respondent do not increase as a result of such extension.

V.

For the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to respondent made to its principal offices, respondent shall permit any duly authorized representatives of the Commission:

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

2. Upon five (5) days' notice to respondent and without restraint or interference from them, to interview officers or employees or respondent, who may have counsel present, regarding such matters.

VI.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure that may affect compliance obligations arising out of this Order including but not limited to dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change.

The Federal Trade Commission ("Commission") has accepted for public comment from Pacific Resources, Inc. ("PRI"), an agreement containing consent order in settlement of a Complaint challenging the proposed 1987 acquisition of Shell Oil Company's ("Shell") petroleum products terminalling and distribution assets and operations in the Hawaiian Islands.[1]

The Commission has withdrawn this matter from adjudication for the purpose of placing the agreement on the public record for sixty (60) days for reception of comments from interested persons.

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

The Commission has reason to believe that the proposed acquisition would have violated section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. The complaint alleges an anticompetitive effect in the marketing of gasoline and diesel fuel through terminals and retail service stations on the islands of Oahu, Hawaii, Mauai, Kauai and Molakai in the State of Hawaii.

The proposed Agreement Containing Consent Order ("Order") would, if issued by the Commission, settle the complaint. The Order would prohibit PRI from acquiring, without prior Commission approval, any substantial Hawaiian wholesale terminal from a competitor or from entering into any terminalling agreement (such as a long term lease) for more than fifty percent of the capacity of such a terminal. The Order would also circumscribe PRI's ability to acquire retail gasoline stations from its wholesale competitors.

The Order accepted for public comment contains provisions requiring Commission prior approval of the purchase of any petroleum products terminals over $375,000. Commission prior approval is also required for terminal agreements, leases or contractual arrangements that give PRI more than 50 percent of the capacity of a terminal. PRI is also limited in the number of retail service stations it can purchase at any one time from a particular purchaser on each island.

It is anticipated that the Order would resolve the competitive problems alleged in the complaint. The purpose of this analysis is to invite public comment concerning the consent Order, in order to aid the Commission in its determination of whether it should make final the order contained in the agreement.

This analysis is not intended to constitute an official interpretation of the agreement and Order, nor is it intended to modify the terms of the agreement and Order in any way.

Donald S. Clark,

Secretary.

[FR Doc. 88-19616 Filed 8-29-88; 8:45 am]

BILLING CODE 6750-01-M

[1] The Complaint charges that the acquisition agreement violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45 and that the proposed acquisition, if completed, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18. Shell was not named as a respondent in the Commission's Complaint.

16 CFR Part 13

[File No. 861-0120]

Iowa Chapter of the American Physical Therapy Association; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Iowa Chapter of the American Physical Therapy Association (ICAPTA), a professional association representing physical therapists in Iowa, from restricting any physical therapist from accepting or continuing employment with any physician, or declaring such employment illegal or unethical.

DATE: Comments must be received on or before October 31, 1988.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington DC 20580.

FOR FURTHER INFORMATION CONTACT: Janet Grady, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 995-5220.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) fo the Commission's Rules of Practice. (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Physical Therapists, Trade practices.

In the matter of Iowa Chapter of the American Physical Therapy Association, a

corporation. Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission having initiated an investigation of certian acts and practices of the Iowa Chapter of the American Physical Therapy Association ("ICAPTA" or "proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between proposed respondent, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. ICAPTA is a corporation, existing and doing business under and by virtue of the laws of the State of Iowa, with its principal business address located at 1454 30th Street, Suite 201, West Des Moines, Iowa 50265.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

a. Any further procedural steps;

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

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

d. Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint attached may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered that for purposes of this Order:

A. "Respondent" means the Iowa Chapter of the American Physical Therapy Association ("ICAPTA"), and its board of directors, officers, councils, committees, representatives, agents, employees, successors, and assigns.

B. "Employment or other contractual arrangement" means an employment or other contractual arrangement, written or unwritten, that is permitted under Iowa and federal law.

C. "Physical therapist" means any person licensed as a physical therapist by the State of Iowa.

II.

It is ordered that respondent shall cease and desist, directly or through any corporate or other device, from restricting, impeding, regulating, declaring unethical or illegal, interfering with, or advising against any physical therapist:

A. Accepting or continuing any employment or other contractual arrangement with any physician, or other health care provider because such physician or health care provider employs or seeks to employ, or has a contractual arrangement with, or seeks to enter into a contractual arrangement with any physical therapist; or

B. Referring patients to, or accepting referrals from, any physician or other health care provider because that physician or health care provider employs or seeks to employ, or has a contractual arrangement with, a physical therapist.

III.

It is further ordered that respondent shall cease and desist, directly or through any corporate or other device, from making, directly or by implication, any representation concerning the legality or illegality of any aspect of physical therapy practice unless, at the time of such representation, respondent possesses and relies upon a reasonable basis for such representation.

IV.

It is further ordered that this Order shall not prohibit respondent from, in good faith, petitioning any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or participating in any federal or state administrative or judicial proceeding.

V.

It is further ordered that respondent shall within sixty (60) days after this Order becomes final:

A. Rescind all resolutions, and remove from any existing ICAPTA policy statements or guidelines, any provision, interpretation or policy statement which is inconsistent with the provisions of Part II of this Order; and

B. Publish a copy of this Order in the *ICAPTA Recap* or any successor publication, and for a period of three (3) years thereafter, annually publish a copy of the Notice attached hereto in the *ICAPTA Recap* or any successor publication.

VI.

It is further ordered that respondent shall:

A. Within ninety (90) days after this Order becomes final, file a written report with the Federal Trade Commission setting forth in detail the

manner and form in which it has complied with this Order; and

B. For a period of five (5) years after this Order becomes final, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken by respondent in connection with the activities covered by this Order.

VII.

It is further ordered that the respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution or reorganization resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligation arising out of this order.

Notice

The Iowa Chapter of the American Physical Therapy Association ("ICAPTA") has entered into a consent agreement with the Federal Trade Commission. Under the terms of the agreement, ICAPTA is required to inform you that it is not unethical or illegal for a physical therapist to accept or continue employment with a physician or physician-owned physical therapy service.

Among other things, the consent agreement forbids any action by ICAPTA that would restrict physical therapists from:

—Accepting or continuing any lawful employment or contractual arrangement with a physician; or

—Making referrals to, or accepting referrals from a physician or other health care provider because that provider employs a physicial therapist.

It would also prohibit ICAPTA from making representations about the legality or illegality of any aspect of physical therapy practice without having a reasonable basis for such statements.

In entering into this consent agreement, ICAPTA has not admitted any liability, or agreed that any law has been violated.

You may obtain a copy of the consent agreement and of the complaint of the Federal Trade Commission from ICAPTA or from the Federal Trade Commission.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from the Iowa Chapter of the American Physical Therapy Association ("ICAPTA" or "proposed respondent"). ICAPTA is a professional association representing physical therapists in Iowa, and is a component society of the American Physical Therapy Association. The agreement with the proposed respondent would settle charges by the Federal Trade Commission that it violated Section 5 of the Federal Trade Commission Act by acting as a combination of at least some of its members, or conspiring with them, to restrict its members from competing among themselves and with physicians by accepting or continuing employment with physicians or physician-owned clinics.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

A complaint has been prepared for issuance by the Commission along with the proposed order. It alleges that ICAPTA is a voluntary association of physical therapists comprising over 65% of the physical therapists licensed to practice in Iowa. It also alleges that ICAPTA's physical therapist members compete for patients among themselves, with other physical therapists, with physical therapy services owned by physicians, and with other health care providers in Iowa. The complaint alleges that the proposed respondent acted as a combination of at least some of its members, or conspired with them, to restrict competition. It alleges that ICAPTA did this by restricting or attempting to prevent members frm accepting or continuing employment with physicians or physical therapy services owned by physicians.

According to the complaint, the proposed respondent adopted and disseminated to its members a resolution stating that it was illegal and unethical for a physical therapist to work for a physician. The complaint alleges that ICAPTA learned shortly thereafter that such employment arrangements were not illegal, but did not provide this corrected information to its members. It also alleges that ICAPTA adopted a second resolution calling for the discipline of members who engaged in direct salary arrangements with physicians. In addition, it alleges that proposed respondent adopted other resolutions that communicated to members that employment by physicians was unethical and would subject the physical therapist to disciplinary action.

The complaint further alleges that the purposes or effects of the combination or conspiracy have been to restrain competition unreasonably and injure consumers in the following ways, among others:

A. By impeding competition among physical therapists, and between physician-owned physical therapy services and other physical therapy services;

B. By deterring physical therapists in Iowa from accepting employment by physicians and offering their services in conjunction with physicians' services;

C. By hindering the development of efficient forms of practice that may reduce costs by offering the combination of physician diagnosis, physical therapy treatment, and physician-physical therapist consultation at one location; and

D. By depriving consumers of their choice of provider and the convenience of obtaining physician services and physical therapy services at the same location.

The Proposed Consent Order

Part I of the proposed order provides definitions. Parts II and III of the proposed order describe the conduct that is prohibited. Part II prohibits proposed respondent from restricting, declaring unethical or illegal, or otherwise interfering with any physical therapist accepting or continuing any employment or other contractual arrangement with any physician, or other health care provider where the reason for the restriction is that the health care provider employs or seeks to employ physical therapists. It also prohibits ICAPTA from restricting, declaring unethical or illegal, or otherwise interfering with any physical therapist referring patients to, or accepting referrals from, any physician or other health care provider, where the reason for the restriction is that the health care provider employs or seeks to employ a physical therapist.

Part III of the proposed order prohibits proposed respondent from making, directly or by implication, any representation concerning the legality or illegality of any aspect of physical thereapy practice unless, at the time of the representation, it possesses and relies upon a reasonable basis for the representation.

Part IV provides that the proposed order does not prohibit proposed respondent from, in good faith, petitioning any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or participating in any federal or state administrative or judicial proceeding.

Part V of the proposed order requires ICAPTA to rescind any resolutions or policy statements that are inconsistent with the proposed order, and to publish in its newsletter a Notice summarizing the terms of the order. The Notice is attached to the proposed order.

Part VI requires that ICAPTA file a compliance report within 90 days after the proposed order becomes final, and for five years, permit Commission staff access to proposed respondent's records for compliance purposes. Part VII requires that the proposed respondent notify the Commission prior to a change in the association which may affect compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify its terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 88-19618 Filed 8-29-88; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 240

[Release No. 33-6797, File No. S7-9-88; Release No. 34-26027, File No. S7-11-88]

Offshore Offers and Sales; Registration Requirements for Foreign Broker-Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: The Securities and Exchange Commission is extending from September 15 to October 31, 1988, the date by which comments on Securities Act Release No. 33-6779 (June 17, 1988) [53 FR 22661] regarding offshore offers and sales of securities must be submitted. The Commission also is extending from September 15 to October 31, 1988, the date by which comments on Securities Exchange Act Release No. 34-25801 (June 23, 1988) [53 FR 23645] concerning registration requirements for foreign broker-dealers must be submitted.

DATE: Comments on Release No. 33-6779 and Release No. 34-25801 must be received on or before October 31, 1988

ADDRESS: Comments on Release No. 33-6779 and Release No. 34-25801 should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comment letters on Release No. 33-6779 should refer to File No. S7-9-88, and comment letters on Release No. 34-25801 should refer to File No. S7-11-88. All comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Sara Hanks or Samuel Wolff, (202) 272-3246, Office of International Corporate Finance, Division of Corporation Finance; John Polanin, Jr., (202) 272-2848, Office of Legal Policy, Division of Market Regulation; Securities Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In Securities Act Release No. 33-6779, the Commission requested written comments on proposed Regulation S. Proposed Regulation S is intended to clarify the extraterritorial application of the registration provisions of the Securities Act of 1933. In order to receive the benefit of comments from the greatest number of interested persons, and it permit commentators to assess the proposal in light of the Commission's planned Rule 144A initiative, the Commission is extending the comment period for Securities Act Release No. 33-6779 from September 15 to October 31, 1988.

In Securities Exchange Act Release No. 34-25801, the Commission requested written comments on proposed Rule 15a-6 and the accompanying interpretive statement concerning registration requirements for foreign broker-dealers. When issuing Releases No. 33-6779 and No. 34-25801, the Commission decided that both comment periods should run concurrently; therefore, the Commission also is extending the comment period for Release No. 34-25801 from September 15 to October 31, 1988.

By the Commission.

Jonathan G. Katz,

Secretary.

August 24, 1988

[FR Doc. 88-19697 Filed 8-29-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing Of FD&C Red No. 3 In Cosmetics And Externally Applied Drugs, And Of Its Lakes In Food, Drugs, And Cosmetics; Proposal To Extend Closing Date

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to postpone the closing date for the provisional listing of FD&C Red No. 3 for use in coloring cosmetics and externally applied drugs and of the lakes of this color additive for use in coloring food, drugs, and cosmetics. The new closing date for the provisional listing of this color additive will be June 30, 1989. This postponement will provide additional time for FDA to receive and evaluate new information on FD&C Red No. 3 and to prepare appropriate Federal Register documents for the regulation of this color additive.

DATE: Comments by September 29, 1988.

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

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION:

I. Background

The Color Additive Amendments of 1960 (the amendments) established a system of premarket approval for all color additives used in foods, drugs, and cosmetics. Recognizing that many color additives were already in use at the time the amendments were enacted, Congress also established transitional provisions to allow for the provisional listing and continued use of those color additives while the studies necessary to determine whether they should be permanently listed under the standards established in the amendments were conducted and evaluated.

Section 81.1 (21 CFR 81.1) of the color additive regulations designates those color additives that are provisionally listed under section 203(b) of the

transitional provisions of the amendments (Title II, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note)), along with their respective closing dates. A "closing date" is the last day upon which a provisionally listed color additive can be legally used, absent approval of a color additive petition and the permanent listing of the color additive.

A color additive may be permanently listed only if data establish that it is safe under its intended conditions of use. The transitional provisions permit the provisional listing of color additives for a period of time necessary to complete scientific investigations needed to establish their safety. The closing date for such color additives can be extended if, in the Commissioner's judgment, the scientific investigations are going forward in good faith and will be completed as soon as reasonably practicable, and if the postponement is consistent with the public health. See *McIlwain* v. *Hayes,* 690 F.2d 1041, 1047 (DC Cir. 1982), and *Public Citizen* v. *Department of Health and Human Services,* 831 F.2d 1108, 1122 (DC Cir. 1987).

II. Status Of FD&C Red No. 3

As one of the conditions of the continued provisional listing of FD&C Red No. 3, FDA required on February 4, 1977 (42 FR 6992) that the petitioners perform long-term feeding studies in rats and mice. The data from these studies were evaluated by FDA scientists and by the National Toxicology Program (NTP), Board of Scientific Counselors Technical Reports Review Subcommittee. Both groups of scientists concluded that the rat study showed a treatment-related increased incidence of male rats bearing thyroid follicular cell tumors at the highest feeding level.

Following this finding by agency and NTP scientists, the sponsors of the color additive provided additional data, from short-term studies, to support their contention that the thyroid tumors observed in the test animals resulted from the operation of a secondary mechanism. The sponsors hypothesized that the tumors were caused by hormonal imbalances resulting from ingestion of high levels of FD&C Red No. 3 and thus were not caused directly by ingestion of the color additive. The sponsors further contended that, if a secondary mechanism exists, a threshold or "no-effect" level might be established that would permit use of the color additive. This issue is discussed in greater detail in the proposal and final rule to postpone the closing date for FD&C Red No. 3 (and other color additives) which was published in the Federal Register of June 26, 1985 (50 FR 26377), and September 4, 1985 (50 FR 35873), respectively.

The agency concluded that there was some reason to believe that FD&C Red No. 3 may operate through a secondary mechanism, and enlisted the aid of an expert panel of Government scientists to consider the issue. The Commissioner charged the panel to consider whether the data indicate that a secondary mechanism of action exists; if not, what further studies would resolve the issue; and what human health concerns would be posed by continued use until the questions were resolved. Because of the complexity of the issues, the agency again extended the closing date for FD&C Red No. 3, and the extension through November 3, 1987, was upheld in *Public Citizen* v. *Department of Health and Human Services, supra.*

The panel submitted its report in July, 1987. (Availability of the panel report for public review was announced in the Federal Register of August 11, 1987 (52 FR 29728). The panel concluded, among other things, that FD&C Red No. 3 "is a rat oncogen with equivocal evidence of carcinogenicity and with some evidence for causing benign thyroid tumors;" that although the panel could not come to any definitive conclusion concerning the exact mechanism by which FD&C Red No. 3 induced thyroid tumors in rats, the color additive's tumorigenic effect "is more likely to be the result of an indirect (secondary) mechanism;" and that if it is assumed that the color additive poses a tumorigenic risk to humans, "the risk from ingesting [FD&C Red No. 3] containing food and drugs is small, that is, the number of people with [FD&C Red No. 3] induced tumors would be too small to be observed by epidemiologic or other human studies." The panel suggested some studies that could be conducted to investigate further the mechanisms of action of FD&C Red No. 3.

The panel also conducted a number of assessments of acceptable daily intake for the color additive. Based on the panel's report, the agency oncluded that it may be necessary to limit the aggregate uses of FD&C Red No. 3 in food, drugs, and cosmetics. To that end, the agency published notices in the Federal Register of November 19, 1987 (52 FR 44485), and December 21, 1987 (52 FR 48326), requesting data on the sale and use of FD&C Red No. 3 from persons interested in the continued use of the color additive. The sale and use data were to be submitted by February 21, 1988.

FDA has carefully studied the panel report, and has allowed time for the affected industry and the public to study the report. In the meantime, the agency has extended the provisional listing of FD&C Red No. 3 to August 30, 1988. See 53 FR 25127 (July 1, 1988). The agency has begun to evaluate the data on the sale and use of the color additive that have been submitted by the industry. The agency has as yet been unable to reach a conclusion as to whether FD&C Red No. 3 operates by a secondary mechanism of action. However, the Certified Color Manufacturers' Association (CCMA) has informed FDA, by letter dated June 14, 1988, that it has initiated a rat study designed to "demonstrate that FD&C Red No. 3 produces an increase in serum thyrotropin (TSH) concentrations, and that there is a threshold for this effect." CCMA asserted that the results of this study, along with other information it had supplied, will demonstrate that FD&C Red No. 3 has no direct effect on the thyroid, i.e., that it operates through a secondary mechanism. The association further stated that a final report for the study is expected in November 1988.

FDA has evaluated the protocol for the study that is being conducted by CCMA, and has concluded that the study does address the issue of the mechanism of action of FD&C Red No. 3, and therefore may produce results that are relevant to that issue.

III. Conclusions

FDA believes that it is appropriate to postpone the closing date for the provisional listing of FD&C Red No. 3, so that the agency can consider the results of the CCMA study, as well as the sale and use data, before making a final decision with respect to the status of FD&C Red No. 3 under the color additive amendments. Adequate time will be required for the agency to complete its evaluation of the data from the CCMA study, and of the sale and use data, as well as for preparation of final Federal Register documents. The agency has concluded that these activities can be accomplished by June 30, 1989.

Based on the circumstances described above, including communications between agency scientists and the petitioner, the Commissioner concludes that the scientific tests for making a determination as to the permanent listing of FD&C Red No. 3 are being carried forward in good faith and will be completed as soon as reasonably practicable. Similarly, based upon his evaluation of the available data, the Commissioner concludes that extension of the closing date to June 30, 1989, is consistent with the public health and

therefore is in compliance with *McIlwain* v. *Hayes* and *Public Citizen* v. *Department of Health and Human Services, supra.* In addition to the reasons stated above, the Commissioner bases his conclusion on, among other things, the limited uses covered by the provisional listings. As the Commissioner noted in the proposed postponement of the closing date in 1985, terminating the provisional listing before making a decision with respect to the uses of FD&C Red No. 3 that are permanently listed would be an "unnecessary and inappropriate exercise in formalism." (50 FR 26377 at 26380 (June 26, 1985)).

IV. Environmental and Economic Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has determined that extending the provisional listing of these color additives requires no change in the current industry practice concerning the manufacture or use of these ingredients. Therefore, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities will derive from this action. Further, the economic effects of this proposed rule have been analyzed and it has been determined that it is not a major rule as defined by Executive Order 12291.

V. Comments

In accordance with 21 CFR 10.40(b)(2), FDA is providing 30 days for comment on this proposal. The current closing date for the provisional listing of this color additive is August 30, 1988. Because of the closeness of the closing date, it is necessary for the agency to shorten the comment period on this proposal. Therefore, there is good cause for providing 30 days, rather than 60 days, for comment.

Interested persons may, on or before September 29, 1988, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 81 be amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. Section 81.1 *Provisional lists of color additives* is amended in the table of paragraph (a) by revising the closing date for the entry "FD&C Red No. 3" to read "June 30, 1989."

§ 81.27 [Amended]

3. Section 81.27 *Conditions of provisional listing* is amended in the table, appearing in the introductory text of paragraph (d), by revising the closing date for the entry "FD&C Red No. 3" to read "June 30, 1989."

Dated: August 23, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–19540 Filed 8–29–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–012A]

Control of Hazardous Energy Sources (Lockout/Tagout); Change of Hearing Date

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of change of date for hearing.

SUMMARY: On August 9, 1988 (53 FR 29920, OSHA announced an informal public hearing on the proposed standard for the control of hazardous energy (lockout/tagout). (The proposal was published on April 19, 1988, at 53 FR 15496.) As indicated in the August 9, 1988 Federal Register notice, the hearing will begin in Washington, DC on September 22, 1988, and was to reconvene in Houston, Texas, September 27–28, 1988. However, the portion of the hearing to be held in Houston has been rescheduled from September 27–28, 1988, to October 12–13, 1988, to allow greater public participation. Procedural requirements for submission of written comments, and for participation in the hearing, are set forth in the August 9, 1988 Federal Register notice.

DATES: The hearing will begin in Washington, DC, on September 22, 1988, at 9:30 a.m., and may continue for more than one day based on the number of notices of intention to appear. Once all parties who wish to do so have testified in Washington, DC, the hearing will be recessed and reconvened in Houston, Texas, on October 12, 1988, at 9:30 a.m., for the receipt of testimony of those parties who prefer to testify at that location. Notices of intention to appear at the public hearing and testimony and evidence to be introduced into the record must be postmarked by September 8, 1988. Written comments on the issues raised in this notice must be postmarked by September 22, 1988.

ADDRESSES: The informal public hearing will begin in the Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210. The hearing will be reconvened at the Guest Quarters Suite Hotel; 5353 Westheimer Road; Houston, Texas (713–961–9000).

Four copies of written comments must be sent to the Docket Office, Docket No. S–012A; U.S. Department of Labor, Occupational Safety and Health Administration; Room N3439 Rear; 200 Constitution Avenue NW.; Washington, DC 20210.

Four copies of each notice of intention to appear and testimony and evidence that will be introduced into the hearing record must be sent to: Mr. Tom Hall; U.S. Department of Labor, Occupational Safety and Health Administration; Room N3647; 200 Constitution Avenue NW.; Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: *Hearing:* Mr. Tom Hall; U.S. Department of Labor, Occupational Safety and Health Administration; Room N3647; 200 Constitution Avenue NW.; Washington, DC 20210 (202–523–8615).

Proposal: Mr. James F. Foster; U.S. Department of Labor, Occupational Safety and Health Administration; Room N3647; 200 Constitution Avenue

NW.; Washington, DC, 20210 (202–523–8148).

Authority: This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

It is issued pursuant to Section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655); Secretary of Labor's Order No. 9–83 (48 FR 35736); and 29 CFR Part 1911.

Signed at Washington, DC, this 24th day of August, 1988.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 88–19582 Filed 8–29–88; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Surface Coal Mining and Reclamation Operations Under the Federal Lands Program; State-Federal Cooperative Agreements; Ohio

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

ACTION: Proposed rule.

SUMMARY: OSMRE is proposing to amend the cooperative agreement between the Department of the Interior and the State of Ohio for the regulation of surface coal mining and reclamation operations on Federal lands in Ohio. This cooperative agreement is authorized under section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments would authorize the State of Ohio to regulate coal exploration activities and the surface effects of underground mining on Federal lands in Ohio. 30 CFR 745.14 provides for amendments to cooperative agreements of this type.

This notice sets forth the times and locations that the proposed amendments to the cooperative agreement will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on September 29, 1988. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on September 26, 1988. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on September 14, 1988.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to Ms. Nina Rose Hatfield, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSMRE's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, Room 202, Columbus, Ohio 43232, Telephone: (614) 866–0578

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5131, Washington, DC 20240, Telephone: (202) 343–5492

Ohio Department of Natural Resources, Division of Reclamation, Fountation Square, Building B–3, Columbus, Ohio 43224, Telephone: (614) 265–6675

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On March 26, 1982, the State of Ohio requested a cooperative agreement between the Department of the Interior and the State of Ohio to give the State primacy in the administration of its approved regulatory program on Federal lands in Ohio. The Secretary approved the cooperative agreement on February 22, 1984. Approval of the cooperative agreement was published on April 13, 1984 (49 FR 14735). The text of the existing cooperative agreement can be found at 30 CFR 935.30.

The approved cooperative agreement signed by the Secretary and the State of Ohio does not contain specific language regarding coal exploration or the surface effects of underground mining on Federal lands in Ohio. On April 26, 1988, OSMRE sent a letter to the State outlining proposed amendments to the cooperative agreement to include this language and to make other minor changes regarding reference to an appendix to the agreement. In a letter dated May 13, 1988, the State of Ohio indicated that the proposed changes were acceptable to the State.

II. Discussion of the Proposed Amendments

The proposed amendments would modify the following sections of the cooperative agreement:

1. *Article I.A. Authority:* The proposed amendments would include surface effects resulting from underground mining operations under the mining and reclamation activities which the State would regulate.

2. *Article I.A. Authority:* The proposed amendments would include coal exploration operations not subject to 43 CFR Part 3480, subparts 3480 through 3487, under the mining and reclamation activities which the State would regulate.

3. *Article VI. Review of a Permit Application Package:* The proposed amendments would include coal exploration operations under the State's permit application review responsibilities.

4. *Article XV. Reservation of Rights:* The proposed amendments would revise this Article and incorporate a reference to the laws listed in Appendix A. The revised Article would read as follows:

"In accordance with 30 CFR 745.13, this agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A."

5. *Appendix A:* The proposed amendments would add an Appendix A, which would contain the list of applicable Federal and State laws and regulations referenced in item 4.

III. Public Comment Procedures

OSMRE is now seeking comments on the proposed amendments. If the amendments are deemed adequate, they will become part of the cooperative agreement between the Department of the Interior and the State of Ohio.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person

listed under "FOR FURTHER INFORMATION CONTACT" by 4:00 p.m. on September 14, 1988. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meeting with OSMRE representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under "ADDRESSES." A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

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

Date: August 19, 1988.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 88-19619 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 58

[DoD Instruction 1400.xx]

Compliance With Host Nation Human Immunodeficiency Virus (HIV) Screening Requirements for DoD Civilian Employees

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: Some countries require DoD civilian employees be screened for the Human Immunodeficiency Virus (HIV) before they may enter the country. DoD is obligated to comply with such requirements. HIV is the virus associated with the Acquired Immune Deficiency Syndrome (AIDS). To assure the consistent observance of these requirements and the proper treatment of its employees, the Department of Defense proposes to issue this Part. It establishes a single approval authority and uniform policies and procedures. It also provides guidance for personnel administration and protection of employees' rights. The proposed Part would not apply to employees of organizations or business concerns under contract to DoD, nor to dependents or family members of DoD military and civilian personnel. The policy would apply to those members of the general public who apply for and have been tentatively selected for DoD civilian employment in a host nation that requires HIV screening.

DATE: Submit written comments on or before September 29, 1988.

ADDRESS: Send comments to the Director, Workforce Relations, Training and Staffing Policy, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Washington, DC 20301-4000.

FOR FURTHER INFORMATION CONTACT: Thomas W. Hatheway, telephone (202) 695-2012.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 58

Foreign relations, Civilian employees.

Accordingly, it is proposed that Title 32, Chapter I of the Code of Federal Regulations be amended to add Part 58 as follows:

PART 58—COMPLIANCE WITH HOST NATION HUMAN IMMUNODEFICIENCY VIRUS (HIV) SCREENING REQUIREMENTS FOR DoD CIVILIAN EMPLOYEES

Sec.

Authority: 10 U.S.C. 113 and 5 U.S.C. 301.

§ 58.1 Purpose.

This part establishes policies and procedures for screening DoD civilian employees for Human Immunodeficiency Virus (HIV) and for the use of screening results.

§ 58.2 Applicability and scope.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, the Inspector General of the Department of Defense (IG, DoD), and the Defense Agencies (hereafter referred to collectively as the "DoD Components").

§ 58.3 Definitions.

(a) *Human Immunodeficiency Virus (HIV).* The virus associated with the Acquired Immune Deficiency Syndrome (AIDS).

(b) *Host Nation.* A foreign nation to which DoD U.S. citizen employees are assigned to perform their official duties.

(c) *DoD Civilian Employees.* For purposes of this part this term includes current and prospective DoD U.S. citizen employees. It includes both appropriated and nonappropriated fund personnel. It does not include employees of or applicants for positions with private sector contractors performing work on behalf of the Department of Defense.

§ 58.4 Policy.

It is the policy of the Department of Defense to comply with operational host nation requirements for HIV screening of DoD civilian employees.

§ 58.5 Responsibilities.

(a) The Assistant Secretary of Defense (ASD(FM&P)) shall establish policies governing HIV screening of DoD civilian employees assigned to host nations, in coordination with the Assistant Secretary of Defense (Health Affairs) (ASD(HA)), the Assistant Secretary of Defense (International Security Affairs) (ASD(ISA)), and the DoD General Counsel.

(b) The ASD(ISA) shall identify or confirm host nation HIV screening requirements for DoD civilian employees, and coordinate requests for screening with the Department of State.

(c) Heads of DoD Components shall implement HIV screening policies for DoD civilian employees assigned to overseas areas. Included in this responsibility are the following actions:

(1) Reporting newly established host nation HIV screening requirements to the ASD(FM&P) and providing sufficient background information to support a decision.

(2) Developing and distributing policy implementing instructions.

(3) Establishing procedure to notify individuals who are evaluated as HIV seropositive and providing initial counseling to them.

§ 58.6 Procedures.

(a) Requests for authority to screen DoD employees for HIV shall be directed to the ASD(FM&P). Only those requests will be accepted which are based upon an operational host nation HIV screening requirement. Requests based upon other concerns, such as sensitive foreign policy or medical health care issues, will not be considered under this policy. Approvals will be provided by ASD(FM&P) memorandum.

(b) HIV screening shall be considered a requirement imposed by another nation that must be met prior to final decision to select the individual for a position or prior to approving temporary duty or detail to the host nation. Thus, the Department of Defense has made no official commitment concerning overseas positions to those individuals who refuse to cooperate with the screening requirements or those who cooperate and are diagnosed as HIV seropositive.

(c) Those who refuse to cooperate with the screening requirement shall be treated as follows:

(1) Those who volunteered for the assignment, whether permanent or temporary in nature, shall be returned to their official position without further action and without prejudice with respect to employee benefits, career progression opportunities, or any other personnel actions.

(2) Those who are obligated to accept assignment to the host nation under the terms of an employment agreement, regularly scheduled tour of duty, or similar, prior obligation, may be subjected to an appropriate adverse personnel action under the specific terms of the employment agreement, or other authorities that may apply.

(d) Those who accept the screening and are evaluated as HIV seropositive may be denied the assignment on the basis that evidence of seronegativity is required by the host nation. Such employees shall be returned to their current positions without prejudice. They shall be given proper counseling and shall retain all the rights and benefits to which they are entitled including accommodations for the handicapped as provided in the ASD(FM&P) Memorandum dated January 22, 1988,[1] Federal Personnel Manual Bulletin 792-42, and 29 USC 784. Non-DoD employees should be referred to appropriate support service organizations.

(e) Some host nations may not bar entry to HIV seropositive DoD employees may require reporting such individuals to host nation authorities. In such cases DoD civilian employees who are evaluated as HIV seropositive shall be informed of the reporting requirement. They shall be counseled and given the option of declining the assignment and being returned to their official positions without prejudice.

(f) A positive confirmatory test by Western blot must be accomplished on an individual if the screening test (ELISA) is positive. A civilian employee shall not be identified as HIV antibody positive unless the confirmatory test (Western blot) is positive. The clinical standards contained in ASD(HA) Memorandum dated September 11, 1987,[2] shall be observed during initial and confirmatory testing.

(g) Procedures shall be established by DoD Components to protect the confidentiality of test results for all individuals, consistent with ASD(FM&P) Memorandum dated January 22, 1988 and 32 CFR Part 286a.

(h) Tests shall be provided by the DoD Components at no cost to the employee or applicant.

(i) Employees infected with HIV shall be counseled in accordance with the Secretary of Defense Memorandum dated April 20, 1987.[3]

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 25, 1988.

[FR Doc. 88-19708 Filed 8-29-88; 8:45 am]

BILLING CODE 3810-01-M

[1] Copies may be obtained from Director, Workforce Relations, Training and Staffing Policy, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Washington, DC 20301-4000.

[2] See footnote 1 to § 58.6(d).

[3] See footnote 1 to § 58.6(d).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL-3436-9]

Hazardous Waste Management System, Identification and Listing of Hazardous Waste; New Data and Use of These Data Regarding the Establishment of Regulatory Levels for the Toxcity Characteristic; and Use of the Model for the Delisting Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability and request for comments; supplement to proposed rule; extension of comment period.

SUMMARY: The purpose of this notice is to extend the public comment period on the supplement to the Toxicity Characteristic proposed rule and use of the ground water model for the Delisting Program, which appeared in the Federal Register on August 1, 1988 (53 FR 28892) and would amend the hazardous waste identification regulations under Subtitle C of the Resource Conservation and Recovery Act. Specifically, the Agency will acept comments until September 22, 1988.

EPA received several requests for an extension of the comment period. To ensure that commenters have adequate time to prepare their comments, we are taking this opportunity to lengthen the comment period by 22 days, from August 31 to September 22, 1988.

DATES: The deadline for submitting written comments on the August 1, 1988 notice is extended from August 31, 1988 to September 22, 1988.

ADDRESSES: The original and three copies of all comments, identified by the Docket Number F-88-TC3N-FFFFF, should be sent to the following address: EPA RCRA Docket [S-212], U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The EPA RCRA docket is located in the sub-basement area at the above address, and is open form 9:30 a.m. to 3:30 p.m. Monday through Friday, excluding Federal Holdiays. To review docket materials, members of the public must make an appointment by calling [202] 475-9327. Materials may be copied at a cost of $0.15/page.

FOR FURTHER INFORMATION CONTACT: For general informaion contact the RCRA Hotline by calling [800] 424-9346 toll-free, or [202] 382-3000. For information on specific aspects of this notice, contact Dr. Zubair Saleem [202] 382-4770, Office of Solid Waste [OS-330], U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460.

Dated: August 23, 1988.

J.W. McGraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 88-19629 Filed 8-29-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 580

[Docket No. 88-19]

Rule on Effective Date of Tariff Changes

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its foreign tariff filing rules to require common carriers to publish in their tariffs a rule specifying that rates, rules and charges applicable to a given shipment must be those published and in effect on the date the cargo is received by the carrier or its agent (including a connecting inland carrier in the case of an intermodal through movement).

DATE: Comments due on or before October 14, 1988.

ADDRESS: Comments (Original and fifteen (15) copies) to:

Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (203) 523-5796.

SUPPLEMENTARY INFORMATION: On December 16, 1987, the Trans-Pacific Westbound Rate Agreement ("TWRA") filed a petition for rulemaking ("Petition") requesting that the Commission issue a regulation precluding the application of any carrier tariff rate, charge or rule (other than a destination charge) to cargo physically received by the carrier prior to the effective date of the tariff provision. TWRA proposes that the regulation specifically prescribe the date when a tariff rule or rate becomes applicable to any given shipment.

Notice of the Petition was published in the Federal Register on December 30, 1987 (52 FR 49205), providing interested parties the opportunity to submit responses to the Petition. Replies to the Petition were received from: the Asia North America Eastbound Rate Agreement ("ANERA"); Greece/United States Atlantic and Gulf Conference, Mediterranean North Pacific Coast Freight Conference, and South Europe/U.S.A. Freight Conference (filing jointly as the "Mediterranean Conferences"); Pacific Coast/Australia-New Zealand Tariff Bureau ("PANCON"); Ocean Star Container Line ("Ocean Star"); Forest Lines Inc. ("Forest Lines"); Tropical Shipping & Construction Ltd. ("Tropical Shipping"); International Association of NVOCCS ("IANVOCC"); and the Chemical Manufacturers Association ("CMA").

TWRA Petition

TWRA seeks to end "pocket rates," described by TWRA as a tariff practice whereby the carrier negotiates a rate, receives the cargo from the shipper, but thereafter publishes the agreed rate in its tariff after the transportation has begun. TWRA claims that, in effect, the carrier retains the agreed freight rate "in [its] pocket" until after it has secured the cargo for its own carriage. TWRA states that, at the present time, "pocket rate" practices are lawful under Commission tariff regulations.

TWRA claims that a tariff rule banning the use of "pocket rates" would directly serve the purposes which underlie the tariff filing requirement. TWRA states the rationale for its Petition as follows:

> [F]irst, it serves the statutory objective of treating similar shippers similarly by enabling shippers to know what their competitors are paying for ocean transport before themselves committing cargo to a carrier; second, it is designed to permit shippers to know what their own rate is in advance of handing over the cargo; third, if Carrier A has the lower rate and it is publically [sic] available this fact enables the shipper to ask Carrier B for a reduction based thereon and also enables Carrier B to verify the correctness of that claim; fourth, this principle serves fair competition by permitting carriers to note and rely upon the published rate filed by their competitors and to permit competitive responses to such rates in a timely manner that enables other carriers to compete for the cargo.

Equating the use of pocket rates to secret rebates, TWRA argues that the requested tariff regulation would promote rate stability and the certainty of rate application to particular shippers, enhancing fair competition while avoiding unlawful preferences as between shippers.

The regulation suggested by TWRA does, however, permit a later date for destination charges than for other tariff provisions. TWRA contends that "such later dates have traditionally been utilized, normally are not specific to particular commodities, and have not been found to have the adverse effects of 'pocket' rates. * * *"

Responses to the TWRA Petition

Comments supportive of the proposal were filed by ANERA, the Mediterrean Conferences, PANCON, and Ocean Star (a vessel operating common carrier ("VOCC") in the Austrailia-U.S. and Mediterranean-U.S. trades). These commenters note that current tariff filing practices permit the carrier to publish, after the transportation of the shipment has commenced, a tariff rate which would apply to that shipment. These parties assert that such tariff practices give rise to "secret" rates which are discriminatory as between shipper, and constitute an unfair method of competition as between carriers. While supportive of the need for a uniform rule on tariff effectiveness, the commenters differ on the precise "cut-off" date to be specified for tariff purposes.

Opposing comments were submitted by Tropical Shipping, Forest Line, IANVOCC, and CMA. These commenters contend that the proposed regulation is unnecessary and anti-competitive, as TWRA allegedly has shown no discrimination in fact to have resulted from the current, permissive tariff filing requirements as to rate effectiveness. However, even if discrimination does result, the commenters believe the dominant policy issue must be to permit the "immediate" effectiveness of all rate reductions to shippers, and to allow tariff "flexibility" for carriers to respond quickly to changing market conditions.

Discussion

The pertinent regulation, 46 CFR 580.5(d) [1] currently allows the carrier unilaterally to establish one or more effective dates for rating and compliance purposes, which dates may differ from the time at which the transportation process commences. A carrier's implementation of Tariff Rule 3 thus may operate to give effect to two rates applicable at the same time to the same commodity—one being the rate currently published and made effective in the carrier's tariff at the time of tender of the goods, and the second being an unpublished rate but one no less effective as to the cargo.

Section 8(a) of the Shipping Act of 1984, 46 U.S.C. app. 1707, requires each common carrier and conference to file with the Commission tariffs showing "all" its rates, charges, classifications, rules and practices between all points and ports on its own route and on any through transportation route that has been established. It is questionable whether this statutory obligation is met

[1] This regulation requires each carrier to publish tariff rules governing its practices on specified key subjects. As relevant, the regulation requires tariff notice of the following:

(3) Rate applicability rule. A clear and definite statement of the time at which a rate becomes applicable to any given shipment.

46 CFR 580.5(d)(3) (1987) (hereinafter referred to as "Tariff Rule 3"). Commission requirements in this regard have remained virtually unamanded since 1975.

by a carrier transporting cargo subject to a rate which will not be tariffed until some later point in the cargo's journey, *e.g.* immediately prior to vessel loading. Such rate practices permit a future act of tariff publication to "relate back" to shipments already in transit, thereby imposing a new rate over the rate then applicable in the carrier's tariff.[2]

In the hiatus between agreement upon the commodity rate and its subsequent publication, the unpublished (but agreed to) rate remains for all intents a secret rate between shipper and carrier. Only that shipper privy to the rate agreement can directly access the rate, *i.e.* tender cargo in the knowledge of the retroactive effect to be extended by the carrier to the new rate under Tariff Rule 3. Such a result appears to defeat the basic purpose of tariff filing. *See, e.g., Ghiselli Bros. v. Micronesia Interocean Line Inc.* 13 F.M.C. 179, 181 (1969).

The Commission proposes to address the issue of "pocket rate" practices by prescribing an effective date for rating purposes which is uniform and consistent with the date on which the carrier assumes its contractual and regulatory obligations with respect to the transportation, *i.e.*, beginning with delivery of the cargo to the carrier for shipment. The regulation here proposed is intended to foreclose a potential avenue for *post hoc* ratemaking, in order to avoid discriminatory effects vis-a-vis shippers and carriers, and to maintain the integrity of the tariff filing system.

The proposed rule does not include TWRA's suggestion as to destination charges. An exception for such charges could threaten objective or uniform application of carrier rates and charges. Moreover, such exception could shift the focus of any unauthorized ratemaking from the initial stages of the transportation to the discharge stage.

The Commission has determined that this regulation is not a "major rule" as defined in Executive Order 12291 dated February 27, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Commission finds that the proposed rule is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601. Section 601(2) of the Act excepts from its coverage any "rule of particular applicability to rates or practices relating to such rates * * *". As the proposed rule relates to particular applications of rates and rate practices, the Regulatory Flexibility Act requirements are inapplicable.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h). Comments on the information collection aspects of this rule should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Federal Maritime Commission.

List of subjects in 46 CFR Part 580

Maritime carriers; Rates and fares; Reporting and record keeping requirements.

Therefore, pursuant to 5 U.S.C. 553; secs. 8, 9, 10 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1707, 1708, 1709, and 1716, the Federal Maritime Commission proposes to amend part 580 of Title 46 of the Code of Federal Regulations as follows:

PART 580—[AMENDED]

1. The authority citation for Part 580 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1702–1705, 1707–1709, 1712, 1714–1716 and 1718.

2. In § 580.5 revising paragraph (d)(3) to read as follows:

§ 580.5 Tariff contents

* * * * *

(d) * * *

(3) Effective date rule. All tariffs shall provide that the tariff rates, rules and charges applicable to a given shipment must be those published and in effect when the cargo is received by the ocean carrier or its agent (including originating carriers in the case of rates for through transportation).

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 88–19693 Filed 8–29–88; 8:45 am]

BILLING CODE 6730–01–M

[2] By analogy, Commission tariff regulations currently prohibit the publication of any rate which would "duplicate or conflict with" existing rates in the same tariff on the same commodity, 46 CFR 580.6(k)(1).

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88–383, RM–6337]

Radio Broadcasting Services; Hinesville, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by E. D. Steele, Jr., proposing to allot Channel 284A to Hinesville, Georgia, as its second FM service. Coordinates for Channel 284A are 31–50–59 and 81–36–11.

DATES: Comments must be filed on or before October 7, 1988, and reply comments on or before October 24, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Anne Thomas Paxson, Borsari & Paxson, 2100 M Street, NW, Suite 610, Washington, DC 20037. (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the commission's Notice of Proposed Rule Making, MM Docket No. 88–383, adopted July 6, 1988, and released August 16, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

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 allotments. *See* 47 CFR 1.1208. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-19612 Filed 8-29-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-384, RM-6102]

Radio Broadcasting Services; Fort Myers Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Justice Broadcasting—Fort Myers Beach, Inc., licensee of Station WQEZ(FM), Fort Myers Beach, Florida proposing the substitution of Channel 257C2 for Channel 257A at Fort Myers Beach, and the modification of its Class A license accordingly, coordinates 26-25-30 and 82-04-30.

DATES: Comments must be filed on or before October 7, 1988, and reply comments on or before October 24, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Melodie A. Virtue, Haley, Bailer & Potts, 2000 M Street NW., Suite 600, Washington, DC 20036 (attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-384, adopted July 12, 1988, and released August 16, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

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 allotments. This is a restricted notice and comment rule-making proceeding. *See* 47 CFR 1.1208. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-19614 Filed 8-29-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-312; RM-6127; RM-6135]

Radio Broadcast Services; Pearl and Magee, MS; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This action corrects the comment and release dates of the Proposed Rule in this proceeding concerning FM channel allotments for Pearl and Magee, MS.

DATES: Comments are now due on the Proposal by October 17, 1988 and replies by November 1, 1988. In addition, the release date of the full text, mentioned under the "Supplementary Information" portion of the Preamble, is corrected to read: August 25, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: The Notice of Proposed Rule Making was published on July 29, 1988 at 53 FR 28673. Due to an oversight, notice of the action was never distributed. As a result, the comment/reply comment dates, as well as the official release date of the full text, are corrected as shown above.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-19606 Filed 8-29-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-75; RM-5334]

Television Broadcasting Services; Panama City, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: The Commission hereby dismisses the request of Nolan Ball, proposing the allotment of UHF television Channel *68 to Panama City, Florida for noncommercial educational use. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-75, adopted July 14, 1988, and released August 12, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The Complete test of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140 Washington, DC 20037.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-19613 Filed 8-29-88; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 548 and 552

[GSAR Notice 5-257]

General Services Administration Acquisition Regulation; Value Engineering

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) which would delete the current material in part 548 and add material to provide: agency policy for the use of value engineering techniques, value engineering proposal submission and processing requirements

for certain types of contracts, agency policy with respect to shared saving on certain types of contracts, and to prescribe a clause entitled "Value Engineering Program—Architect-Engineer." Part 552 would also be amended to add the text of the clause. The intended effect is to implement the requirements in OMB Circular A–131, Value Engineering, dated February 3, 1988, and to provide guidance to GSA contracting activities pending a permanent revision to the regulation.

DATE: Comments should be submittee to the Office of GSA Acquisition Policy and Regulations at the address shown below on or before September 29, 1988 to be considered in the final rule.

ADDRESS: Interested parties should submit written comments to: General Servcies Administration, Office of GSA Acquisition Policy and Regulations (VP), 18th and F Street, NW, Room 4026, Washington, DC 20405. Requests for a copy of the proposal should be addressed to Ms. Marjorie Ashby at the same address or call (202) 523–2322.

FOR FURTHER INFORMATION CONTACT: Mr. John Joyner, Office of GSA Acquisition Policy and Regulations, 18th and F Street, NW, Washington, DC 20405, (202) 523–4916.

SUPPLEMENTARY INFORMATION: The Director, Office of Managment and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibilty Act (5 U.S.C. 601 et seq.). The proposed rule supplements the Federal Acquisition Regulation by providing for the use, where appropriate, of value engineering techniques to identify and eliminate nenessential cost in contracts awarded by the General Services Administration. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Parts 548 and 552.

Government procurement.

Dated: August 18, 1988.

Ida M. Ustad,

Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 88–19596 Filed 8–29–88; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Bobcat Taken in 1988 and Subsequent Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed in Appendix II of the Convention may occur only if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the species, and if the Management Authority is satisfied that the animals or plants were not obtained in violation of laws for their protection.

This notice announced proposed findings by the Scientific Authority and Management Authority of the United States on the export of bobcat harvested in the 1988 and subsequent years on the Wind River Indian Reservation, Wyoming, by enrolled members of the Arapahoe and Shoshone Tribes. These proposed findings also stipulate that monitoring procedures previously established for other States and Indian tribes be extended to include Wind River Indian Reservation, Wyoming. The Service intends to make these findings to span a period not limited to a single harvest season. The Service requests comments on these proposed findings.

DATE: The Service will consider comments received by September 14, 1988 in making its final determination and rule.

ADDRESS: Please send correspondence concerning this notice to the Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspections from 8:00 a.m. to 4:00 p.m., Monday through Friday, at the Office of Scientific Authority, room 537, 1717 H Street NW. Washington, DC or at the Office of Management Authority, room 400, 1375 K Street, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Scientific Authority Finding—Dr. Charles W. Dane, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (202–653–5948).

Management Authority Findings—Mr. Marshall P. Jones. Office of Management Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (202) 343–4968.

Export Permits—Mr. Richard K. Robinson, Office of Management Authority, U.S. Fish and Wildlife Services, Washington, DC 20240, telephone (202) 343–4955.

State Export Programs—Mr. S. Ronald Singer, Office of Management Authority, U.S. Fish and Wildlife Services, Washington, DC 20240, telephone (202) 343–4963.

SUPPLEMENTARY INFORMATION: On January 5, 1984 (49 FR 590), the Service published a rule granting export approval for bobcats (*Lynx rufus*) and certain other Convention-listed species from specified States for the 1983–84 and subsequent harvest seasons. On March 24, 1988 (53 FR 9631), Kentucky and the White Mountain Apache Tribe were added to this list of approved export States. The purpose of this proposed rule is to add the Wind River Indian Reservation, Wyoming, to the list of State and Indian Nations for which the export of bobcats is approved.

The Convention regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily now threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other listed species). Appendix III includes native species that any Party nation identified as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

In the January 5, 1984, and the August 18, 1983 (48 FR 37494) Federal Register documents, the Service announced the decision from a review of listed species concluded at the Fourth Meeting of the Conference of the Parties in Botswana that each of the species or geographically separate populations including the bobcat, should be regarded as listed in Appendix II because of its similarity in appearance to other listed species or populations. As indicated in those documents, the Conference of the

Parties adopted a resolution accepting the report of the Central Committee on the 10-year review of species listed in Appendices I and II. The report included recommendations that these populations ro species should be considered as listed in Appendix II only because of similarity in appearance, if they were to be retained in that appendix.

The January 5, 1984, document described how the Service, as Scientific Authority, planned to monitor the status of these species and their trade on an annual basis so that it could detect any significant downward trends in populations and, where necessary, institute more restrictive export controls in response to them. The document also described how the Services, as Management Authority, would determine if specimens had been lawfully acquired on the basis of tagging requirements.

Scientific Authority Findings

Article IV of the Convention requires that an export permit for any specimen of a species included in Appendix II shall only be granted when certain findings have been made by the Scientific Authority and Management Authority of the exporting country. The Scientific Authority must advise "that such export will not be detrimental to the survival of that species" before a permit can be granted by the Management Authority.

The Scientific Authority for the United States must develop such advice on non-detriment for the export of Appendix II animals in accordance with § 1537(c)(2) of the Endangered Species Act of 1973 (the Act), as amended. The Act states that the Secretary of the Interior is required to base export determinations and advice "upon the best available biological information derived from professionally accepted wildlife management practices but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice."

The bobcat is managed by the wildlife agencies of individual States and Indian Tribes and Nations. Those States and Indian Nations from which the Services has approved the export of bobcats in the 1983–84 and subsequent taking seasons were identified in the January 5, 1984, Federal Register (49 FR 590), and the March 24, 1988, Federal Register (53 FR 9631), and listed in 50 CFR 23.52. Each export-approved State or Indian Tribe or Nation in which this animal is harvested has a program to regulate the harvest. Based on information received from the Wind River Indian Reservation, Wyoming, the Service proposes adding that Indian Reservation to those States and Indian Reservation and Nations from which bobcat export is approved by the Service.

Consistent with the determination that the bobcat is listed to enable trade in other species to be effectively controlled, the Scientific Authority considers this control aspect when advising on non-detriment. Marking of pelts with tags bearing the country and State of origin, year of harvest, name of the species, a unique serial number, and the issuance of export permits naming the species being traded is sufficient to address problems of identification due to similarity in appearance between bobcats and other species (see Management Authority findings for tag specification).

In addition to considering the effect of trade on species or populations other than those being exported from the United States, the Service will monitor the status of the bobcat managed by the Wind River Indian Reservation, Wyoming, to (1) determine whether treatment of these furbearers, listed because of similarity in appearance, remains appropriate, and (2) detect any significant downward trends in the population and, where necessary, advise on more restrictive export controls in response to them. This monitoring and assessment will follow the same procedures adopted for other States and Indian Tribes and Nations (see 49 FR 590). As part of this monitoring program, the States and Indian Tribes and Nations that have been approved for export of bobcats are annually requested to certify that the harvest of bobcats will not be detrimental to the survival of the species and to provide data and/or the basis for support of this assessment. A determination can be made about the treatment of this species and whether a management program needs to be adjusted in a particular State, Indian Tribe or Nation by a review of available information and accumulated data by the Office of Scientific Authority.

Scientific Authority guidelines developed for bobcat export under the provisions of Convention Article II.2(a), which represent professionally-accepted wildlife management practices, are presented in more detail in the August 18, 1983, Federal Register document (48 FR 37494). These guidelines are summarized as follows:

A. Minimum requirements for biological information:

(1) Information on the condition of the population, including trends (the method of determination to be a matter of State, Indian Tribe or Nation's choice), and population estimates where such information is available;

(2) Information on total harvest of the species;

(3) Information on distribution of harvest; and

(4) Habitat evaluation.

B. Minimum requirements for a management program:

(1) There should be a controlled harvest, methods and seasons to be a matter of State, Indian Tribe, or Nation's choice;

(2) All skins should be registered and marked; and

(3) Harvest level objectives should be determined annually by the State, Indian Tribe or Nation.

The Wind River Indian Reservation, Wyoming, has provided population estimates based on the relationship between population density from other studies in the State and habitat types and distribution on the Reservation. This information has been supplemented with data on reproductive rates and age structure of the population obtained from harvested bobcats, and with relative number of bobcats trapped per trapping effort.

Bobcat harvest on the Wind River Indian Reservation is limited to enrolled members of the Shoshone and Arapahoe Tribes who must attach a tribal tab to the bobcat pelt immediately at take. Under an interagency agreement between the Bureau of Indian Affairs and the U.S. Fish and Wildlife Service, the Service oversees the wildlife program on the Wind River Indian Reservation. Wind River Agency game wardens monitor and control actual hunting and trapping activities and will replace tribal tags with Convention export tags before the bobcat pelt ownership is transferred or the pelt leaves the Reservation.

Based upon information presented by the Wind River Reservation, Wyoming, including Reservation Agency bobcat regulations, and in consideration of the basis for the species' listing in Appendix II of the Convention, the Service proposes to issue Scientific Authority advice in favor of export of bobcats harvested in 1988 and subsequent harvest seasons from Wind River Reservation, Wyoming.

Management Authority Findings

Exports of Appendix II species are be allowed under the Convention only if the Management Authority is satisfied that the specimens were not obtained in contravention of laws for the protection of the involved species. The Service, therefore, must be satisfied that the bobcat pelts, hides, or products being

exported were not obtained in violation of State, Indian Tribal or Nation, or Federal law in order to allow export. Evidence of legal taking for Alaskan gray wolf, Alaskan brown or grizzly bear, American alligator, bobcat, lynx, and river otter is provided by State and Indian Tribe or Nation tagging programs. The Service annually contracts for the manufacture and delivery of special Convention animal-hide tags for export-qualified States and Indian Nations. The Service has adopted the following Management Authority export guidelines for the 1983–84 and subsequent taking seasons:

(1) Current State and Tribe or Nation hunting, trapping and tagging regulations and sample tags must be on file with the Office of Management Authority;

(2) The tags must be durable and permanently locking, and must show U.S.-CITES logo, State and Indian Tribe or Nation of origin, year of take, species, and be serially unique;

(3) The tag must be applied to all pelts taken within a minimum time after take, as specified by the State and Indian Tribe or Nation, and such time should be as short as possible to minimize movement of untagged pelts;

(4) The tag must be permanently attached as authorized and prescribed by the State and Indian Tribe or Nation;

(5) State and Indian Tribe or Nation registered-dealers or State and Indian Tribe, or Nation-licensed takers allowed to attach export tags must account for tags received and must return unused tags to the State or Indian Tribe or Nation within a specified time after taking season closes; and,

(6) Fully manufactured fur (or hide) products may be exported from the United States only when the Convention export tags, removed from the hides used to manufacture the product being exported, are surrendered to the Service prior to export.

Proposed Export Decision

The Service proposes to approve exports of Wind River Indian Reservation bobcats harvested in the 1988 and subsequent harvest seasons on the grounds that both Scientific Authority and Management Authority guidelines are satisfied.

Comments Solicited

The Service requests comments on these proposed findings. Final findings will take into consideration the comments and any additional information received, and such consideration might lead to final findings that differ from this proposal.

The proposal is issued under authority of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 et seq.). The authors are S Ronald Singer, Office of Management Authority, and Dr. Charles W. Dane, Office of Scientific Authority.

Note: The Department has previously determined that the export of bobcats of various States and Indian Tribes or Nations, taken in the 1983–1984 and subsequent harvest seasons, was not a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(1)(c) of the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement was not required (48 FR 37494). Because these proposed findings do not significantly differ from the previous export findings, the previous determination not to prepare an Environmental Impact Statement on export of bobcats taken during the 1983–1984 and subsequent harvest seasons in certain States (49 FR 590) remains appropriate. The Department has also previously determined that such harvest was not a major rule under Executive Order 12291 and did not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). Because the existing rule treats exports on a State-by-State and Indian Nation-by-Indian Nation basis and proposes to approve export in accordance with a State or Indian Nation management program, the rule will have little effect on small entities in and of itself. This proposed rule does not contain any information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend part 23 of Title 50, Code of Federal Regulations, as set forth below:

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 et seq.

2. In Subpart F—Export of Certain Species, § 23.52 is revised to read as follows:

§ 23.52 Bobcat (Lynx rufus).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

	1977–78	1978–79	1979–80	1980–81	1981–82	1982–83	1983 & subsequent	1987 & subsequent	1988 & subsequent
Alabama	+	+	+	+	+	+	+	+	+
Arizona	+	+	+	+	+	+	+	+	+
Arkansas	+	+	+	+	+	+	+	+	+
California	+	+	+	+	+	+	+	+	+
Colorado	+	+	+	+	+	+	+	+	+
Florida	+	+	E	+	+	+	+	+	+
Georgia	+	+	+	+	+	+	+	+	+
Idaho	+	+	+	+	+	+	+	+	+
Kansas	+	+	+	+	+	+	+	+	+
Kentucky	–	–	–	–	–	–	–	+	+
Klamath Tribe	–	–	–	–	+	+	+	+	+
Louisiana	+	+	+	+	+	+	+	+	+
Maine	+	+	+	+	+	+	+	+	+
Massachusetts	+	+	E	+	+	+	+	+	+
Michigan	+	+	+	+	+	+	+	+	+
Minnesota	+	+	+	+	+	+	+	+	+
Mississippi	+	+	+	+	+	+	+	+	+
Missouri	–	–	–	+	+	+	+	+	+
Montana	+	+	+	+	+	+	+	+	+
Navajo Nation	+	+	+	+	+	+	+	+	+
Nebraska	+	+	+	+	+	+	+	+	+
Nevada	+	+	+	+	+	+	+	+	+
New Hampshire	–	–	–	+	+	+	+	+	+
New York	+	+	+	+	+	+	+	+	+

	1977–78	1978–79	1979–80	1980–81	1981–82	1982–83	1983 & subsequent	1987 & subsequent	1988 & subsequent
North Carolina	+	+	+	+	+	+	+	+	+
North Dakota	+	+	E	+	+	+	+	+	+
Oklahoma	–	–	+	+	+	+	+	+	+
Oregon	+	+	E(1)	+	+	+	+	+	+
Penobscot Nation	–	–	–	–	–	–	+	+	+
South Carolina	+	+	+	+	+	+	+	+	+
South Dakota	+	+	+	+	+	+	+	+	+
Tennessee	+	+	+	+	+	+	+	+	+
Texas	+	+	E(2)	+	+	+	+	+	+
Utah	–	–	+	+	+	+	+	+	+
Vermont	+	+	+	+	+	+	+	+	+
Virginia	+	+	+	+	+	+	+	+	+
Washington	+	+	+	+	+	+	+	+	+
West Virginia	+	+	+	+	+	+	+	+	+
Wisconsin	+	E	+	+	+	+	+	+	+
White Mt Tribe	–	–	–	–	–	–	–	+	+
Wind River Res	–	–	–	–	–	–	–	–	P
Wisconsin	+	+	E	+	+	+	+	+	+
Wyoming	+	+	+	+	+	+	+	+	+

Legend: +—Export approval; ——export not approved; E—1979–80 bobcat enjoined by U.S. District Court, District of Columbia; E(1)—As above but for eastern portion of State; E(2)—As above but for high plains ecological area; P—Proposed.

(b) Condition on export: Each pelt must be clearly identified as to species, State or Indian Tribe or Nation of origin, and season of taking by a permanently attached, serially numbered tag of a type approved and attached under conditions established by the Service. Exception to tagging requirement: finished furs and fully manufactured fur products may be exported from the United States when the State or Indian Tribe or Nation export tags, removed from the hides used to manufacture the product being exported, are surrendered to the Service prior to export. Such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so the locking socket and locking tip remain joined.

Dated: August 5, 1988.

Susan Recce

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–19601 Filed 8–29–88; 8:45 am]
BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 53, No. 168
Tuesday, August 30, 1988

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

ACTION

Foster Grandparent Program (FGP)

AGENCY: ACTION.

ACTION: Notice of Availability of Funds.

SUMMARY: ACTION announces the availability of funds for Fiscal Year 1989 for new FGP grants. FGP is authorized under Title II, Part B, of the Domestic Volunteer Service Act of 1973, as amended (Pub. L93–113). Grants will be competed only in ACTION Region IV (covering the states of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee) and in ACTION Region VI (covering the states of Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas).

Completed application packages are to be submitted to the appropriate ACTION State Office. FGP project grants will be awarded for a 12-month period and may be renewed.

Application forms and technical assistance are available from ACTION State Offices:

State Offices in Regions IV and V

Region IV

John D. Timmons, ACTION State Program Director, 2121 8th Avenue North, Room 722, Birmingham, AL 35203–2307, Telephone: (205) 254–1908

Henry J. Jibaja, ACTION State Program Director, 930 Woodcock Road, Suite 221, Orlando, FL 32803–3750, Telephone: (407) 648–6117

David A. Dammann, ACTION State Program Director, 75 Piedmont Avenue, N.E., Suite 412, Atlanta, GA 30303–2587, Telephone: (404) 331–4646

Arthur Brown, III, ACTION State Program Director, Federal Building, Room 1005–A, 100 West Capital Street, Jackson, MS 39269, Telephone: (601) 965–4462

Robert L. Winston, ACTION State Program Director, Federal Building, P.O. Century Station, 300 Fayetteville, Street Mall, Rm. 131, Raleigh, NC 27601–1739, Telephone: (919) 856–4731)

Jerome J. Davis, ACTION State Program Director, Federal Building, Room 872, 1835 Assembly Street, Columbia, SC 29201–2430, Telephone: (803) 765–5771

Alfred E. Johnson, ACTION State Program Director, Federal Building/ U.S. Courthouse, 801 Broadway, Room 246, Nashville, TN 37203–3889, Telephone: (615) 251–5561

Region VI

Robert Torvestad, ACTION State Program Director, Federal Building, Room 2506, 700 West Capitol Street, Little Rock, AR 72201–3291, Telephone: (501) 378–5234

James M. Byrnes, ACTION State Program Director, Federal Building, Room 248 444 S.E. Quincy, Topeka, KS 66603–3501, Telephone: (913) 295–2540

Willard L. Labrie, ACTION State Program Director, 626 Main Street, Suite 102, Baton Rouge, LA 70801–1910, Telephone: (504) 389–0471

John McDonald, ACTION State Program Director, Federal Office Building, 911 Walnut, Room 1701, Kansas City, MO 64106–2009, Telephone: (816) 374–5256

Ernesto Ramos, ACTION State Program Director, Federal Building, Cathedral Place, Room 129, Santa Fe, NM 87501–2026, Telephone: (505) 988–6577

H. Zeke Rodriguez, ACTION State Program Director, 200 N.W. 5th, Suite 912, Oklahoma City, OK 73102–6093, Telephone: (405) 231–5201

Jerry G. Thompson, ACTION State Program Director, 611 East Sixth State, Suite 107, Austin, TX 78701–3747, Telephone: (512) 482–5671

A. Background and Purpose

The Foster Grandparent Program (FGP) is authorized under Title II, Part B, of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113) (the "Act"). The program was established for the purpose of providing opportunities for low-income persons aged 60 or older to provide supportive, person-to-person services in health, education, welfare, and related settings to children having exceptional needs . . . [and] . . . children with special needs." FPG volunteer services are provided in a variety of health, education, and related social settings, in both residential and nonresidential facilities.

FGP grants are awarded to qualified public agencies and private non-profit organizations. Program sponsors in turn recruit and enroll low-income persons aged 60 or older as Foster Grandparents. Volunteers are placed in volunteer stations which ar public agencies, private non-profit organizations, and proprietary health care organizations serving children. Foster Grandparents are assigned on a one-to-one basis to children with special needs as defined under program policy.

B. Programming Emphasis

ACTION will give special consideration to applicants with well developed plans for utilizing Foster Grandparent volunteer services to assist children identified as being at risk of substance abuse, physical/sexual abuse, abandoned/neglected, juvenile delinquency, status offenses, and other destructive behaviors. Children whose need is primarily economic, or whose parent is single and working, do not meet the FGP definition of special needs.

C. Eligible Applicants

Only public agencies or private non-profit organization are eligible to apply for FGP grants. In addition, applicants:

1. Must have the authority to accept, and the capability to administer, the FGP project grant according to ACTION guidelines.

2. Cannot be located in an existing FGP project service area.

3. Must be able to demonstrate that the service area has an adequate number of low-income elderly who can be recruited as Foster Grandparent volunteers, and a sufficient number of special needs children in need of volunteer services.

D. Children/Volunteer Eligibility

1. *Child* is any individual under 21 years of age.

2. *Children with special needs* includes those at risk of substance abuse, those who are abused or neglected, in need of foster care, status offenders, juvenile delinquents, runaway youth, certain teen-age parents, and children in need of protective intervention in their homes. Existence of a child's special need shall be verified by an appropriate professional before a Foster Grandparent is assigned to the child.

3. Persons aged 60 and older whose income do not exceed the levels

specified below are eligible to be Foster Grandparent volunteers.

For family units of	
One	$6,700
Two	9,050
Three	11,400
Four	13,750
Five	16,100
Six	18,450
Seven	20,800
Eight	23,150

E. Scope of Grant

Each grant will support between 40 and 60 volunteer service years. The amount of each grant includes Foster Grandparent direct benefits (stipends, meals, uniforms, insurance, physical examinations, recognitions, and transportation).

Federal cost per Volunteer Service Year (VSY) budgeted shall not exceed $3,300 unless an applicant can provide sufficient justification for a higher cost. The total amount budgeted for volunteer expenses shall be a sum equal to at least 90% of the total Federal funds budgeted.

Applicants are required to provide at least 10% in matching funds from non-Federal sources, either in allowable cash or in-kind dollar equivalents. The FGP project director should serve on a full-time (100% time on project) basis, unless a waiver from ACTION is obtained. Publication of this announcement does not obligate ACTION to award any specific number of grants or any specific amount of funds.

F. General Criteria for Grant Selection

ACTION will use the criteria specified below in the selection of sponsors for these new grants. A number of stated elements must be found in the applicant's proposal. The applicant must:

1. Have experience with either social programs for persons age 60 or older or with children with special needs.
2. Comply with applicable financial and program requirements established by ACTION or other Federal agencies.
3. Develop goals and objectives consistent with the purpose of the program that are specific, time phased, and measurable.
4. Provide for reasonable efforts to recruit and involve males, and hard-to-reach minority, ethnic, and isolated or disabled eligible persons.
5. Produce evidence of non-Federal, public or private support in the form of endorsement letters from public agencies and private non-profit organizations. Information in the letters must contain awareness and willingness to provide funding support to the FGP project sponsor.
6. Include a realistic transportation plan for the project based on the lowest cost, transportation mode(s).
7. Offer a mix of residential, non-residential, or a variety of community settings for Foster Grandparent placements.

G. Additional Factors

ACTION staff will use the following additional tests in choosing among applicants who meet all of the minimum criteria specified above:

1. How important is the proposed project to the low-income, elderly community? Who will benefit from the project?
2. Does the project show evidence of skillful and careful planning to attain project goals?
3. Did the sponsor answer project application questions with specificity?
4. Sponsoring Organization:

(a) Does the sponsoring organization have adequate experience in dealing with the problem(s)/needs identified in the project application?

(b) Are plans for volunteer supervision and sponsor-provided training adequate for the volunteer assignments?

(c) Are the procedures for staff accountability adequate for the FGP project?

5. Foster Grandparents:

(a) Is the number of volunteers being requested consistent with the goals and objectives specified for the project?

(b) Are the roles of the volunteers designed to enhance or ameliorate the lives of children with special needs to be served?

(c) Are the Foster Grandparent assignments designed to use their time in an efficient manner?

H. Application Review Process

ACTION Regions IV and VI will review and evaluate all applications prior to their submission to Headquarters. The final selection will be made by the Associate Director of Domestic Operations. ACTION reserves the right to ask for evidence of any claims of past performance or future capability.

I. Application Submission and Deadline

One signed and two copies of all completed applications from Regions IV or VI must be submitted to the respective ACTION State Office (see end of Notice for names/addresses). The deadline for receipt of applications is 5:00 p.m., local time, October 19, 1988. Applications received after October 19, but postmarked five days before the deadline date, will also be accepted for consideration.

Donna M. Alvarado,

Director.

[FR Doc. 88-19602 Filed 8-29-88; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), a notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee.

Date: September 26, 1988.

Place: USDA FGIS Technical Center, 10383 North Executive Hills Blvd., Kansas City, Missouri 64153.

Time: 10:00 a.m.

Purpose: A subcommittee to review and prepare recommendations to the Federal Grain Inspection Service Advisory Committee on the Federal Grain Inspection Service mission statement.

The agenda includes a review of past mission statements; declaration of policy as stated in the United States Grain Standards Act and as modified by the Grain Quality Improvement Act of 1986; and proposed amended mission statements.

The meeting will be open to the public. Public participation will be limited to written statements unless otherwise requested by the Subcommittee Chairman. Persons, other then members, who wish to address the Subcommittee at the meeting or submit written statements before, at, or after the meeting should contact Fred Midcap, Subcommittee Chairman, 5143 Rd. 3, Wiggins, Colorado 80654, telephone (303) 432-5528.

Dated: August 25, 1988.

W. Kirk Miller,

Administrator.

[FR Doc. 88-19640 Filed 8-29-88; 8:45 am]

BILLING CODE 3410-EN-M

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), a notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee.

Date: September 27, 1988.

Place: American Farm Bureau Federation Board Room, 225 Touhy Avenue, Park Ridge, Illinois 60068.

Time: 10:00 a.m.

Purpose: A subcommittee to review and prepare recommendations to the Federal Grain Inspection Service Advisory Committee on whether it is possible to determine incontrovertibly if export grain is likely to deteriorate in condition or quality while in-transit to a foreign destination and whether regulatory action is warranted.

The agenda includes a review of information presented at the August 12, 1988, Federal Grain Inspection Service Advisory Committee meeting and other available information.

The meeting will be open to the public. Public participation will be limited to written statements unless otherwise requested by the Subcommittee Chairman. Persons, other than members, who wish to address the Subcommittee at the meeting or submit written statements before, at, or after the meeting should contact John White, Jr., Subcommittee Chairman, 1701 Townda Avenue, Bloomington, Illinois 61701, telephone (309) 557–3211.

Dated: August 25, 1988.

W. Kirk Miller,

Administrator.

[FR Doc. 88–19641 Filed 8–29–88; 8:45 am]

BILLING CODE 3410–EN–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Regional Forum; California

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the United States Commission on Civil Rights will convene a regional forum at 8:00 a.m. on September 8, 1988, and adjourn at 3:00 p.m. on September 9, 1988, in the Gold Room of the Biltmore Hotel, 506 South Grand Avenue, Los Angeles, California 90071. The purpose of the meeting is to conduct a forum on changing perspectives on civil rights.

Persons desiring additional information, or planning a presentation to the Commission, should contact Susan J. Prado, Acting Staff Director, (202) 523–5571. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Staff Director's office at least five days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 19, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88–19591 Filed 8–29–88; 8:45 am]

BILLING CODE 6335–01–M

Massachusetts Advisory Committee; Agenda and Notice of 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 Massachusetts Advisory Committee to the Commission will convene at 2:00 p.m. and adjourn at 4:30 p.m., September 22, 1988, in Room 505, John F. Kennedy Federal Building, Cambridge and New Sudbury Streets, Boston, Massachusetts 02203. The purpose of the meeting is to discuss and act upon the draft of a briefing memorandum, entitled Stemming Violence and Intimidation Through the Massachusetts Civil Rights Act, and to review and act upon a draft of ideas for the Committee's next project.

Persons desiring additional information, or planning a presentation to the Commission, should contact Committee Chairperson Philip Perlmutter (617/330–9600) in Boston, Massachusetts or John I. Binkley, Director of the Eastern Regional Division (202/523–5264; TDD 202/376–8117) in Washington, DC. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Division at least five (5) working days before the scheduled date of the meeting. The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, August 19, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88–19589 Filed 8–29–88; 8:45 am]

BILLING CODE 6335–01–M

Utah Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Utah Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m., on September 20, 1988, at the Utah State Office of Education, Board Room, 250 East 5th South, Salt Lake City, Utah 84111. The purpose of the meeting is to plan activities and programming for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Robert E. Riggs or Philip Montez, Director of the Western Regional Division, (213) 894–3437 (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 19, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88–19590 Filed 8–29–88; 8:45 am]

BILLING CODE 6335–01–M

South Dakota 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 subcommittee of the South Dakota Advistory Committee to the Commission will convene at 2:00 p.m. and adjourn at 6:00 p.m. on September 16, 1988, at the American Indian Council, 331 North Phillips Avenue, Sioux Falls, South Dakota 57102. The purpose of the meeting is to evaluate material and a draft report concerning women's issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Francis Whitebird or Philip Montez, Director of the Regional Division (213) 894–3437, (TDD 213/894/0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, August 23, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88–19597 Filed 8–29–88; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-703]

Antidumping Duty Order; Granular Polytetrafluoroethylene Resin from Italy

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In separate investigations concerning granular polytetrafluoroethylene (PTFE) resin from Italy, the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that granular PTFE resin from Italy is being sold at less than fair value and that sales of granular PTFE resin from Italy are materially injuring a U.S. industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption, of granular PTFE resin from Italy made on or after April 20, 1988, the date on which the Department published its "Preliminary Determination" notice in the Federal Register, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the Federal Register.

EFFECTIVE DATE: August 30, 1988.

FOR FURTHER INFORMATION CONTACT: Brian H. Nilsson or Louis Apple, Office of Antidumping Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5332 or 377-1769.

SUPPLEMENTARY INFORMATION: The product covered by this order is granular polytetrafluoroethylene resin, filled and unfilled, which is provided for in the *Tariff Schedules of the United States* (TSUS) items 445.54. The corresponding Harmonized System (HS) number is 3904.61.00. Polytetrafluoroethylene dispersions in water and fine powders are not covered by this investigation.

In accordance with section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act), on July 5, 1988, the Department made its final determination that granular PTFE resin from Italy is being sold at less than fair value (53 FR 26096, July 11, 1988). On August 16, 1988, in accordance with section 735(d) of the Act, the ITC notified the Department that such imports materially injure a U.S. industry.

Therefore, in accordance with section 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of granular PTFE resin from Italy. These antidumping duties will be assessed on all unliquidated entries of granular PTFE resin entered, or withdrawn from warehouse, for consumption on or after April 20, 1988, the date on which the Department published its "Preliminary Determination" notice in the Federal Register (53 FR 12967).

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins noted below:

Manufacturers/producers/exporters	Weighted-average margin (%)
Montefluos S.p.A./Ausimont U.S.A.	46.46
All others	46.46

This determination constitutes an antidumping duty order with respect to granular PTFE resin from Italy, pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations Annex I of 19 CFR Part 353, which listed antidumping duty findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Timothy Bergan,

Acting Assistant Secretary for Import Administration.

August 24, 1988.

[FR Doc. 88-19690 Filed 8-29-88; 8:45 am]

BILLING CODE 3510-DS-M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: August 30, 1988.

FOR FURTHER INFORMATION CONTACT: Bernard T. Carreau or Richard W. Moreland, Office of Countervailing Compliance or Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4733/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the Federal Register (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with § 353.53a (a)(1), (a)(2), (a)(3), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with § 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than August 31, 1989.

	Periods to be reviewed
Antidumping duty proceedings and firms:	
Canada: Certain dried heavy salted codfish (A-122-402)	07/01/87-06/30/88

	Periods to be reviewed
Bon Portage	
Canada Packers	
Island Saltfish	
Sable Fish Packers	
Le Groupe Purdel	
Bay Harbor	
John's Cove Fisheries	
Canadian Saltfish	
Canus Fisheries	
East Germany: Solid urea (A-429-601)	01/02/87-06/30/88
Chemie	
Japan: Fabric expanded neoprene laminate (A-588-404)	07/01/87-06/30/88
Heiwa rubber	
USSR: Solid urea (A-461-601)	01/02/87-06/30/88
Soyuzpromexport	
Countervailing duty proceedings and firms:	
Uruguay: Leather wearing apparel (C-355-001)	01/01/87-12/31/87

Interested parties are encouraged to submit applications for administrative protective orders as early as possible in the review process.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.53a(c) and 355.10(c).

Date: August 17, 1988.

Joseph A. Spetrini,

Acting Deputy, Assistant Secretary for Compliance.

[FR Doc. 88-19691 Filed 8-29-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-015]

Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke In Part

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke in Part.

SUMMARY: In response to requests by the petitioners and the respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on television receivers, monochrome and color, from Japan. The review covers seven manufacturers/exporters of this merchandise to the United States and varius periods from April 1, 1980 through February 28, 1987. The review indicates the existence of dumping margins for certain firms during certain periods.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the differences between United States price and foreign market value, and intends to revoke the antidumping finding with respect to Hitachi and Sanyo.

Where we received no company-supplied information or where information was inadequate or untimely, we used the best information available for assessment and cash deposit purposes.

Interested parties are invited to comment on these preliminary results and intent to revoke in part.

EFFECTIVE DATE: August 30, 1988.

FOR FURTHER INFORMATION CONTACT: J.E. Downey, Wendy J. Frankel, or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION: .

Background

On August 18, 1983, and September 27, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 37508 and 48 FR 44101) tentative determinations to revoke in part the antidumping finding on television receivers, monochrome and color, from Japan (36 FR 4597, March 10, 1971). On February 11, 1988, the Department published in the Federal Register (53 FR 4050) the final results of its last administrative review of the finding.

The petitioners and respondents requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct the administrative reviews. We published notices of initiation of the antidumping duty administrative reviews on November 27, 1985 (50 FR 44825), April 18, 1986 (51 FR 13273), July 9, 1986 (51 FR 24883), and May 20, 1987 (52 FR 18937). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has new conducted those administrative reviews.

Scope of the Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets include, but are not limited to, units known as projection televisions, receiver monitors, and kits (containing all parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units (combination television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.), and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

This review covers seven manufacturers/exporters of Japanese television receivers, monochrome and color, and various periods from April 1, 1980 through February 28, 1987.

Funai Electric failed to respond to our sales questionnaire for the eight review period, covering March 1, 1986-February 28, 1987. NEC failed to respond to our cost-of-production questionnaire for the eighth review period. Sharp Corporation failed to respond to our supplemental sales questionnaire for the second review period, covering April 1, 1980-March 31, 1981.

Therefore, for these three firms we used the best information available for assessment and estimated antidumping duty cash deposit purposes. As best information available we used information that was adverse to the firms. For Funai, we used its last rate as best information available. For NEC we use that firms' own data as best information available, since this rate is in excees of both its past rates and the highest rate from the prior review of any other firm. For Sharp we used the highest rate from the prior review of other firms as best information available.

United States Price

In calculating United States price the Department used purchase price or exporter's sales priece ("ESP") both as defined in section 772 of the Tariff Act, as appropriate. Purchase price and ESP were based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made adjustments where applicable, for ocean freight, marine insurance, U.S. and Japanese land freight, inland freight insurance, U.S. and Japanese brokerage fees, Japanese customs clearance fees, wharfage, export license fees, forwarding and handling charges, export selling expenses incurred in Japan, discounts, royalties, rebates, commissions to unrelated parties, and the U.S. subsidiaries' selling expenses. No other adjustments were claimed or allowed. We accounted for taxes imposed in Japan, but rebated or not collected by reason of the exportation of the merchandise to the United States, by multiplying the ex-factory price of the televisions sold in the United States by the tax rate and adding the result to the U.S. price.

Foreign Market Value

In calculatiang foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, because sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed, ex-factory or delivered price to unrelated purchasers in the home market. Where applicable, we made adjustments for inland freight, insurance, rebates, credit expenses, discounts, warranties, advertising, sales promotion, royalties, differences in the physical characteristics of the merchandise, and packing. For the sixth review period, we disallowed that portion of Mitsubishi's claimed advertising expense that was not related to telephone sales.

We made further adjustments, where applicable, for indirect selling expenses to offset U.S. commissions to unrelated parties and U.S. selling expenses for ESP calculations. We allowed as indirect selling expenses those selling expenses incurred by the related distributors. Finally, we made circumstances-of-sale adjustments for commodity tax differences, where appropriate. Level-of-trade adjustments were claimed but disallowed. No other adjustments were claimed or allowed.

Preliminary Results of Review and Intent to Revoke in Part

As a result of our review, we preliminarily determine for appraisement purposes that the margins range from 0 to 16.77 percent, 0 to 78.82 percent, and 0 to 301.20 percent for Fujitsu General, Mitsubishi, and NEC, respectively. Also, we preliminarily determine that cash deposit rates are as follows:

Manufacturer/ Exporter	Period of review	Margin (Percent)
Fujitsu General	04/01/83 to 03/31/84	[1] 0.15
	04/01/84 to 02/28/85	.11
Funai Electric	03/01/86 to 02/28/87	21.93
Hitachi	04/01/83 to 09/27/83	[1] .16
	03/01/86 to 02/28/87	[1] .16
Mitsubishi	04/01/83 to 03/31/84	.13
	04/01/84 to 02/28/85	.07
NEC	04/01/83 to 03/31/84	18.18
	04/01/84 to 02/28/85	6.69
	03/01/85 to 02/28/86	7.24
	03/01/86 to 02/28/87	31.14
Sanyo	04/01/83 to 03/31/84	[1] 2.86
	04/01/84 to 02/28/85	[1] 2.86
	03/01/86 to 02/28/87	[1] 2.86
Sharp	04/01/80 to 03/31/81	3.37

[1] No shipments during the period; rate from last review in which there shipments.

Parties to the proceeding may request disclosure and/or an administrative protective order within 5 days of the date of publication of this noticed and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttal comments, limited to issue raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Hitachi had no commercial shipments for six years and Sanyo had no shipments for four years. Therefore, we intend to revoke the antidumping finding with respect to this merchandise manufactured by Hitachi or Sanyo.

As provided for in § 353.54(e) of the Commerce Regulations, Hitachi and Sanyo have agreed in writing to an immediate suspension of liquidation and reinstatement in the finding under circumstances specified in the written agreement. If this partial revocation is made final, it will apply to all uniliquidated entries of this merchandise manufactured and exported to the U.S. by Hitachi or Sanyo, entered, or withdrawn from warehouse, for consumption on or after August 18, 1983 and September 27, 1983, respectively.

On January 26, 1988, we received allegations from Zenith, a petitioner, that Japanese TV manufacturers might be involved in transshipments through third countries, or final assembly operations in third countries or in the U.S. which use Japanese components, in an attempt to circumvent this antidumping finding. We investigated these allegations as they might relate to Hitachi or Sanyo, and we have no evidence that either firm is attempting to circumvent this finding.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required for the above firms, except Fujitsu General and Mitsubishi. The rates for Fujitsu General and Mitsubishi remain unchanged from their rates in the last results of review, published on February 11, 1988 (53 FR 4050). For any shipments of this merchandise manufactured by Toshiba, Matsushita, or Victor, the cash deposit will continue to be at the rates published in the final results of the last administrative review for these firms (52 FR 8940, March 20, 1987 and 50 FR 24278, June 10, 1985, respectively).

For any future entries of this merchandise from a new exporter, not covered in this or prior reviews, whose first shipments occurred after February 28, 1987 and who is unrelated to any reviewed firm or any previously reviewed firms, a cash deposit of 31.14 percent shall be required. These deposit requirements are effective for all shipments of Japanese television receivers, monochrome and color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review, intent to revoke in part, and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and 19 CFR 353.53a and 353.54.

Date: August 24, 1988.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-19689 Filed 8-29-88; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Railroad Axles; Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products with respect to certain railroad axles.

DATE: Comments must be submitted no later than September 9, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of

Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-Brazil arrangement provides that if the U.S. determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the U.S.A. for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product.

We have received a short-supply request for railroad axles for freight cars, roller bearing, raised wheel seat, classification "F," as described in the Association of American Railroads Manual of Standards and Recommended Practices, Standard 1963, Revised 1984, Effective March 1, 1985.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than September 9, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce, at the above address.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88–19692 Filed 8–29–88; 8:45 am]

BILLING CODE 3510–DS–M

Minority Business Development Agency

Business Development Center Applications: Detroit, MI

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a 3 year period, subject to available funds. The cost of performance for the first (12) months is estimated at $322,500 in Federal funds and a minimum of $56,912 in non-federal contributions for the budget period April 1, 1989 thru March 31, 1990. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Detroit, Michigan geographic service area. The award number of this MBDC will be 05–10–89004–01.

The funding instrument for the MBDC will be a coopertive agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is October 21, 1988. Applications must be postmarked on or before October 21, 1988.

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Ilinois 60603, 312/353–0182.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Date: August 24, 1988.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 88–19625 Filed 8–29–88; 8:45 am]

BILLING CODE 3510–21–M

Business Development Center Applications: Kansas City, Missouri

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a 3 year period, subject to available funds. The cost of performance for the first (12) months is estimated at $184,260 in Federal funds and a minimum of $32,516 in non-federal contributions for the budget period April 1, 1989 thru March 31, 1990. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Kansas City, Missouri geographic service area. The award number of this MBDC will be 07–10–89003–01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDC funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is October 21, 1988. Applications must be postmarked on or before October 21, 1988.

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353-0182.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Date: August 24, 1988.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 88-19626 Filed 8-29-88; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications: Cincinnati/Dayton, OH

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a 3 year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at $184,260 in Federal funds and a minimum of $32,516 in non-federal contributions for the budget period March 1, 1989 to February 28, 1990. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Cincinnati/Dayton, Ohio geographic service area. The award number of this MBDC will be 05-10-89002-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is October 14, 1988. Applications must be postmarked on or before October 14, 1988.

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353-0182.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Date: August 24, 1988.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 88-19627 Filed 8-28-88; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications: Cleveland, OH

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MEDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a 3 year period, subject to available funds. The cost of performance for the first (12) months is estimated at $184,260 in Federal funds and a minimum of $32,516 in non-federal contributions for the budget period April 1, 1989 thru March 31, 1990. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Cleveland, Ohio geographic service area. The award number of this MBDC will be 05-10-89005-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is October 21, 1988. Applications must be postmarked on or before October 21, 1988.

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353-0182.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Date: August 24, 1988.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 88-19628 Filed 8-29-88; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Evaluation of State/Territorial Coastal Management Program, Coastal Energy Impact Program, and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Managmeent.

ACTION: Notice of availability of evaluation findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for the Mississippi, Alaska, Wisconsin, and Alabama Coastal Management Programs. Section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA), requires a continuing review of the performance of each coastal state with respect to funds authorized under the CZMA and to the implementation of its federally approved Coastal Management Program. The states evaluated were found to be adhering to the programmatic terms of their financial assistance awards and/or to their approved coastal management program; and to be making progress on award tasks, special award conditions, and significant improvement tasks, special award conditions, and significant improvement tasks aimed at program implementation and enforcement, as appropriate. Accomplishments in implementing coastal zone management programs were occurring with respect to the national coastal management objectives identified in section 303(2)(A)-(I) of the Coastal Zone Management Act. A copy of the assessment and detailed findings for these programs may be obtained on request from: John H. McLeod, Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235 (telephone 202/673-5104).

Date: August 19, 1988.

John J. Carey,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

[FR Doc. 88-19593 Filed 8-29-88; 8:45 am]

BILLING CODE 3510-08-M

Coastal Zone Management Programs and Estuarine Sanctuaries: State Programs—Intent to Evaluate Performance

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

ACTION: Notice of intent to evaluate.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and

Coastal Resources Management (OCRM), announces its intent to evaluate the performance of the Washington Coastal Management Program (CMP), the North Carolina CMP, and the Rhode Island (Narragansett) National Estuarine Research Reserve through October 31, 1988. Evaluation of the coastal management program will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended, (CZMA) which requires a continuing review of the performance of coastal states with respect to coastal management, including detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary of Commerce, addressed the coastal management needs identified in section 303(2)(A) through (I) of the CZMA, and adhered to the terms of any grant, loan or cooperative agreement funded under the CZMA. Evaluation of the National Estuarine Research Reserves will be conducted pursuant to section 315(f) of the CZMA which requires the periodic review of the performance of each reserve with respect to its operation and management. The reviews involve consideration of written submissions, a site visit to the state, and consultations with interested Federal, state and local agencies and members of the public. Public meetings will be held as part of the site visits. The state will issue notice of these meetings. Copies of each state's most recent performance report, as well as the OCRM's notification letter and supplemental information request letter to the state are available upon request from the OCRM. Written comments from all interested parties on each of these programs to the contact listed below are encouraged at this time. OCRM will place subsequent notice in the Federal Register announcing the availability of the Final Findings based on each evaluation once these are completed.

FOR FURTHER INFORMATION CONTACT: John H. McLeod, Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Oceanic Service, NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235 (telephone: 202/673–5104).

Date: August 19, 1988.

John J. Carey,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Federal Domestic Assistance Catalog 11.419

[FR Doc. 88–19594 Filed 8–29–88; 8:45 am]

BILLING CODE 3510-08-M

Permits; Pacific Coast Groundfish Fishery

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

ACTION: Notice of issuance of an experimental fishing permit.

SUMMARY: This notice announces the issuance of an experimental fishing permit to the states of Washington and Oregon for the harvest of soupfin shark and other groundfish species with gillnets north of 38° N. latitude in the exclusive economic zone off the coasts of Washington and Oregon. The permit authorizes the use of experimental fishing gear to harvest groundfish which otherwise would be prohibited by federal regulations. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan and implementing regulations.

EFFECTIVE DATES: July 15, 1988, through October 31, 1988.

ADDRESS: Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: William L. Robinson, 206–526–6140.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) and implementing regulations at 50 CFR Part 663 specify that experimental fishing permits (EFPs) may be issued to authorize fishing that otherwise would be prohibited by the FMP and regulations. The procedures for issuing EFPs are contained in the regulations at § 663.10.

An EFP application to harvest soupfin shark and other groundfish species using gillnets in the exclusive economic zone (EEZ) off the coasts of Washington and Oregon was received from the Washington Department of Fisheries (WDF) and the Oregon Department of Fish and Wildlife (ODFW) on May 16, 1988. Current groundfish regulations at § 663.26 do not authorize the use of gillnets north of 38° N. latitude to harvest groundfish. The states of Washington and Oregon are conducting an experimental fishery on thresher shark, a species that is not managed under the FMP, and requested that the vessels issued 1988 permits by the states also be issued a Federal EFP to authorize the retention and marketing of federally-managed sharks (soupfin, leopard, and spiny dogfish sharks) taken incidentally in the state experimental drift gillnet fishery for thresher sharks. A notice acknowledging receipt of the application, describing the proposal, and requesting public comment was published in the Federal Register on June 15, 1988 (53 FR 22371). No public comments were received. The application was considered by the Pacific Fishery Management Council, including the directors of the fishery management agencies of Washington, Oregon, California, and Idaho, at its July 1988 public meeting in Portland, Oregon. The Council and its advisory groups recommended that NMFS issue an EFP as requested in the joint application from Washington and Oregon. The NMFS Regional Director, after having considered all factors including the potential for entanglement of non-target species in the experimental gear, issued the EFP as recommended by the Council under the provisions of § 663.10.

The EFP authorizes the 34 state-permitted vessels to harvest soupfin, leopard and spiny dogfish shark taken incidentally in the state-regulated thresher shark drift gillnet fishery from July 15, 1988, through October 31, 1988, in the EEZ off the coasts of Washington and Oregon. Under the terms and conditions of the permit, the vessels must have a valid WDF or ODFW state permit which restricts the fishery to at least 20 miles offshore and limits the vessels to the use of one gillnet that is not to exceed 1,000 fathoms in length with a minimum 16-inch mesh. Permit holders are required to maintain detailed logs and allow a WDF or ODFW observer to accompany the vessel, if so requested.

Further details or a copy of the permit may be obtained from the NMFS Regional Director at the above address.

Authority: 16 U.S.C. 1801 *et seq.*

Ann D. Terbush,

Acting Director of Office Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–19653 Filed 8–29–88; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 22, 1988.

The USAF Scientific Advisory Board Ad Hoc Committee on Science and Technology (S&T) Roadmaps Review will meet on 28 Sept. 88 from 8:00 a.m. to 5:00 p.m. at the Pentagon, Washington, DC 20330–5430.

The purpose of this meeting is to review the roadmaps for the programs in the Air Force S&T base. This meeting will involve discussions of classified defense matters listed in section 552b(c)

of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–18664 Filed 8–29–88; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

[3710–EN]

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Regional Landfill Expansion in Non-tidal Wetlands in the City of Suffolk, VA

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: An Environmental Impact Statement will be prepared to evaluate project alternatives and the public interest review factors for the proposed regional landfill expansion.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Pamela Painter, U.S. Army Engineer District, Norfolk, 803 Front Street, Norfolk, Virigina 23510, (804) 441–7654.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Southeastern Public Service Authority proposes a 440 acre expansion of an existing regional landfill which will involve the filling of an estimated 376 acres of non-tidal, seasonally-flooded palustrine forested wetlands which are a part of the Great Dismal Swamp, adjacent to Burnetts Mill Creek, a tributary of the Nansemond River in Suffolk, Virginia. The existing landfill will reach capacity by June 1992 unless measures are taken to increase its useful life (such as vertical expansion, additional recycling efforts and increased sales of refuse derived fuel). The proposed expansion will provide disposal capacity until the year 2016 for 24.5 million cubic yards of garbage.

2. Alternatives

Alternatives which will be investigated include, but will not be limited to, site alternatives in the service area, the construction of a mass burn facility, waste volume reduction through increased refuse derived fuel sales and/or recycling, combinations of some alternatives and no project.

3. Scope Process

A pre-application scoping meeting was held with State and Federal agencies in May 1988 and formal agency scoping comments were requested in July 1988. Significant issues which have been identified thus far include wetland destruction and impacts to a federally listed threatened species (the Dismal Swamp southeastern shrew). A public notice requesting written public comments will be published on or about August 10, 1988.

4. Public Scoping Meeting

If it is determined that a public scoping meeting is necessary to assist the Corps in identifying significant issues which should be addressed in the DEIS, the date and location of the meeting will be announced by separate public notice when scheduled.

5. DEIS Availability

It is estmated that the DEIS will be available to the public for review and comment in the spring of 1989.

Date: August 12, 1988.

J.J. Thomas,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 88–19598 Filed 8–29–88; 8:45 am]

BILLING CODE 3710–EN–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before September 29, 1988.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invities public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: August 25, 1988.

Carlos U. Rice,

Director for Office of Informotion Resources Monogement.

Office of Education Research and Improvement

Type of Review: New
Title: Survey on the Use of Research and Development Resources—Fast Response Survey System
Affected Public: State or local governments
Frequency: One time only
Reporting Burden:
Responses: 1,000
Burden Hours: 500
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: This survey will obtain information from school district concerning their use of research and development resource funded by the Department. The survey will provide information that will assist the Department's decisionmaking about the structure and types of serivces to be offered through the regional

educational laboratory program in the future.

Office of Postsecondary Education

Type of Review: Revison
Title: Student Aid Report
Affected Public: Individuals or households; businesses or other for-profit; non-profit institutions
Frequency: Annually
Reporting Burden:
Responses: 12,368,066
Burden Hours: 2,021,655
Recordkeeping:
Recordkeepers: 6,000
Burden Hours: 438,387
Abstract: The Student Aid Report (SAR) is used to notify applicants of their eligibility to receive Federal financial aid. The form is submitted by eligible students to the participating institution of their choice. The institution submits Part 3 of the SAR to the Department to receive funds for the applicant.

Office of Postsecondary Education

Type of Review: Extension
Title: Request for Collection Assistance under Federal Insured Student Loan Program
Affected Public: State or local governments; businesses or other for-profit; non-profit institutions
Frequency: On occasion
Reporting Burden:
Responses: 3,000
Burden Hours: 990
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: Lending institutions submit this form to request assistance in obtaining accurate addresses of borrowers under the Federal Insured Student Loan Program. The Department uses this information to obtain the borrower's current address in order for the lender to resume collection activity on the loan.

Office of Postsecondary Education

Type of Review: Extension
Title: Lender's Manifest for Federally Insured Loans
Affected Public: Businesses or other for-profit
Frequency: On occasion
Reporting Burden:
Responses: 27,000
Burden Hours: 5,400
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: Lenders report the conversion of a loan to repayment and loans paid in full to the Department. Department uses the information to tract the status of loans under the Federal Insured Student Loan Program.

Office of Vocational and Adult Education

Type of Review: Revision
Title: State Plan for Adult Education
Affected Public: State or local governments
Frequency: Quadrennially
Reporting Burden:
Responses: 54
Burden Hours: 11,880
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: State educational agencies submit State plans to receive Federal funds for adult education programs. The Department uses the information to determine grant eligibility and to ensure compliance with the Adult Education Act, as amended.

Office of Postsecondary Education

Type of Review: Reinstatement
Title: Application for Federal Assistance for the Strengthening Institutions Program
Agency Form Number: ED 851a
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 365
Burden Hours: 9,855
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by institutions of higher education to apply for grants under the Strengthening Institutions Program. The Department uses this information to make grant awards to those institutions that are eligible.

Office of Postsecondary Education

Type of Review: New Collection
Title: Christa McAuliffe Fellowship Program Performance Report
Agency Form Number: NA
Frequency: Annually
Affected Public: Individuals
Reporting Burden:
Responses: 115
Burden Hours: 345
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: The Department uses this information to determine that the Fellowship carried out the activities described in the approved application and met the service requirement of the Fellowship.

Office of Educational Research and Improvement

Type of Review: New
Title: Survey on Private School Early Estimates—Fast Response Survey System
Affected Public: Businesses or for-profit; non-profit institutions
Frequency: One time only
Reporting Burden:
Responses: 1,000
Burden Hours: 500
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: This survey will obtain from a sample of private schools early estimates of key statistics that will be comparable to the Common Core of Data early estimates of public schools. The Department will use the data to develop a descriptive profile of users and providers in the American educational system.

[FR Doc. 88-19679 Filed 8-29-88; 8:45 am]
BILLING CODE 4000-01-M

Meetings: Education Intergovernmental Advisory Council

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the Intergovernmental Advisory Council on Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: September 20, 1988; 9:30 a.m.–4:00 p.m.

ADDRESS: Department of Education, Room 4003, 400 Maryland Avenue, SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Gwen A. Anderson, Executive Director, Intergovernmental Advisory Council on Education, Room 3036, 400 Maryland Avenue, SW., Washington, DC, 20202–7576, 732–3844.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education was established under section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council was established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The meeting of the Executive Committee is open to the public. The proposed agenda includes:

Old Business

—Discussion of FY 1988 Conference Report
—Other Old Business
New Business
—Discussion of FY 1989 Conference Report
—Other New Business

Records are kept of all Council proceedings, and are available for public inspection at the Office of the Intergovernmental Advisory Council on Education, Room 3036, 400 Maryland Avenue, SW., Washington, DC, 20202–7576, from the hours of 9:00 a.m. to 5:00 p.m.

Dated: August 24, 1988.

Michelle Easton,

Acting Deputy Under Secretary of Intergovernmental and Interagency Affairs.

[FR Doc. 88–19583 Filed 8–29–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Finding of No Significant Impact; Transuranic Waste Management Activities at the Savannah River Plant, Aiken, SC

AGENCY: Department of Energy.

ACTION: Finding of No Significant Impact.

SUMMARY: The Department of Energy (DOE) has prepared an environmental assessment (EA), DOE/EA–0315, for transuranic (TRU) waste management activities at DOE's Savannah River Plant (SRP), including the construction and operation of a new TRU Waste Processing Facility. Based on the analyses in the EA, DOE has determined that the proposed action is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act (NEPA) of 1969. Therefore, the preparation of an environmental impact statement is not required and the Department is issuing this Finding of No Significant Impact (FONSI).

Copies of the EA are available from: Mr. Stephen Wright, Director, Environmental Division, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29801, (803) 725–3957.

FOR FURTHER INFORMATION CONTACT: Carol Borgstrom, Director, Office of NEPA, Project Assistance, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600

Proposed Action: The proposed action involves: (1) Retrieval of stored TRU waste; (2) construction and operation of the TRU Waste Processing Facility (TMF) to process, if necessary, the SRP retrievably-stored and newly-generated waste; and (3) repackaging, certification and shipment of SRP TRU waste to the Waste Isolation Pilot (WIPP), near Carlsbad, New Mexico. The WIPP is a DOE research and development facility designed to demonstrate the safe and environmentally acceptable disposal of radioactive waste from national defense programs. After a five year demonstration phase of operations, scheduled to begin in late 1988, a decision will be made on conversion of the WIPP to a permanent repository for TRU waste.

The proposed action for the SRP TRU waste is consistent with the objectives stated in the "Final Environmental Impact Statement, Waste Isolation Pilot Plant" (DOE/EIS–0026), and will enable SRP to eliminate interim TRU waste storage and the risk of groundwater contamination or air emissions resulting from storage container failure.

TRU waste is radioactive waste from the production of nuclear materials which is contaminated with more than 100 nCl of transuranium elements per gram of waste. SRP TRU waste includes hazardous waste components, such as used oils, which are classified as mixed wastes and are subject to the requirements of the Resource Conservation and Recovery Act (RCRA). SRP will comply with RCRA requirements for mixed waste treatment, storage, and shipping. Compliance with RCRA requirements will not affect the environmental impacts of the management of stored and retrievable TRU waste at SRP.

Proposed TRU waste retrieval activities at SRP will use earthmoving equipment to remove the top three feet of the four-foot soil cover over burial ground storage pads. The remaining soil will be removed with a remotely operated High Efficiency Particulate Air-filtered soil vacuum. Shielded lifting canisters will be used where possible to lift the waste containers from the pads and into shipping casks for transportation to the new processing facility.

The TWF will be located near the center of the SRP plant site in a chemical separations area which is near SRP burial grounds containing TRU waste. The new facility will process newly-generated and stored TRU waste as necessary to meet WIPP criteria. It is designed to vent, purge, x-ray, and assay the waste storage containers. It will reduce the size of large waste and solidify liquids as necessary. It will then repackage the waste to meet WIPP waste acceptance criteria requirements for shipment and emplacement is the WIPP. TRU waste will be reclassified in an existing SRP waste certification facility (WCF) as either WIPP-certified waste or low-level waste. WIPP-certified waste will be shipped to WIPP and low-level waste will be disposed onsite in accordance with the requirements pertaining to disposal of low-level radioactive waste.

As of December 1987, SRP had approximately 370,000 cubic feet of TRU waste, 56% (207,000 cubic feet) of which is in interim storage. TRU waste which is retrievably stored is in galvanized steel drums on concrete pads or contained in concrete and steel boxes, concrete culverts and galvanized steel drums buried in shallow trenches. The remaining SRP TRU waste is buried as non-retrievable waste. The waste is not currently scheduled to be shipped to WIPP. Management of the nonretrievable TRU waste is not within the scope of the current proposed action but was evaluated in a separate SRP NEPA evaluation, "Final Environmental Impact Statement, Waste Management Activities for Groundwater Protection", (DOE/EIS–0120).

Some newly-generated waste which meets WIPP requirements without processing will be certified in the WCF and is scheduled to be shipped to WIPP starting in 1989. Shipment to WIPP of TRU waste which is retrieved from interim storage is scheduled to begin in 1995. Drums of TRU waste certified to meet WIPP criteria will be transported from SRP to WIPP in double-walled containers referred to as TRUPACTs (Transuranic Package Transporters) which incorporate a double-walled design to protect the cargo against collision, puncture, and fire in case of accident. The TRUPACT design will be certified by the Nuclear Regulatory Commission and will meet the requirements of DOE Order 5480.3 "Safety Requirements for the Packaging and Transportation of Hazardous Materials, Hazardous Substances and Hazardous Wastes."

Distances for shipments to WIPP were estimated using an Oak Ridge National Laboratory highway routing model. Potential routings maximized the use of interstate highways from SRP to the New Mexico area within New Mexico to the WIPP facilities near Carlsbad. Potential rail routings were taken from a DOE transportation assessment and guidance report, "Transuranic Waste Transportation Assessment and Guidance Report", (DOE/J1O–002, 1986).

Environmental Impacts

The potential environmental consequences of the proposed action

were analyzed for several categories of activities which included: (1) Construction of the TWF; (2) waste retrieval and processing operations; and (3) transportation of waste to WIPP. No significant impacts were determined in any category under routine or accident conditions. The results of the analysis are summarized below.

Construction: The TWF will occupy four and a half acres of previously developed land in H-Area. No new land or structures will be required for retrieval activities in SRP burial grounds. Very minor construction impacts will be experienced onsite. The peak construction work force of 28 workers will have minimal effects on area land use, housing and social services. No significant impacts are expected on ecological resources or archaeological or historical sites.

Retrieval and Processing Operations: Once operational, the new facility will employ 40 people, many already employed at SRP. Liquid wastes from TWF processing operations will be recovered to prevent the release to the environment of low-level radioactive materials. After filtering, routine radioactive airborne releases from the new facility will be extremely small and well within applicable Federal standards. Annual releases to the atmosphere are estimated to be less than 6.7E–05 Ci of plutonium 238 and/or 239. At the plant boundary, the annual maximum individual dose from such releases is projected to be 3.5 E–04 mrem, which is several orders of magnitude below the U.S. Environmental Protection Agency standard of 25 mrem/year for routine radiological releases to the atmosphere (40 CFR 61) and the DOE routine operations standard of 100 mrem/year from all potential exposure pathways (DOE Order 5480.1A). No significant offset impacts are anticipated in connection with routine waste retreval operations.

Routine operations will result in small radiation exposures to the operating personnel. The average occupational dose for routine TRU waste retrieval and processing activities was estimated as 0.22 rem/year. This rate of exposure is well below the DOE annual occupational limit of 5 rem (DOE Order 5480.1A).

The most severe credible accident (fire in a storage culvert in an SRP burial ground trench) would result in a maximum individual dose at the SRP boundary) of 4.4 rem, which is well below the DOE siting guidlines of 25 rem for routine postulated accidental releases for nonreactor nuclear facilities (DOE Order 6430.1 Chapter 1).

Transportation Impacts: For truck and rail shipments of TRU wastes from SRP to WIPP the truck drivers, train crew and population along the route are potentially exposed to low levels of radiation penetrating the transportation package. As previously stated, transportation of TRU waste would be conducted in NRC-licensed shipping containers designed to withstand the most severe accidents without releasing their contents. The maximum calculated does to the onsite and offsite population under routine and accident conditions is projected to be 3.9 person-rem/year (by truck), which is insignificant in comparison to a natural background exposure to the same population of 105,000 person-rem/year. The greatest risk from transportation is nonradiological resulting from trauma associated with vehicle collisions/accidents. However, as an added precaution against radiological risk, overall emergency response plans and procedures are being developed by the Department to address WIPP related transportation accidents.

Alternatives Considered

In the EA, DOE considered the following alternatives to the proposed action of retrieving stored TRU waste and constructing the new processing facility at SRP for shipment of SRP TRU waste to WIPP: no action, periodic container overpacking, onsite disposal, and shipment of unprocessed waste to WIPP.

The no action alternative was determined to be unacceptable because storage containers will deteriorate over time, increasing the potential for container failure and contamination of the environment. The container overpack alternative was determined to be undesirable because TRU waste processing and disposal would be postponed until a later date, increasing the potential for container failure and environmental contamination. In addition, neither of these alternatives would provide for the permanent disposal of TRU waste.

Studies have not been conducted at SRP specifically to determine the technical feasibility of disposing of TRU wastes onsite. Although it is believed that TRU wastes could be disposed in properly engineered concrete vaults onsite, no studies are planned to investigate their onsite disposal because DOE believes that offsite geologic disposal of SRP TRU wastes is environmentally preferable to near surface disposal at SRP. The alternative of transporting unprocessed waste to WIPP was not selected because this waste would not meet WIPP acceptance criteria, thus requiring it to be shipped to an existing processing facility at the Idaho National Engineering Laboratory for final processing before shipment to WIPP. This alternative would result in tripling shipping distances, with corresponding increases in environmental and accidental risk and costs.

Determination:

The proposed TRU waste retrieval and processing activities at SRP, including the proposed TRU waste processing facility, and the subsequent transportation of TRU wastes to WIPP, do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act. This finding is based on the analyses in the EA. Therefore, an Environmental impact Statement for the proposed action is not required.

Issued at Washington, DC, this 24th day of August, 1988.

Ernest C. Baynard III,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 88–19711 Filed 8–29–88; 8:45 am]

BILLING CODE 6450–01–M

Office of Civilian Radioactive Waste Management

Start of the Public Comment Period for the Initial Version of the Dry Cask Storage Study

AGENCY: Office of Civilian Radioactive Waste Management; Energy.

ACTION: Notice of public comment period.

SUMMARY: In accordance with the requirements of section 5064 of the Nuclear Waste Policy Amendments Act of 1987 (Pub. L. 100–203), the Department of Energy's (DOE) Office of Civilian Radioactive Waste Management (OCRWM) has prepared an initial version of a report on the study and evaluation of the use of dry cask storage (and other technologies currently being considered) at reactor sites to meet the utility industry's spent nuclear fuel storage needs through the start of operation of a permanent geologic repository (year 2003). As announced in the April 26, 1988 **Federal Register**, the OCRWM, as part of this study, is soliciting the views of State and local governments and the public on this initial version of the report. The public comment period will close on October 28, 1988.

Comments received after that time will be considered to the extent possible. Those interested in receiving a copy of the report or submitting comments should write to the DOE contact listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Head, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, RW–322, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

SUPPLEMENTARY INFORMATION: This notice is intended to facilitate the participation of State and local governments and the public by informing them of the study and its objectives, and notifying them that the initial version of the report is available for their review and comment. On April 26, 1988, a notice was posted in the Federal Register announcing the DOE's intent to release this initial version and requesting that those interested in commenting on the report submit a request for a copy to the DOE.

The initial version of the report is now available, and those who responded to the April 26 notice will automatically receive a copy. Others interested in receiving a copy or submitting comments should write to the DOE contact listed above. The public comment period will close on October 28, 1988.

After reviewing the comments received, the Department will make appropriate modifications to the report before it is submitted to the Congress. Comments received before or during the public comment period will be included in a comment appendix to the report and, if time permits, a summary of comments may be included in the body of the report.

The report is a study and evaluation of the use of dry cask storage (and other technologies currently being considered) at reactor sites to meet the utility industry's spent nuclear fuel storage needs through the start of operation of a permanent geologic repository (year 2003). Consistent with the guidance from the Congress, the objectives of the study are:

1. To consider the costs of dry cask storage technology, the extent to which dry cask storage at reactor sites will affect human health and the environment, the extent to which storage at reactor sites affects the cost and risk of transporting spent nuclear fuel to a central facility such as a monitored retrievable storage facility, and any other factors that are considered appropriate.

2. To consider the extent to which amounts in the Nuclear Waste Fund can be used, and should be used, to provide funds to construct, operate, maintain, and safeguard spent nuclear fuel in dry cask storage at reactor sites.

3. To consult with the Nuclear Regulatory Commission and include its views in the report.

4. To solicit the views of State and local governments and the public.

Issued in Washington, DC August 22, 1988.

Charles E. Kay,

Acting Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 88–19712 Filed 8–29–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER88–380–000 et al.]

Minnesota Power & Light Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Minnesota Power & Light Company

[Docket No. ER88–380–000]

August 24, 1988.

Take notice that on July 18, 1988, Minnesota Power & Light Company tendered for filing, pursuant to a Deficiency Letter dated June 16, 1988, a compliance filing with revised Interchange Service Agreement amendments which contain appropriate modifications.

Comment date: September 8, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER88–219–000]

August 24, 1988.

Take notice that on July 11, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing a bridge agreement with Turlock Irrigation District (Turlock) for the period of April 1, 1988, through June 30, 1988. PG&E states that is complying with FERC's stated desire to have on file agreements between PG&E and its wholesale customers.

Comment date: September 1, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Boston Edison Company

[Docket Nos. ER84–705–000 and ER87–581–000]

August 24, 1988.

Take notice that on August 12, 1988, Boston Edison Company (Company) tendered for filing a revision to its Rate S–8/Step C and costs of service studies filed on June 24, 1988. The Company states that it did not reduce the calculation of rate base to reflect the partial deductibility of decommissioning expense as provided for by the Deficit Reduction Act of 1984. The adjustment of the rate base calculation has required the Company to correct the following portions of its June 24 filing:

Enclosure A: Narrative, page 1.
Enclosures B, E and G: Statement BG, Demand Rate and Energy Rate.
Enclsoures C, F and H: Statement AF–1 (not included in the 6/24/88 filing); Statements BK, BK–1 and BK–2; Statement BK–R, Schedules 1, 2, 6, 9, 14 and 18.
Enclosure D: Tariffs, page 1.
Enclosure J: Workpapers 2, 4 and 5; workpaper 6 (new).

Comment date: September 6, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Cogen Technologies, Inc.

[Docket No. QF88–485–000]

August 25, 1988.

On August 9, 1988, Cogen Technologies, Inc. (Applicant), of 1600 Smith Street, Suite 5000, Houston, Texas 77002, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Everett, Massachusetts. The facility will consist of a combustion turbine generating unit, a heat recovery steam generator, and an extraction/condensing steam turbine generating unit. Process steam produced by the facility will be sold to Monsanto Petrochemical complex for its use in various process requirements. The primary energy source will be natural gas. The net electric power production capacity of the facility will be 52.65 MW. Installation of the facility will begin in March 1990.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

5. Lederle Laboratories

[Docket No. QF88–459–000]

August 25, 1988.

On August 8, 1988, Lederle Laboratories (Applicant), of Middletown Road, Pearl River, New York 10965, submitted for filing an application for certification of a facility as a qualifying

cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Pearl River, New York. The facility will consist of two combustion turbine generating units and two heat recovery steam generators equippped with supplementary firing duct burners. Steam produced by the facility will be used for manufacturing processes, space heating and cooling. The primary energy source will be natural gas. The net electric power production capacity of the facility will be 16.6 MW. Installation of the facility was expected to begin in the second quarter of 1988.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

6. Harold A. Wentworth, Jr.

[Docket No. ID–2372–000]

August 26, 1988.

Take notice that on August 15, 1988, Harold A. Wentworth, Jr. tendered for filing an application for authorization under section 305(b) of the Federal Power Act and Part 45 of the Regulations of the Federal Energy Regulatory Commission to hold the following interlocking positions:

Position and Corporation

Vice President—Electric Operations; Louisville Gas and Electric Company.
Vice President—Electric Operations; Ohio Valley Transmission Corporation.

Comment date: September 12, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Idaho Power Company

[Docket No. ER88–571–000]

August 26, 1988.

Take notice that on August 19, 1988, Idaho Power Company (Idaho Power) tendered for filing the Average System Cost (ASC) determined by the Bonneville Power Administration (BPA), BPA's written ASC report, and Idaho Power's ASC schedules (Appendix 1) for Idaho Power's Idaho exchange jurisdiction. Idaho Power also submitted its agreement with and/or objections to BPA's Average System Cost determination.

The ASC rates filed have been determined pursuant to the Revised Average System Cost Methodology approved by the Commission in its Order No. 400 issued October 1, 1984 in Docket No. RM84–16–000, and section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 830–839h). This act provides for the exchange of electric power between Idaho Power and BPA for the benefit of Idaho Power's residential and farm customers.

A copy of the filing has been served upon BPA and all parties to Idaho Power's Appendix 1 filing with BPA.

Comment date: September 12, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas City Power & Light Company

[Docket No. ER88–572–000]

August 26, 1988.

Take notice than on August 22, 1988, Kansas City Power & Light Company (KCPL) tendered for filing an Amendatory Agreement No. 1 to Wholesale Firm Power Contract, between KCPL and Missouri Public Service Company dated August 17, 1988. KCPL states that the Amendatory Agreement provides for an extension of the contract term and modified rate design for firm power service.

KCPL requests an effective date of the date of filing, and therefore requests waiver of the Commission's notice requirements.

Comment date: September 12, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 or the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–19620 Filed 8–29–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP88–682–000, et al.]

Trunkline Gas Co. et al.; Natural gas certificate filings

August 23, 1988.

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP88–682–000]

Take notice that on August 15, 1988, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP88–682–000 a prior notice request pursuant to Sections 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas on a firm basis on behalf of National Steel Corporation (National), an end-user, under its blanket certificate issued in Docket No. CP86–586–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Trunkline states that it proposes to transport up to 18,000 Dt of natural gas per day on a firm basis on behalf of National pursuant to a gas transportation agreement dated July 1, 1988, (Agreement). The Agreement provides for Trunkline to transport the gas from various points of receipt on its system in Illinois, Louisiana, offshore Louisiana, Tennessee and Texas and redeliver the gas, less fuel use and unaccounted for line loss, to Panhandle Eastern Piper Line Company (Panhandle) in Douglas County, Illinois for transportation to National.

Trunkline further states that the estimated daily and estimated annual quantities to be transported would be 18,000 Dt and 6,570,000 Dt, respectively. Trunkline asserted that service under § 284.223(a) commenced on July 1, 1988, as reported in Docket No. ST88–4730.

Comment date: October 7, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP88–681–000]

Take notice that on August 15, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP88–681–000 a prior notice request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas on a firm basis on behalf of National Steel Corporation (National), an end-user, under its blanket certificate issued in Docket No. CP86–585–000, all as more fully set forth in the request which is on

file with the Commission and open to public inspection.

Panhandle states that it proposes to transport up to 18,000 Dt of natural gas per day on a firm basis on behalf of National pursuant to a gas transportation agreement dated July 1, 1988, (Agreement). The Agreement provides for Panhandle to receive the gas from Trunkline Gas Company (Trunkline), in Douglas County, Illinois and redeliver the gas, less fuel use and unaccounted for line loss, to Michigan Consolidated Gas Company and National, in Wayne County, Michigan.

Panhandle further states that the estimated daily and estimated annual quantities of gas to be transported would be 18,000 Dt and 6,570,000 Dt, respectively. Panhandle asserted that service under § 284.223(a) commenced on July 1, 1988, as reported in Docket No. ST88-4720.

Comment date: October 7, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Panhandle Eastern Pipe Line Company

[Docket No. CP88-674-000]

Take notice that on August 12, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251, filed in Docket No. CP88-674-000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to partially abandon sales service to certain existing jurisdictional sales customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle proposes to partially abandon sales service to seven sales customers: Great River Gas Company (Great River), Michigan Gas Utilities (MGU), Citizens Gas Fuel Company (Citizens), Battle Creek Gas Company (Battle Creek), Northern Indiana Fuel and Light Company, Inc. (NIFL), Southeastern Michigan Gas Company (SEMCO), and Ohio Gas Company (Ohio Gas). Panhandle states that the seven sales customers have elected under § 284.10 of the Commission's regulations to convert a portion of its daily Contract Demand (CD) to firm transportation effective as of April 1, 1988. Panhandle explains that the firm transportation would be rendered under the terms and conditions of its Rate Schedule PT. Accordingly, Panhandle proposes to reduce the seven customers' current daily sales contract quantity as follows, to be effective April 1, 1988.

Customer	Monthly CD (Mcf/d) reduction
Great River	1,049
MGU	3,004
Citizens	1,214
Battle Creek	3,430
NIFL	1,432
SEMCO	3,933
Ohio Gas	3,947

Comment date: September 13, 1988, in accordance with 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, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed wihtin the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-19621 Filed 8-29-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3437-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management (OMB) for review and are available to the public for review and comments. The ICRs describe the nature of the information collection and their expected cost and burden; where appropriate, they include the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Research and Development

Title: Health Significance of Bacteria Found in Point-of-Entry Granular Activated Filters. (EPA ICR 1473).

Abstract: The study will provide guidelines for the certification of filter devices used in household potable water lines at point-of-entry. Volunteer respondents will be asked to complete a monthly personal health diary to provide information needed in assessing whether these filters will change the frequency of respiratory illness within the sample population.

Burden Statement: The estimated public reporting burden for this collection of information is 5.2 hours per respondent per year. This estimate includes an initial telephone interview, completing a home identification

questionnaire, and maintaining a monthly health diary.

Respondents: Households

Estimated No. of Respondents: 160

Estimated Total Annual Burden on Respondents: 287 hours

Frequency of Collection: 13 responses per year

Office of Solid Waste and Emergency Response—Region 5

Title: Gray Iron Foundry Waste Management Information. (EPA ICR 1484).

Abstract: This collection is designed to identify gray iron foundries that have not submitted proper notification of facility generation, treatment, storage or disposal of hazardous wastes under the Resource Conservation and Recovery Act (RCRA). Foundries contacted by EPA will be required to respond by letter to question concerning their usage of hazardous materials.

Burden Statement: The estimated public reporting burden for this collection of information is 6 hours per respondent per year. This estimate includes the time to review instructions, researching existing data sources, process/compile data, and complete letter.

Respondents: Gray iron foundries operating within EPA Region 5

Estimated No. of Respondents: 254

Estimated Total Annual Burden on Respondents: 1,524 hours

Frequency of Collection: 1 time per response

Send comments regarding the burden estimates, or any other aspects of these collections of information, including suggestions for reducing the burden, to:

Carla Levesque, Environmental Protection Agency, Information Policy Branch (PM–223), 401 M St., SW., Washington, DC 20460.

and

Nicolas Garcia (ICR) 1473) and Marcus Peacock (IRC 1484), Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20503. (Telephone (202) 395–3084).

Date: August 21, 1988.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 88–19631 Filed 8–29–88; 8:45 am]

BILLING CODE 6560–50–M

[FIFRA Docket Nos. 625, et al.; (FRL–3436–6)]

Pesticide Products Containing Inorganic Arsenicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Objections and Requests for Hearing.

Notice is hereby given, pursuant to § 164.8 of the Rules of Practice, 40 CFR 164.8, promulgated under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.*, that certain registrants have filed objections to and have requested a hearing on the Administrator's notice of intent to cancel the registrations for pesticide products containing inorganic arsenicals registered for non-wood preservative use publish in the Federal Register on June 30, 1988, 53 FR 24787. These proceedings have been consolidated for hearing by order of the Chief Administrative Law Judge dated August 24, 1988.

For information concerning the issues involved and other details of these proceedings, interested persons are referred to the dockets of these proceedings on file with the Hearing Clerk, Environmental Protection Agency, (Mail Code A–110); Room 3708, Waterside Mall, 401 M Street, SW., Washington, DC 20460. (202–382–4865).

Dated: August 24, 1988.

Gerald Harwood,

Chief Administrative Law Judge.

[FR Doc. 88–19632 Filed 8–29–88; 8:45 am]

BILLING CODE 6560–50–M

[OW–FRL–3436–8]

Water Quality Criteria; Request for Comments

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Ambient Water Quality Criteria Document.

SUMMARY: EPA announces the availability and provides a summary of the final ambient water quality criteria document for aluminum. These criteria are published pursuant to section 304(a)(1) of the Clean Water Act. These water quality criteria may form the basis for enforceable standards.

Availability of Document:

This notice contains a summary of the final aluminum criteria document containing final ambient water quality criteria for the protection of aquatic organisms and their uses. Copies of the complete criteria document may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (phone number ((703) 487–4650). The NTIS publication order number for the document is published below. This document is also available for public inspection and copying during normal business hours at the Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M Street SW., Washington, DC 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. Copies of the document are not available from the EPA office listed below. Requests sent to that office will be forwarded to NTIS or returned to the sender.

1. Ambient Water Quality Criteria for Aluminum—EPA 440/5–86–008; NTIS Number PB.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Criteria and Standards Division (WH–585), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475–7321.

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 the 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.

EPA issued nine individual water quality criteria documents on July 29, 1985 (50 FR 30784) which updated or revised criteria previously published in the "Red Book" or in the 1980 water quality criteria documents. A revised version of the "National Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" was announced at the same time. A bacteriological ambient water quality criteria document was published on

March 7, 1986 (51 FR 8012). A water quality criteria document for dissolved oxygen was published on June 24, 1986 (51 FR 22978). All of the publications cited above were summarized in "Quality Criteria for Water, 1986 which was released by the Office of Water Regulations and Standards on May 1, 1986. Final water quality criteria documents for chlorpyrifos, nickel, pentachlorophenol, parathion, and toxaphene were issued by EPA on December 3, 1986 (51 FR 43665). A final criteria document for zinc was issued on March 2, 1987 (52 FR 6213). A final criteria document for selenium was issued on January 5, 1988 (53 FR 177). A final criteria document for chlorides was issued on May 26, 1988 (53 FR 19028).

Today EPA is announcing the availability of a final water quality criteria document for aluminum. A draft criteria document for aluminum was made available for public comment on March 11, 1986 (51 FR 8361). These final criteria have been derived after consideration of all comments received and after analysis of additional toxicity data which EPA received after the draft document was published. Inclusion of the additional toxicity data resulted in a lowering of the criteria recommended in the draft document. The new toxicity studies utilized by EPA in deriving the final aluminum criteria are specifically cited in the criteria document. The Agency invites comment on these studies. The Aluminum Association has commented that the toxicity of aluminum may be affected by a number of site-specific factors such as pH, hardness and the presence of organic material in the water, and they are considering a research program which focuses on these relationships. If data on these factors become available, the States may choose to consider them, along with any site specific or other new data that may become available, in setting State water quality standards. Those data as well as any other information which might be useful, will also be evaluated for any future revision of the aluminum criteria.

Dated: August 3, 1988.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

Appendix A—Summary of Water Quality Criteria for Aluminum National Criteria

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably, when the pH is between 6.5 and 9.0, if the four-day average concentration of aluminum does not exceed 87 μg/L more than once every three years on the average and if the one-hour average concentration does not exceed 750 μg/L more than once every three years on the average.

Implementation

Because of the variety of forms of aluminum in ambient water and the lack of definitive information about their relative toxicities to freshwater species no available analytical measurement is known to be ideal for expressing aquatic life criteria for aluminum. Previous aquatic life criteria for metals and metalloids were expressed in terms of the total recoverable measurement but newer criteria for metals and metalloids have been expressed in terms of the acid-soluble measurement. Acid-soluble aluminum (operationally defined as the aluminum that passes through a 0.45 um membrane filter after the sample has been acidified to a pH between 1.5 and 2.0 with nitric acid) is probably the best measurement at the present for the following reasons:

1. This measurement is compatible with nearly all available data concerning toxicity of aluminum to, and bioaccumulation of aluminum by, aquatic organisms. It is expected that the results of tests used in the derivation of the criteria would not have changed substantially if they had been reported in terms of acid soluble aluminum.

2. On samples of ambient water, measurements of acid soluble aluminum will probably measure all forms of aluminum that are toxic to aquatic life or can be readily converted to toxic forms under natural conditions. In addition, this measurement probably will not measure several forms, such as aluminum that is occluded in minerals, clays, and sand or is strongly sorbed to particulate matter, that are not toxic and are not likely to become toxic under natural conditions. Although this measurement (and many others) will measure soluble complexed forms of aluminum, such as the EDTA complex of aluminum, that probably have low toxicities to aquatic life, concentrations of these forms probably are negligible in most ambient water.

3. Although water quality criteria apply to ambient water the measurement used to express criteria is likely to be used to measure aluminum in aqueous effluents. Measurement of acid-soluble aluminum is expected to be applicable to effluents because it will measure precipitates, such as carbonate and hydroxide precipitates of aluminum, that might exist in an effluent and dissolve whan the effluent is diluted with receiving water. If desired, dilution of effluent with receiving water before measurement of acid-soluble aluminum might be used to determine whether the reviewing water can decrease the concentration of acid soluble aluminum because of sorption.

4. The acid-soluble measurement is expected to be useful for most metals and metalloids, thus minimizing the number of samples and procedures that are necessary.

5. The acid-soluble measurement does not require filtration of the sample at the time of collection, as does the dissolved measurement.

6. The only treatment required at the time of collection is preservation by acidification to a pH between 1.5 and 2.0, similar to that required for the total recoverable measurement.

7. Ambient waters have much higher buffer intensities at a pH between 1.5 and 2.0 than they do at a pH between 4 and 9.

8. Durations of 10 minutes to 24 hours between acidification and filtration of most samples of ambient water probably will not affect the result substantially.

9. Differences in pH within the range of 1.5 and 2.0 probably will not affect the result substantially.

10. The acid-soluble measurement does not require a digestion step, as does the total recoverable measurement.

11. After acidification and filtration of the sample to isolate the acid-soluble aluminum, the analysis can be performed using either atomic absorption spectrophotometric or ICP-atomic emmission spectrometric analysis, as with the total recoverable measurement.

Thus, expressing aquatic life criteria for aluminum in terms of the acid-soluble measurement has both toxicological and practical advantages. The U.S. EPA is considering development and approval of an analytical method such as acid-soluble.

The 0.45 μm membrane filter is the usual basis for an operational definition of "dissolved", at least in part because filters with smaller holes often clog rapidly when natural water samples are filtered. Some particulate and colloidal material, however, passes through a 0.45 μm filter. The intent of the acid-soluble measurement is to measure the concentrations of metals and metalloids that are in true solution in a sample that has been appropriately acidified. Therefore, material that does not pass through a filter with smaller holes, such as a 0.1 μm membrane filter, should not

be considered acid-soluble even if it passes through a 0.45 μm membrane filter. Optional filtration of appropriately filtered water samples should be considered whenever the concentration of aluminum that passes through a 0.45 μm membrane filter in an acidifed water sample exceeds a limit specified in terms of acid-soluble aluminum.

Metals and metalloids might be measured using the total recoverable method. This would have two major impacts because this method includes a digestion procedure. First, certain species of some metals and metalloids cannot be measured because the total recoverable method cannot distinguish between individual oxidation states. Second, in some cases these criteria would be overly protective when based on the total recoverable method because the digestion procedure will dissolve aluminum that is not toxic and cannot be converted to a toxic form under natural conditions. This could be a major problem in ambient waters that contain suspended clay. Because no measurement is known to be ideal for expressing aquatic life criteria for aluminum or for measuring aluminum in ambient water or aqueous effluents, measurement of both acid-soluble aluminum and total recoverable aluminum in ambient water or effluent or both might be useful. For example, there might be cause for concern if total recoverable aluminum is much above an applicable limit, even though acid soluble aluminum is below the limit.

In addition, metals and metalloids might be measured using the dissolved method, but this would also have several impacts. First, in many toxicity tests on aluminum the test organisms were exposed to both dissolved and undissolved aluminum. If only the dissolved aluminum had been measured, the acute and chronic values would be lower than if acid-soluble or total recoverable aluminum had been measured. Therefore, water quality criteria expressed as dissolved aluminum would be lower than criteria expressed as acid-soluble or total recoverable aluminum. Second, not enough data are available concerning the toxicity of dissolved aluminum to allow derivation of a criterion based on dissolved aluminum. Third, whatever analytical method is specified for measuring aluminum in ambient surface water will probably also be used to monitor effluents. If effluents are monitored by measuring only the dissolved metals and metalloids, carbonate and hydroxide precipitates of metals would not be measured. Such precipitates might dissolve due to dilution or change in pH or both when the effluent is mixed with receiving water. Fourth, measurement of dissolved aluminum requires filtration of the sample at the time of collection. For these reasons, it is recommended that aquatic life criteria for aluminum not be expressed as dissolved aluminum.

As discussed in the Water Quality Standards Regulation and the Foreword to this document, a water quality criterion for aquatic life has regulatory impact if it has been adopted in a State water quality standard. Such a standard specifies a criterion for a pollutant that is consistent with a particular designated use. With the concurrence of the U.S. EPA, States designate one or more uses for each body of water or segment thereof and adopt criteria that are consistent with the use(s). In each standard a State may adopt the national criterion, if one exists, or, if adequately justified, a site specific criterion.

Site-specific criteria may include not only site-specific criterion concentrations but also site-specific, and possibly pollutant-specific, durations of averaging periods and frequencies of allowed excursions. The averaging periods of "one hour" and "four days" were selected by the U.S. EPA on the basis of data concerning how rapidly some aquatic species react to increases in the concentrations of some pollutants, and "three years" is the Agency's best scientific judgment of the average amount of time aquatic ecosystems should be provided between excursions. However, various species and ecosystems react and recover at greatly differing rates. Therefore, if adequate justification is provided, site-specific and/or pollutant specific concentrations, durations, and frequencies may be higher or lower than those given in national water quality criteria for aquatic life.

Use of criteria, which have been adopted in State water quality standards, for developing water quality based permit limits and for designing wastewater treatment facilities requires selection of an appropriate wasteload allocation model. Although dynamic models are preferred for the application of these criteria, limited data or other considerations might require the use of a steady state model. Guidance on mixing zones and the design of monitoring programs is also available.

[FR Doc. 88-19633 Filed 8-29-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Requirement Approval by Office of Management and Budget

August 24, 1988.

The following information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0025

Title: Application for Restricted Radiotelephone Operator Permit—Limited Use

Form No.: FCC 755

A revised application form has been approved through 7/31/91.

The October 1985 edition with a previous expiration date of 7/31/88 will remain in use until revised forms are available.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-19607 Filed 8-29-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-002605-004.

Title: Port of Oakland Terminal Agreement.

Parties: Port of Oakland, American President Lines, Ltd. (APL).

Synopsis: The agreement amends the basic agreement to provide for the filing with the Commission of further

amendments if APL exercises any option to renew the term of the agreement provided in Agreement No. 224–002605–003.

Agreement No.: 224–002758–007.

Title: Port of Oakland Terminal Agreement.

Parties: Port of Oakland, American President Lines, Ltd. (APL).

Synopsis: The agreement amends the basic agreement to provide for the filing with the Commission of further amendments if APL exercises any option to renew the term of the agreement provided in Agreement No. 224–002758–006.

Agreement No.: 224–002758C–003.

Title: Port of Oakland Terminal Agreement.

Parties: Port of Oakland, American President Lines, Ltd. (APL).

Synopsis: The agreement amends the basic agreement to provide for the filing with the Commission of further amendments if APL exercises any option to renew the term of the agreement provided in Agreement No. 224–002758C–002.

Agreement No.: 224–200148.

Title: Virgin Islands Port Authority Lease Agreement.

Parties: Virgin Islands Port Authority (Port), Tropical Shipping and Construction Co., Ltd.

Synopsis: The agreement revises and consolidates the various rental agreements presently existing between the Port and Tropical with respect to a certain parcel of land and warehouse located in Third Port Facility, St. Croix, Virgin Islands into a single lease agreement with provisions to extend the duration of the terms of the consolidated holdings.

By Order of the Federal Maritime Commission.

Dated: August 25, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–19656 Filed 8–29–88; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 16 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–009968–020

Title: Inter-American Freight Conference Puerto Rico and U.S. Virgin Islands Area

Parties: A. Bottacchi S.A. de Navegacion C.F.I. e I. A/S Ivarans Rederi, Companhia Martima Nacional, Companhia de Navegacao Lloyd Brasileiro, Empresa Lineas Maritimas Argentinas Sociedad Anonima (Elma S/A), Empresa de Navegacao Alianca S.A., Frota Amazonica S.A., Paxicon Line, Suriname Line, Transportacion Maritima Mexicana S.A.

Synopsis: The proposed modification would conform the agreement to the Commission's requirements concerning Docket No. 86–16, service contract provisions.

Agreement No.: 202–010776–034

Title: Asia North America Eastbound Rate Agreement

Parties: American President Lines, Ltd., Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd., Japan Line, Ltd., Neptune Orient Lines, Ltd., Nippon Yusen Kaisha Line, Orient Overseas Container Lines, Inc., Sea-Land Service, Inc., Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed modification would further clarify the provisions applicable to service contracts.

Agreement No.: 212–010286–015

Title: South Europe/U.S.A. Pool Agreement

Parties: Compania Trasatlantica Espanola, S.A., Costa Container Lines, S.p.A., Evergreen Marine Corporation, Farell Lines, Inc., "Italia" di Navigazione, S.p.A., Jugolinija, Lykes Lines, A. P. Moller-Maersk Line, Nedlloyd Lines, Sea-Line Service, Inc., P&O Containerss (TFL) Limited, Zim Israel Navigation Company, Ltd.

Synopsis: The proposed modification would authorize the parties to agree upon uniform contribution level(s) for commodities transported by them within the scope of the agreement.

Agreement No.: 203–011164–002

Title: U.S./Middle East Discussion Agreement

Parties: "8900" Lines, Jugolinija Line

Synopsis: The proposed modification would conform the agreement to the Commission's requirements concerning Docket No. 86–16, service contract provisions.

Agreement No.: 203–011171–001

Title: TFL/Nedlloyd/Sea-Land Agreement ("the Agreement")

Parties: P&O Containers (TFL) Limited, Nedlloyd Lijnen, B.V., Sea-Land Service, Inc.

Synopsis: The proposed modification would authorize the parties to discuss and jointly agree upon the chartering of surplus space on vessels operated under the terms of the Agreement to ocean common carriers not signatories to the Agreement. Any agreement reached with an outside party will be filed with the FMC.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: August 25, 1988.

[FR Doc. 88–19695 Filed 8–29–88; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 88–20]

Atlantis Line, Ltd. v. Australia New Zealand Direct Line; Filing of Complaint and Assignment

Notice is given that a complaint filed by Atlantis Line, Ltd. ("Atlantis") against Australia New Zealand Direct Line (a joint service of Australia New Zealand Container Line and Pacific Australia Direct Line) ("ANZL") was served August 25, 1988. Atlantis alleges that ANZL has published or participated in two tariffs applicable to the same shipments in the westbound U.S./Australia-New Zealand trade and thereby engaged in unfair and discriminatory practices and given unfair preferences to shippers other than Atlantis, all in violation of section 10 of the Shipping Act of 1984, 46 U.S.C. app. 1709.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by August 25,

1989, and the final decision of the Commission shall be issued by December 25, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 88-19696 Filed 8-29-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 080888 AND 081988

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity,	PMN Number	Date Terminated
The Clayton & Dubilier Private Equity Fund II Ltd Ptnsh, United Certrifugal Pumps, United Certrifugal Pumps	88-2068	08/08/88
Jeffrey H. Smulyan, General Electric Company, five subsidiaries	88-2118	08/08/88
Agway Inc., Robert A. Fischer, Sr., Milford Fertilizer Company	88-2145	08/08/88
Nippon Yusen Kaisha, Ltd., O.P. Adney, Jr., GST Corporation	88-2169	08/08/88
Nippon Yusen Kabushiki Kaisha, W.A. Jones, GST Corporation	88-2170	08/08/88
Theodore F. Perlman, Sysco Corporation, The HAVI Corporation	88-2204	08/08/88

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 080888 AND 081988—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity,	PMN Number	Date Terminated
Inter-Regional Financial Group, Inc., Milwaukee Financial Group, Inc., Milwaukee Financial Group, Inc.	88-2231	08/08/88
Raymond G. Perelman, General Refractories Company, General Refractories Company	88-2193	08/09/88
ML Media Partners, L.P., Jay J. O'Neal, Universal Cable Holdings, Inc	88-2200	08/09/88
Sandoz Ltd., HSP, Inc., HSP, Inc	88-1999	08/10/88
George M. Phillips, The Philp Co. Trust, The Southland Corporation	88-2112	08/10/88
Armstrong World Industries, Inc., The Bydand Corporation, Gordon's, Inc	88-2133	08/10/88
Ford Motor Company, Mariani Financial Co., a California Limited Partnership, MFCO Associates, a California General Partnership	88-2134	08/10/88
Tele-Communications Inc., Cablevision Associates VI, L.P., Cablevision Associates VI, L.P	88-2153	08/10/88
Tele-Communications, Inc., Northeastern Cable Limited Partnership, Taft Cable Partners	88-2158	08/10/88
Anacomp, Inc., Xidex Corporation, Xidex Corporation	88-2165	08/10/88
Tele-Communications, Inc., Cablevision Associates VII, a Limited Partnership, Cablevision Associates VII, a Limited Partnership	88-2221	08/10/88
Pechiney, Tempcraft, Inc., Tempcraft, Inc	88-2226	08/10/88
Alan Bond, The Bell Group Ltd., The Bell Group Ltd	88-2237	08/10/88
Dofasco Inc., Canadian Pacific Limited, The Algoma Steel Corporation, Limited	88-2127	08/11/88
Shiseido Co. Ltd., Leandro P. Rizzuto, Zotos International, Inc	88-2182	08/11/88
Health Care Property Investors, Inc., Beverly Enterprises, Inc., Beverly Enterprises, Inc	88-2195	08/11/88
Castle & Cooke, Inc., MEI Diversified Inc., Bonner Packing Company	88-2113	08/12/88
James M. Fail, Integrated Resources, Inc., Integrated Resources, Inc	88-2152	08/12/88

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 080888 AND 081988—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity,	PMN Number	Date Terminated
Martion Marietta Corporation, Gould Inc., Ocean Systems Divi of Gi—Glen Burnie, MD operations	88-2161	08/12/88
Contel Corporatin, Eaton Corporation, Data Systems Services Div. and Info. Mngmt Systems Divi	88-2183	08/12/88
American General Corporation, Pinnacle West Capital Corporation, Pinnacle West Capital Corporation	88-2184	08/12/88
Societe Nationale Elf Aquitaine, Roy M. Huffington, Huffington Petroleum Corporation	88-2199	08/12/88
H.H. Robertson Company, Star Acquisition Company, Star Acquisition Company	88-2220	08/12/88
Roadmaster Industries, Inc., Fuqua Industries, Inc., Ajay Enterprises Corporation	88-2235	08/12/88
Tele-Communications, Inc., Melia International N.V., Commonwealth Theatres, Inc	88-2246	08/12/88
NYNEX Corporation, U.S. West, Inc., U.S. West, Inc	88-2252	08/12/88
Saratoga Partners II, L.P., AMAX, Inc., Amax Zinc Company, Inc	88-2253	08/12/88
The Morgan Stanley Leveraged Equity Fund II, L.P., Cullum Companies, Inc., Cullum Companies, Inc	88-2263	08/12/88
Union Planters Corporation, UMIC Securities Corporation, UMIC Securities Corporation	88-2270	08/12/88
Nomura Securities Co., Ltd., Wasserstein, Perella & Co. Holdings, Inc., Wasserstein, Perella Group, Inc.	88-2286	08/12/88
Philip F. Anschutz, Santa Fe Southern Pacific Corporation, Southern Pacific Transportation Company	88-2291	08/12/88
Roy E. Disney and Patricia A. Disney, husband & wife, Polaroid Corporation, Polaroid Corporation	88-2168	08/15/88
Dainippon Ink and Chemicals, Incorporated, Technical Tape, Inc., Technical Tape, Inc	88-2219	08/15/88
Drexel Burnham Lambert Incorporated, Tate & Lyle, Staley Commodities International, Inc	88-2306	08/15/88

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 080888 AND 081988—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity,	PMN Number	Date Terminated
Ely S. Jacobs, Beta Partners, Tripac Holding Corp. and Triangle Pacific Corp	88-2180	08/16/88
Standard Federal Savings Bank, Ford Motor Company, First Family Mortgage Corporation	88-2212	08/16/88
Donald J. Trump, The Pillsbury Company, The Pillsbury Company	88-2227	08/16/88
Mark IV Industries, Inc., Armtek Corporation, Armtek Corporation	88-2254	08/16/88
Precision Aerotech, Inc., Bowater Industries plc, R-9 Holdings, Inc	88-2281	08/16/88
The BOC Group plc, Spectramed, Inc., Spectramed, Inc	88-2292	08/16/88
Koninklijke Wessanen N.V., John F. Weeks, Jr., Weeks Dairy Foods, Inc	88-2135	08/17/88
Silicon Valley Group, Inc., Allegheny International, Inc., Thermco Systems, Inc	88-2186	08/17/88
Household International, Inc., Great American First Savings Bank, Certain assets of GAF	88-2275	08/17/88
Parfums Nina Ricci S.A., Societe Nationale Elf Aquitaine, Parfums Nina Ricci U.S.A. Inc	88-2214	08/18/88
Dillard Paper Company, Mr. Donald G. Shields, The Mudge Paper Company	88-2215	08/18/88
Pennant Properties PLC, Bay Financial Corporation, Bay Financial Corporation	88-2233	08/18/88
Saratoga Partners II, L.P., Rolf Ostern, Viking Office Products, Inc	88-2248	08/18/88
J.B. Poindexter, Chemtech Industries, Inc., Chemtech Industries, Inc	88-2277	08/18/88
First Boston, Inc., Insilco Corporation, Insilco Corporation	88-2337	08/18/88
First Boston, Inc., Insilco Corporation, Insilco Corporation	88-2347	08/18/88
M. Lee Pearce, M.D., American Medical International, Inc., American Medical International, Inc	88-2192	08/19/88
Ralph J. Roberts, Tele-Communications, Inc., Heritage Communications, Inc	88-2205	08/19/88
Marks and Spencer p.l.c., Allen I. Bildner, King Super Markets, Inc	88-2243	08/19/88
Itel Corporation, Leaseway Transportation Corp., Leaseway Transportation Corp	88-2295	08/19/88
Westinghouse Electric Corporation, Westinghouse Electric Corporation, Aptus Partnership	88-2318	08/19/88
Hellman & Friedman Capital Partners, American President Companies, Inc., American President Companies, Inc	88-2323	08/19/88
Westinghouse Electric Corporation, T.L. Meehan, Aptus Partnership	88-2328	08/19/88
Westinghouse Electric Corporation, W.H. Hawks, Aptus Partnership	88-2329	08/19/88
First Boston, Inc., ISC Holdings Inc., ISC Holdings Inc	88-2336	08/19/88
Metropolitan Life Insurance Company, ISC Holdings Inc., ISC Holdings Inc	88-2348	08/19/88

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 88-19617 Filed 8-29-88; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meeting; Correction

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration.

ACTION: Correction notice.

SUMMARY: Public notice was given in the Federal Register on August 18, 1988, Volume 53, No. 160, on page 31396, that the Mental Health Acquired Immunodeficiency Syndrome Research Review Committee, NIMH, would meet at the Days Inn. The notice is being corrected to read as follows:

The Mental Health Acquired Immunodeficiency Syndrome Research Review Committee, NIMH, will meet at the Holiday Inn-Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852

All other information for this committee remains the same.

Date: August 25, 1988.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 88-19680 Filed 8-29-88; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 88N-0272]

Criteria for Determining the Regulatory Status of Foods and Food Ingredients Produced by New Technologies; Announcement of Study; Request for Scientific Data and Information

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Federation of American Societies for Experimental Biology (FASEB), Life Sciences Research Office, is about to begin a study of which scientific concepts and considerations are most appropriately used to determine the regulatory status of foods and food ingredients that are produced by new technologies. FASEB is inviting submission of scientific data and information bearing on this topic. FASEB will provide the opportunity for public comment at an open meeting. FDA will announce in the Federal Register the date, time, and place of the meeting.

DATE: Scientific data and information to be submitted by September 30, 1988.

ADDRESSES: Scientific data and information should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and the Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814. Two copies of the scientific data and information should be submitted to each office.

FOR FURTHER INFORMATION CONTACT:

Kenneth D. Fisher, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301-530-7030,

or

James H. Maryanski, Center for Food Safety and Applied Nutrition (HFF-

300), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: FDA has a contract (223–88–2124) with FASEB concerning the analysis of scientific issues that bear on the safety of foods and cosmetics. The objective of this contract is to provide information to FDA on general and specific issues of scientific fact associated with the safety of foods and cosmetics. FDA intends to develop a set of criteria that will permit the agency to determine the regulatory status and the safety of foods and food ingredients produced by new technologies. FDA is announcing that it has asked FASEB, as a task under the contract, to determine the scientific community's views on the safety of foods and food ingredients produced by new technologies. In response, FASEB asked its Life Sciences Research Office to appoint an ad hoc panel to study this matter. The ad hoc panel will report its findings to FASEB through its Life Sciences Research Office. FASEB will then evaluate these findings and submit its own report to FDA.

Many new or modified foods and food ingredients are being developed through new technologies such as recombinant DNA techiques. The degree of novelty associated with foods and food ingredients developed through these technologies will vary widely.

FDA believes that it would help expedite its evaluation of these new products, and would focus agency resources, if the factors that are most appropriate for evaluating the regulatory status and the safety of the new and modified foods and food ingredients were identified and agreed upon by the scientific community.

The agency considers a range of factors in evaluating the status of a product. Some of these factors include whether:

(1) The food ingredients is a reaction product of, or is manufactured from, generally recognized as safe (GRAS) food ingredients, regulated food additives, or substances otherwise considered to be safe (e.g., amino acids).

(2) The food ingredient is chemically similar to an ingredient whose use in food is GRAS but is not identical to that ingredient in all respects.

(3) The food ingredient contains impurities that must be controlled by a specification.

(4) The level of use of the food ingredient requires limitation based on existing safety information.

(5) Only limited published data or information exists to support the safety of the intended use of the food ingredient (e.g., patents, research papers, summary monographs, safety studies).

(6) The food ingredient has a history of use in food in some parts of the world, but the proposed uses are new to the United States.

(7) The food ingredient is derived from a source (e.g., plant or microorganism) that has been used safely in other contexts.

(8) The food ingredient is manufactured by a process that a manufacturer considers to be confidential (specific strains or traits, alternative methods, processing ingredients).

(9) The food ingredient has been genetically modified by a process considered to be confidential.

(10) The food ingredient has been "approved" by an international, national, or other recognized organization outside the United States as safe for use in foods but has not been evaluated by FDA.

(11) The food ingredient (e.g., tomato, potato, corn, wheat, rice, soybean, meat) has been genetically modified to enhance disease or weather resistance, improve nutritional quality, increase yield, or for any other reason.

FDA is interested in an evaluation of the relevance and significance of these and other factors to determine the regulatory status and safety of foods and food ingredients produced by the use of new technologies.

In accordance with 21 CFR 14.15(b)(1), notice is given that the ad hoc panel appointed by FASEB will hold an open meeting in the future, during which an opportunity will be provided for the public to present written and oral views, scientific data, and information on the issues listed above and on similar issues concerning foods and food ingredients produced by new technologies. The exact date, time, and location of the meeting will be announced in the **Federal Register** at a later date.

This notice invites submission of information on scientific concepts and considerations that can be used to devise criteria to determine the appropriate regulatory status and safety of foods and food ingredients produced by new technologies. Two copies of any scientific data and information should be submitted to both FDA's Dockets Management Branch and the Life Sciences Research Office of FASEB (addresses above). The deadline for receipt of such information is September 30, 1988. Pursuant to its contract with FDA, FASEB will provide the agency with a scientific report on these and other issues concerning foods and food ingredients produced by new technologies.

Dated: August 25, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–19683 Filed 8–29–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88D–0017]

Conditions Under Which Homeopathic Drugs May Be Marketed; Availability of Compliance Policy Guide; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the notice that announced the availability of Compliance Policy Guide 7132.15 entitled "Conditions Under Which Homeopathic Drugs May Be Marketed"—May 31, 1988 (53 FR 21728; June 9, 1988). In 2 places under the heading "**SUPPLEMENTARY INFORMATION**" the number of the Compliance Policy Guide was incorrectly stated as 7132.5 instead of 7132.15. This document corrects these errors to eliminate any ambiguity in ordering the Compliance Policy Guide.

FOR FURTHER INFORMATION CONTACT: T. Rada Proehl, Regulations Editorial Staff (HFC–222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 88–12949, appearing at page 21728 in the **Federal Register** of Thursday, June 9, 1988, the following corrections are made:

Under the heading "**SUPPLEMENTARY INFORMATION,**" first column, second paragraph, line 1, and in the second column, line 1, "Compliance Policy Guide 7132.5" is corrected to read "Compliance Policy Guide 7132.15".

Dated: August 24, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–19684 Filed 8–29–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88D–0243]

Draft Guidance Document for Class III Contact Lenses; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

availability of a draft "Guidance Document for Class III Contact Lenses," prepared by FDA's Center for Devices and Radiological Health (CDRH). The document provides guidance to the contact lens industry for evaluating the safety and effectiveness of class III contact lenses. The guidance document is being made available for public comment to provide CDRH's Division of Ophthalmic Devices with views to be considered in its development of a final guidance document for class III contact lenses.

DATE: Comments may be submitted at any time; however, comments submitted by October 31, 1988 will be considered during preparation of a final guidance document.

ADDRESS: The "Guidance Document for Class III Contact Lenses" is available for public examination at, and written comments may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Address written requests for single copies of the guidance document to the Division of Small Manufacturers Assistance, Center for Devices and Radiological Health (NFZ–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 800–638–2041, calls from within MD 301–443–6597.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: The draft "Guidance Document for Class III Contact Lenses" is intended to provide the agency's suggested guidance to enable manufacturer of a contract lens to conduct an adquate battery of preclinical tests to ensure that patients are not placed at undue risk in a clinical trial, and to enable a manufacturer to conduct a clinical trial that will adequately demonstrate whether the lens is safe and effective for its intended use.

The draft guidance document is being made available for public comment before being issued in final form. If, following the receipt of comments, the agency concludes that the guidance document reflects acceptable practices and procedures for the preparation and submission of investigational device exemption applications and premarket approval applications for class III contact lenses, the draft guidance document will be made final, and its availability will be announced in the **Federal Register.**

FDA is making the draft guidance document available under 21 CFR 10.90(b). That section provides for use of guidelines to establish procedures of general applicability that are not legal requiements but are acceptable to the agency. A person may also choose to use alternative procedures even though they are not provided for in the guidance document. A person who chooses to do so may discuss the matter further with the agency to prevent expenditure of money and effort on an alternative procedure that the agency may later determine to be unacceptable. Manufacturers are encouraged to use this opportunity to submit comments on the draft guidance document, if they have suggestions for its revision.

Interested persons may submit comments on the draft guidance document at any time. However, comments submitted by October 31, 1988 will be considered during preparation of a final guidance document. Two copies of any comments are to be submitted, except that individuals may submit single copies. Comments should be identified with the document number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 24, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–19685 Filed 8–29–88; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting of Microbiology and Infectious Diseases Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on October 13 and 14, 1988, in Building 31C, Conference Room 8, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 11:15 a.m. on October 13, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting of the Microbiology and Infectious Diseases Research Committee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 11:15 a.m. until recess on October 13, and from 8:30 a.m. until adjournment on October 14. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. M. Sayeed Quraishi, Executive Secretary, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20892, telephone (301–496–7465), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: August 19, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–19584 Filed 8–29–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on September 26 and 27, 1988, Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public September 26 from 8:30 a.m. to 12 noon and again on September 27 from 1 p.m. to adjournment to discuss administrative details relating to

Council business and special reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the subcommittees and full Council meeting will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on September 26 from 1 p.m. to recess: Diabetes. Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urologic and Hematologic Diseases. The full Council meeting will be closed on September 27 from 8:30 a.m. to approximately 12 noon.

These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Westwood Building, Room 675, Bethesda, Maryland 20892. (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31 Room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6917.

(Catalog of Federal Domestic Assistance Program No. 13.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology amd Hematology Research, National Institutes of Health)

Dated: August 19, 1988.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 88–19585 Filed 8–29–88; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Meetings of the Board of Regents and Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on October 6–7, 1988, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The Subcommittees will meet on October 5 as follows:

The Extramural Programs Subcommittee, 5th-floor Conference Room, and the Lister Hill Center Subcommittee, 7th-floor Conference Room, in the Lister Hill Center Building, 2 to 4 p.m. The Program Outreach Subcommittee, Conference Room A, Mezzanine, National Library of Medicine, from 4 to 5 p.m.

The meeting of the Board will be open to the public from 9 a.m. to approximately 5 p.m. on October 6 and from 9 to approximately 10:30 a.m. on October 7 for administrative reports and program discussions. The entire meeting of the Program Outreach Subcommittee and the meeting of the Lister Hill Center Subcommittee will be open to the public. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the entire meeting of the Extramural Programs Subcommittee on October 5 will be closed to the public, and the regular Board meeting on October 7 will be closed from approximately 10:30 a.m. to adjournment for the review, discussion, and evaulation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health.)

Dated: August 19, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–19586 Filed 8–29–88; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–8–4212–13; AZA–22880, AZA–23360]

Public Land Exchanges; Mohave and Yavapai Counties, AZ; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: This notice provides a correction of the segregative effect of two notices of realty action published for land exchanges AZA–22880 and AZA–23360 which erroneously failed to include references to the mining and mineral leasing laws.

FOR FURTHER INFORMATION CONTACT: Mike Berch, Kingman Resource Area, (602) 757–3161.

SUPPLEMENTARY INFORMATION: In Federal Register document 88–14747 on page 24804 in the issue of Thursday, June 30, 1988, and Federal Register document 88–14224 on page 23696 in the issue of Thursday, June 23, 1988, the first sentence of the next to last paragraph of both documents should read, "Publication of this Notice will segregate the subject lands from operation of the public land laws *and the mining and mineral leasing laws.*".

Henri R. Bisson,

District Manager.

Date: August 19, 1988.

[FR Doc. 88–19587 Filed 8–29–88; 8:45 am]

BILLING CODE 4310–32–M

[CO–942–08–4520–12]

Colorado: Filing of Plats of Survey

August 18, 1988.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., August 18, 1988.

The plat (in five sheets) representing the dependent resurvey of portions of the south, west, and north boundaries, a portion of the subdivisional lines, a portion of the subdivision of section 9, and certain mineral surveys, and the survey of the subdivision of certain sections, T. 46 N., R. 2 W., New Mexico Principal Meridian, Colorado, Group No. 785, was accepted July 29, 1988.

The plat representing the dependent resurvey of portions of the east boundary and the subdivisional lines, and a portion of the metes-and-bounds survey of certain claim lines and the survey of the subdivision of certain sections, T. 1 N., R. 103 W., Sixth Principal Meridian, Colorado, Group No. 821, was accepted August 1, 1988.

The plat representing the dependent resurvey of portions of the south and east boundaries, the subdivisional lines, and a portion of the metes-and-bounds survey of certain claim lines and the survey of the subdivision of sections 35 and 36, T. 2 N., R. 102 W., Sixth Principal

Meridian, Colorado, Group No. 821, was accepted August 1, 1988.

The plat representing the dependent resurvey of portions of the east and north boundaries, the subdivisional lines, a portion of the metes-and-bounds survey of certain claim lines, and a portion of the subdivision lines of section 1, and the survey of the subdivision of certain sections, T. 1 N., R. 102 W., Sixth Principal Meridian, Colorado, Group No. 821, was accepted August 1, 1988.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 88-19595 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-JB-M

[NM-940-08-4220-11; NM NM 69214]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that a 37.13-acre withdrawal of National Forest System land for use in connection with Cabresto Lake Campground and Fishing Area (formerly Lake Cabresto Campground) continue for an additional 20 years. The land will remain closed to mining and will be opened to surface entry. The land has been and remains open to mineral leasing.

DATE: Comments should be received by November 28, 1988.

ADDRESS: Comments should be sent to: New Mexico State Director, BLM, P.O. Box 1449, Santa Fe, NM 87504-1449.

FOR FURTHER INFORMATION CONTACT: Clarence Hougland, BLM, New Mexico State Office, 505-988-6554.

The Forest Service proposes that the existing land withdrawal made by the Secretarial Order dated January 7, 1908, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

Carson National Forest

T. 29 N., 13 E.,
Sec. 13, NE¼SE¼, excluding approximately 2.87 acres lying within the Latir Peak Wilderness Area (Pub. L. 96-550).

The area described contains 37.13 acres in Taos County.

The purpose of the withdrawal is for use in connection with a developed campground in the Carson National Forest, Questa Ranger District. The area has been developed for recreational use and is heavily utilized for this purpose. The withdrawal currently segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal except to open the land to such forms of disposition that may by law be made of National Forest System land other than under the mining laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the New Mexico State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Monte G. Jordan,

Associate State Director.

Dated: August 18, 1988.

[FR Doc. 88-19588 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-FB-M

National Park Service

Intention to Negotiate Concession Contract; Carr's Grocery and Canoe Rental

Pursuant to the provisions of section 5 of the Act of October 9, 1965, 79 Stat. 969; 16 U.S.C. 20, public notice is hereby given that sixty (60) days after the date of poublication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Carr's Grocery and Canoe Rental authorizing it to continue to provide canoe rental and shuttle services, merchandising sales, firewood sales, and shower and laundry facilities for the public at Ozark National Scenic Riverways, Missouri, for a maximum period of fifteen (15) years from the date of execution of a contract through December 31, 2002.

This contract renewal has been detrmined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1987, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the superintendent, Ozark National Scenic Riverways, P.O. Box 490, Van Buren, MO 63965, for information as to the requirements of the proposed contract.

Warren H. Hill,

Acting Regional Director, Midwest Region.

May 12, 1988.

[FR Doc. 88-19666 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-70-M

Concession Contract Negotiations: Magton, Ltd.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Magton, Ltd., authorizing it to continue to provide excursion boat transportation and related services for the public at Buck Island Reef National Monument for a period of five (5) years from May 1, 1988, through April 30, 1993.

EFFECTIVE DATE: October 31, 1988.

ADDRESS: Interested parties should contact the Regional Director, Southeast Region, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on April 30, 1988, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the authorization and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Date: July 18, 1988.

C. W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 88-19668 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-70-M

Intention To Negotiate Concession Permit; Michiana Industries

Pursuant to the provisions of section 5 of the Act of October 9, 1965, 79 Stat. 969; 16 U.S.C. 20, public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession permit with Michiana Industries authorizing it to continue to provide parking lot services for the public at Indiana Dunes National Lakeshore, Indiana, for a period of 5 years from January 1, 1988 through December 31, 1992.

This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1987, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Superintendent, Indiana Dunes National Lakeshore, 1100 Mineral Springs, Porter, Michigan 43604, for information as to the requirements of the proposed permit.

Don H. Castleberry,

Regional Director, Midwest Region.

April 12, 1988.

[FR Doc. 88-19667 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-70-M

Concession Contract Negotiations: Milemark, Inc.,

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Milemark, Inc., authorizing it to continue to provide excursion boat transportation and related services for the public at Buck Island Reef National Monument for a period of five (5) years from May 1, 1988, through April 30, 1993.

EFFECTIVE DATE: October 31, 1988.

ADDRESS: Interested parties should contact the Regional Director, Southeast Region, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on April 30, 1988, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the authorization and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Date: July 18, 1988.

C.W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 88-19669 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-70-M

Concession Contract Negotiators: Rainy Lake Cruises, Inc.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Rainy Lake Cruises, Inc., authorizing it to continue to provide guided water transportation services for the public on Rainy Lake in Voyageurs National Park, Minnesota, for a period of ten (10) years from May 1, 1988, through April 30, 1998.

EFFECTIVE DATE: October 31, 1988.

ADDRESS: Interested parties should contact the Superintendent, Voyageurs National Park P.O. Box 50, International Falls, MN, 56649, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1987, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

William W. Schenk,

Deputy Regional Director, Midwest Region.

May 18, 1988.

[FR Doc. 88-19670 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-70-M

Concession Contract Negotiations; Signal Mountain Lodge

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service is canceling its notice published July 27, 1988, to negotiate concessions contracts with Rex G. and Ruth G. Maughan d/b/a Signal Mountain Lodge, authorizing them to continue to provide pack horse service for the public at Grand Teton National Park, Wyoming, and to continue to provide marine services at Leeks Lodge Marina at Grand Teton National Park, Wyoming.

Public notice is hereby given that the National Park Service proposes to extend the concession contracts with Rex and Ruth G. Maughan d/b/a Signal Mountain Lodge and Leeks Lodge Marina, authorizing them to continue to provide lodging accommodations, food services facilities, and automobile services for a period of three (3) years from January 1, 1987, through December 31, 1989; and to continue to provide marina services for a period of one (1) year from October 1, 1988, through September 30, 1989 for the public at Grand Teton National Park, Wyoming.

EFFECTIVE DATE: October 31, 1988.

ADDRESS: Interested parties should contact the Regional Director, Rocky Mountain Region, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Lakewood, Colorado 80225, for information as to the requirements of the proposed contracts.

SUPPLEMENTARY INFORMATION: These contracts have been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under existing contracts which expired by limitation of time on December 31, 1988, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contracts and in the negotiation of two new contracts as defined in 36 CFR 51.1.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Date: August 10, 1988.

Richard A Strait,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 88-19672 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-70-M

Concession Contract Negotiators; Southern Seas, Inc.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Southern Seas, Inc., authorizing it to continue to provide excursion boat transportation and related services for the public at Buck Island Reef National Monument for a period of five (5) years from May 1, 1988, through April 30, 1993.

EFFECTIVE DATE: October 31, 1988.

ADDRESS: Interested parties should contact the Regional Director, Southeast Region, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on April 30, 1988, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the authorization and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Date: July 18, 1988.

C.W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 88-19671 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 20, 1988. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by September 14, 1988.

Beth L. Savage,

Acting Chief of Registration, National Register.

ALABAMA

Etowah County

Legion Park Bowl, 336 1st St., S., Gadsden, 88001581

Tuscaloosa County

First African Baptist Church, 2621 9th St., Tuscaloosa, 88001580

ARIZONA

Apache County

Allentown Bridge, (Vehicular Bridges in Arizona MPS), Indian Rt. 9402 over Puerco River, milepost 9.1, Houck vicinity, 88001617

Petrified Forest Bridge, (Vehicular Bridges in Arizona MPS), Petrified Forest Park Rd. over Rio Puerco, Navajo vicinity, 88001616

Querino Canyon Bridge, (Vehicular Bridges in Arizona MPS), Old US 66 over Querino Canyon, Houck vicinity, 88001623

Sanders Bridge, (Vehicular Bridges in Arizona MPS), Indian Rt. 9402 over the Puerco River, Sanders, 88001618

Cochise County

Canyon Diablo Bridge, (Vehicular Bridges in Arizona MPS), Abandoned grade of US 66 over Diablo Canyon, Winona vicinity, 88001664

Desert Wash Bridge, (Vehicular Bridges in Arizona MPS), Benson Airport Rd. over Desert Wash, Benson, 88001624

Douglas Underpass, (Vehicular Bridges in Arizona MPS), US 80 under Southern Pacific RR, milepost 366.1, Douglas, 88001609

Hereford Bridge, (Vehicular Bridges in Arizona MPS), Hereford Rd. over the San Pedro River, Hereford, 88001659

Coconino County

Canyon Padre Bridge, (Vehicular Bridges in Arizona MPS), Abandoned grade of US 66 over Padre Canyon, Flagstaff vicinity, 88001666

Dead Indian Canyon Bridge, (Vehicular Bridges in Arizona MPS), Abandoned grade of US 64 over Dead Indian Canyon, Desert View vicinity, 88001603

Midgley, W. W., Bridge, (Vehicular Bridges in Arizona MPS), Alt. US 89 over Wilson Canyon, milepost 375.7, Sedona vicinity, 88001614
Pumphouse Wash Bridge, (Vehicular Bridges in Arizona MPS), US 89 over Pumphouse Wash, milepost 367.4, Flagstaff vicinity, 88001605
Walnut Canyon Bridge, (Vehicular Bridges in Arizona MPS), Townsend-Winona Hwy., Winona vicinity, 88001660

Gila County

Black River Bridge, (Vehicular Bridges in Arizona MPS), Indian Rt. 9 over Black River, Carrizo vicinity, 88001619
Cordova Avenue Bridge, (Vehicular Bridges in Arizona MPS), Cordova Ave. over Bloody Tanks Wash, Miami, 88001690
Fossile Creek Bridge, (Vehicular Bridges in Arizona MPS), Forest Service Rd. over Fossil Creek, Stawberry vicinity, 88001620
Inspiration Avenue Bridge, (Vehicular Bridges in Arizona MPS), Inspiration Ave. over Bloody Tanks Wash, Miami, 88001691
Keystone Avenue Bridge, (Vehicular Bridges in Arizona MPS), Keystone Ave. over Bloody Tanks Wash, Miami, 88001692
Miami Avenue Bridge, (Vehicular Bridges in Arizona MPS), Miami Ave. over Bloody Tanks Wash, Miami, 88001693
Reppy Avenue Bridge, (Vehicular Bridges in Arizona MPS), Reppy Ave. over Bloody Tanks Wash, Miami, 88001689
Salt River Bridge, (Vehicular Bridges in Arizona MPS), AZ 288 over Salt River, milepost 262.4, Roosevelt vicinity, 88001604
Salt River Canyon Bridge, (Vehicular Bridges in Arizona MPS), US 60 over Salt River, milepost 292.9, Carrizo vicinity, 88001608

Graham County

Marijilda Canyon Prehistoric Archeological District, Address Restricted, Safford vicinity, 88001572
Solomonville Bridge, (Vehicular Bridges in Arizona MPS), Abandoned Graham Co. rd. over the San Simon River, Safford vicinity, 88001668

Greenlee County

Black Gap Bridge, (Vehicular Bridges in Arizona MPS), 7.6 mi. SW of Clifton on Old Safford Rd., Clifton vicinity, 88001627
Gila River Bridge, (Vehicular Bridges in Arizona MPS), 6.8 mi. SE of Clifton on Old Safford Rd., Clifton vicinity, 88001626
Park Avenue Bridge, (Vehicular Bridges in Arizona MPS), Park Ave. over the San Francisco River, Clifton, 88001661
Solomonville Road Overpass, (Vehicular Bridges in Arizona MPS), 3.6 mi. S of Clifton on Old Safford Rd., Safford vicinity, 88001625
Solomonville Road Overpass, (Vehicular Bridges in Arizona MPS), 4.5 mi. S of Clifton on Old Safford Rd., Clifton vicinity, 88001626

La Paz County

Eagletail Petroglyh Site, Address Restricted, Hyder vicinity, 88001570

Maricopa County

Alchesay Canyon Bridge, (Vehicular Bridges in Arizona MPS), AZ 88 over Alchesay Canyon, milepost 241.1, Roosevelt vicinity, 88001615
Boulder Creek Bridge, (Vehicular Bridges in Arizona MPS), AZ 88 over Boulder Creek, Tortilla Flat vicinity, 88001599
Fish Creek Bridge, (Vehicular Bridges in Arizona MPS), AZ 88, milepost 223.50, Tortilla Flat vicinity, 88001600
Gila Bend Overpass, (Vehicular Bridges in Arizona MPS), Bus. Rt. 8 over Southern Pacific RR, Gila Bend, 88001607
Hassayampa River Bridge, (Vehicular Bridges in Arizona MPS), Old US 80 over the Hassayampa River, Hassayampa, 88001656
Lewis and Pranty Creek Bridge, (Vehicular Bridges in Arizona MPS), AZ 88, milepost 224.60, Tortilla Flat vicinity, 88001601
Mormon Flat Bridge, (Vehicular Bridges in Arizona MPS), AZ 88 over Willow Creek, Tortilla Flat vicinity, 88001596
Pine Creek Bridge, (Vehicular Bridges in Arizona MPS), AZ 88, milepost 233.50, Tortilla Flat vicinity, 88001602
Tempe Bridge, (Vehicular Bridges in Arizona MPS), Abandoned rd. over Salt River, Tempe, 88001606

Mohave County

Bighorn Cave, Address Restricted, Oatman vicinity, 88001571
Old Trails Bridge, (Vehicular Bridges in Arizona MPS), Abandoned US 66 over the Colorado River, Topock, 88001676
Sand Hollow Wash Bridge, (Vehicular Bridges in Arizona MPS), Old US 91 over Sand Hollow Wash, Littlefield vicinity, 88001657

Navajo County

Cedar Canyon Bridge, (Vehicular Bridges in Arizona MPS), US 60 over Cedar Canyon, milepost 323.4, Show Low vicinity, 88001612
Corduroy Creek Bridge, (Vehicular Bridges in Arizona MPS), US 60 over Corduroy Creek, milepost 326.3, Show Low vicinity, 88001613
Holbrook Bridge, (Vehicular Bridges in Arizona MPS), AZ 77 over the Little Colorado River, Holbrook, 88001685
Holbrook Bridge, (Vehicular Bridges in Arizona MPS), Abandoned grade of US 70 over the Little Colorado River, 4.2 mi. SE of Holbrook, Holbrook vicinity, 88001686
Jack's Canyon Bridge, (Vehicular Bridges in Arizona MPS), Abandoned AZ 99 over Jack's Canyon SE of Winslow, Winslow vicinity, 88001676
Lithodendron Wash Bridge, (Vehicular Bridges in Arizona MPS), 13.2 mi. NE of Holbrook on I-40 Frontage Rd., Holbrook vicinity, 88001687
Little Lithodendron Wash Bridge, (Vehicular Bridges in Arizona MPS), 15.6 mi. NE of Holbrook on I-40 Frontage Rd., Holbrook vicinity, 88001688
St. Joseph Bridge, (Vehicular Bridges in Arizona MPS), 4.4 mi. SE of Joseph City on Joseph City-Holbrook Rd., Joseph City vicinity, 88001633
Winslow Underpass, (Vehicular Bridges in Arizona MPS), AZ 87 over Little Colorado River, milepost 344.9, Winslow vicinity, 88001611
Winslow Underpass, (Vehicular Bridges in Arizona MPS), AZ 87 under Atchison, Topeka and Santa Fe RR, milepost 342.1, Winslow, 88001610
Woodruff Bridge, (Vehicular Bridges in Arizona MPS), 4 mi. S of Woodruff on Woodruff-Snowflake Rd., Woodruff vicinity, 88001630

Pima County

Cienega Bridge, (Vehicular Bridges in Arizona MPS), 5.3 mi. SE of Vail on Marsh Station Rd., Vail vicinity, 88001642
Fourth Avenue Underpass, (Vehicular Bridges in Arizona MPS), Fourth Ave., Tucson, 88001654
Sixth Avenue Underpass, (Vehicular Bridges in Arizona MPS), Sixth Ave., Tucson, 88001655
Stone Avenue Underpass, (Vehicular Bridges in Arizona MPS), Stone Ave., Tucson, 88001656

Pinal County

Devil's Canyon Bridge, (Vehicular Bridges in Arizona MPS), Abandoned US 60 over Devil's Canyon, Superior vicinity, 88001681
Kelvin Bridge, (Vehicular Bridges in Arizona MPS), Florence-Kelvin Hwy. over the Gila River, Kelvin, 88001646
Mineral Creek Bridge, (Vehicular Bridges in Arizona MPS), Old US 77 over Mineral Creek, Kelvin, 88001646
Queen Creek Bridge, (Vehicular Bridges in Arizona MPS), Old Florence Hwy. over Queen Creek, Florence Junction vicinity, 88001643
Queen Creek Bridge, (Vehicular Bridges in Arizona MPS), Abandoned US 60 over Upper Queen Creek Canyon, Superior vicinity, 88001679
Sacaton Dam Bridge, (Vehicular Bridges in Arizona MPS), Gila River Indian Reservation Rd., Sacaton vicinity, 88001621
San Tan Canal Bridge, (Vehicular Bridges in Arizona MPS), Gila River Indian Reservation Rd., Sacaton vicinity, 88001622
Winkelman Bridge, (Vehicular Bridges in Arizona MPS), Old AZ 77 over the Gila River, Winkelman, 88001649

Santa Cruz County

Santa Cruz Bridge No. 1, (Vehicular Bridges in Arizona MPS), South River Rd. over the Santa Cruz River, Nogales vicinity, 88001635

Yavapai County

Broadway Bridge, (Vehicular Bridges in Arizona MPS), Broadway St. over Bitter Creek, Clarkdale, 88001651
Hell Canyon Bridge, (Vehicular Bridges in Arizona MPS), Abandoned US 89 over Hell Canyon, Drake vicinity, 88001682
Little Hell Canyon Bridge, (Vehicular Bridges in Arizona MPS), Abandoned US 89 over Little Hell Canyon, Drake vicinity, 88001684
Lynx Creek Bridge, (Vehicular Bridges in Arizona MPS), 5.9 mi. E of Prescott on Old Black Canyon Hwy., Prescott vicinity, 88001641
Perkinsville Bridge, (Vehicular Bridges in Arizona MPS), Perkinsville-Williams Rd. over Verde River, Ash Fork vicinity, 88001671
Verde River Bridge, (Vehicular Bridges in Arizona MPS), 2.7 mi. S of Paulden on

Sullivan Lake Rd., Paulden vicinity, 88001639
Walnut Creek Bridge, (Vehicular Bridges in Arizona MPS), Forest Service Rd. over Walnut Creek, Simmons vicinity, 88001673
Walnut Grove Bridge, (Vehicular Bridges in Arizona MPS), 3.5 mi. NW of Walnut Grove on Wagoner Rd., Walnut Grove vicinity, 88001837

CONNECTICUT

New Haven County

Branford Point Historic District, Roughly along Harbor St. N from Curve St. to Branford Point, also Maple St. E. from Reynolds St. to Harbor St., Branford, 88001583

FLORIDA

Volusia County

South Beach Street Historic District, Roughly bounded by Volusia Ave., S. Beach St., South St., and US 1, Daytona Beach, 88001597

INDIANA

Allen County

Wells Street Bridge, Wells St. at the St. Mary's River, Fort Wayne, 88001575

Marion County

YWCA Blue Triangle Residence Hall, 725 N. Pennsylvania St., Indianapolis, 88001574

Parke County

Ewbank, Lancelot C., House, Parke Co. Rds. 102E between 1200N and 300E, Tangier vicinity, 88001578

LOUISIANA

East Baton Rouge Parish

Louisiana State University, Baton Rouge, Highland Rd., Baton Rouge, 88001586

Rapides Parish

McNutt Rural Historic District, Belgard Bend Rd. and LA 121, McNutt, 88001595

MISSISSIPPI

Yazoo County

Home Place, 2 mi. E of MS 433, S side of Midway to Ebeneezer Rd., Benton vicinity, 88001584

NEW YORK

Oswego County

Oswego Theater, 138 W. Second St., Oswego, 88001590

NORTH CAROLINA

Alamance County

US Post Office, 430 S Spring St., Burlington, 88001594

Nash County

Spring Hope Historic District, Roughly bounded by Franklin, Louisburg, Second and Community Sts., Spring Hope, 88001591

TENNESSEE

Benton County

US Post Office, 81 N. Forest St., Camden, 88001577

Cumberland County

Cumberland Homesteads Historic District, Roughly follows County Seat and Valley Rds., Grassy Cove Rd., Deep Draw and Pigeon Ridge Rds., Crossville vicinity, 88001593

Gibson County

US Post Office, 200 S. College St., Trenton, 88001578

Lauderdale County

US Post Office, 17 E. Jackson Ave., Ripley, 88001582

VERMONT

Caledonia County

Lind Houses, Pleasant St., South Ryegate, 88001589

Orange County

Waits River Schoolhouse, VT 25 N of Waits River, Waits River vicinity, 88001592

Rutland County

Perkins, Arthur, House, 242 S. Main St., Rutland, 88001579

WEST VIRGINIA

Jefferson County

Fruit Hill, Shepherd Grade, Shepherdstown vicinity, 88001588
Marshall, James House, Shepherd Grade, Shepherdstown vicinity, 88001596

Kanawah County

Canty House, WV 25, Institute, 88001587
East Hall, West Quadrangle, West Virginia State College, Institute, 88001585

WISCONSIN

Forest County

Franklin Lake Campground, National Forest Rd. 2181, Alvin vicinity, 88001573

Waukesha County

Baer, Albert R., House, (Menomonee Falls MRA), H166 N8990 Grand Ave., Menomonee Falls, 88001645
Barnes, Andrew, House, (Menomonee Falls MRA), N89 W16840 Appleton Ave., Menomonee Falls, 88001852
Camp, Thomas, Farmhouse, (Menomonee Falls MRA), W204 N8151 Lannon Rd., Menomonee Falls, 88001670
Davis, Cyrus, Farmstead, (Menomonee Falls MRA), W204 N7778 Lannon Rd., Menomonee Falls, 88001674
Davis, Cyrus—Davis Brothers Farmhouse, (Menomonee Falls MRA), W204 N7818 Lannon Rd., Menomonee Falls, 88001872
Friederich Farmstead Historic District, (Menomonee Falls MRA), N96 W15009 County Line Rd., Menomonee Falls, 88001631
Henze, LeRoy A., House, (Menomonee Falls MRA), N89 W15781 Main St., Menomonee Falls, 88001638
Hoeltz, Herbert, House, (Menomonee Falls MRA), N87 W15714 Kenwood Blvd., Menomonee Falls, 88001636
Hoos, Elizabeth, House, (Menomonee Falls MRA), W164 N9010 Water St., Menomonee Falls, 88001640
Hoos-Rowell House, (Menomonee Falls MRA), W164 N8953 Water St., Menomonee Falls, 88001644
Koehler, Frank, House and Office, (Menomonee Falls MRA), N88 W16623 Appleton Ave., Menomonee Falls, 88001669
Lincoln High School, (Menomonee Falls MRA), N88 W18913 Main St., Menomonee Falls, 88001662
Mace, Garwin A., House, (Menomonee Falls MRA), W166 N8941 Grand Ave., Menomonee Falls, 88001650
Main Street Historic District, (Menomonee Falls MRA), Main and Appleton Sts., Menomonee Falls, 88001629
Menomonee Falls City Hall, (Menomonee Falls MRA), N88 W16631 Appleton Ave., Menomonee Falls, 88001687
Menomonee Golf Club, (Menomonee Falls MRA), N73 W13430 Appleton Ave., Menomonee Falls, 88001663
Pratt, John A., House, (Menomonee Falls MRA), N88 W15834 Park Blvd., Menomonee Falls, 88001634
Third Street Bridge, (Menomonee Falls MRA), Roosevelt Dr., Menomonee Falls, 88001647
Village Park Bandstand, (Menomonee Falls MRA), Village Park on Garfield Dr., Menomonee Falls, 88001653
Wick, Michael, Farmhouse & Barn, (Menomonee Falls MRA), N72 W13449 Good Hope Rd., Menomonee Falls, 88001665
Zimmer, Johann, Farmhouse, (Menomonee Falls MRA), W156 N9390 Pilgrim Rd., Menomonee Falls, 88001632.

[FR Doc. 88-19665 Filed 8-29-88; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under Clean Water Act to Assess Penalties

In accordance with the policy of the Department of Justice, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Jorge Luhring, Island Petroleum Products, Inc., Bayamon Electroplating, Inc., and Taino Plating Corp.*, Civil Action No. 87-1256 (JP), was lodged with the United States District Court for the District of Puerto Rico on August 19, 1988. This consent decree settles the United States' claims for civil penalties in a lawsuit filed September 17, 1987, pursuant to section 309 of the Clean Water Act (the "Act"), 33 U.S.C. 1319, for injunctive relief and for the assessment of civil penalties against Jorge Luhring, Island Petroleum Products, Inc. ("Island"), Bayamon Electroplating, Inc., and Taino Plating Corp. The complaint is based on, among other things, Island's discharge of pollutants from its electroplating plant in Barrio Las Palmas, Catano, Puerto Rico, in violation of the Act and applicable pretreatment standards. 40 CFR 413.14.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. All comments should refer to *United States* v. *Jorge Luhring, Island Petroleum Products, Inc., Bayamon Electroplating, Inc., and Taino Plating Corp.*, D.J. 90–5–1–1–2834.

The consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency:

EPA Region II: Contact: David Brook, Office of the Regional Counsel, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, (212) 264–0444.

United States Attorney's Office: Contact: Eduardo E. Toro Font, Assistant United States Attorney, District of Puerto Rico, Frederico Degetau Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918, (809) 753–4656.

Copies of the proposed consent decree may also be examined at the environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 6314, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20044–7611. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice. When requesting a copy of the proposed consent decree, please enclose a check for copying costs (at $.10 per page) in the amount of $1.80 payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–19592 Filed 8–29–88; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Managemernt and Budget (OMB)

Background:

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review:

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OBM) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW. Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Departmental Management

National SAS Farmworker Survey (Seasonal Agricultural Services)

Individuals or households; farms; Businesses or other for-profit; 3,700 respondents; 1 hour; 1 hour per response; 1 form

The Immigration and Nationality Act (INA) as amended by the Immigration Reform and Control Act (IRAC) requires the DOL and the USDA to estimate the departure rate from Seasonal Agricultural Services (SAS) agriculture and to analyze information about wages, working conditions and recruitment practicers. This survey will gather data necessary to make these estimates and carry out these analyses.

Bureau of Labor Statistics

Cognitive Research on the Consumer Expenditure Surveys questionnaire

Nonrecurring (One-time)

Individuals or households; 2800 respondent; 2800 total hours; 60 minutes per response; 3 forms

The proposed "Cognitive Research on CE questionnaires" will determine ways to improve the wording of questions to facilitate the respondents' participation which in turn will reduce the respondent burden. In addition, the results of the research will also guide the next sample redesign efforts.

Signed at Washington, DC, this 25th day of August, 1988.

Terry O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 88–19727 Filed 8–29–88; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

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 Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or

threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 9, 1988.

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 September 9, 1988.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 22nd day of August 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm	Location	Date received	Date of petition	Petition No.	Articles produced
Accurate Die Casting, Co. (Workers)	Fayetteville, NY	8/22/88	8/9/88	20,880	Alum and zinc castings.
Beehive International (Company)	Salt Lake City, UT	8/22/88	8/9/88	20,881	Computer terminals.
Discovery Systems (Workers)	Dublin, OH	8/22/88	8/3/88	20,882	Audio Compact Discs and CD-rooms.
Electronic Molding Corp. (Workers)	Woonsocket, RI	8/22/88	8/4/88	20,883	Electronic components.
Precision Automatic, Corp. (Workers)	do	8/22/88	8/4/88	20,884	Do.
Wrapex Corp. (Workers)	do	8/22/88	8/4/88	20,885	Do.
F.H. Lawson Co. (Workers)	Cincinnati, OH	8/22/88	8/11/88	20,886	Do.
ITT Power Systems, (IAM&AW)	Galion, OH	8/22/88	8/8/88	20,887	Power systems.
ITT Rayonier, Peninsula Plywood Div. (IWA)	Port Angeles, WA	8/22/88	8/10/88	20,888	Cedar and fir plywood siding.
Jack Cooper Transport (Company)	Arlington, TX	8/22/88	7/29/88	20,889	Transportation of cars.
Reliance Button Co., Inc. (Company)	New York, NY	8/22/88	8/3/88	20,890	Buttons and pins.
Universal Optical Co. (Workers)	Attleboro, MA	8/22/88	8/5/88	20,891	Eyeglass frames.

[FR Doc. 88-19728 Filed 8-29-88; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 8, 1988—August 12, 1988 and August 15, 1988—August 19, 1988.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a signficant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-20,724; Federal Steel & Wire Corp., Cleveland, OH

TA-W-20,725; Ideal Basic Industries, Ada, OK

TA-W-20,726; Lipe Corp., Syracuse, NY

TA-W-20,721; Clearwater Printing & Finishing Co., Clearwater, SC

TA-W-20,762; Pioneer Parachute Co., Manchester, CT

TA-W-20,735; Leeds and Northrup Co., North Wales, PA

TA-W-20,738; Witco Corp., Canton Field Office, Canton, OH

TA-W-20,752; Brevel Motors, Inc., Carlstadt, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,731; At-A-Glance Division of Keith Clark, Inc., Pittsfield, MA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,754; Huls America (Formerly Dynamit Nobel of America), Rockleigh, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,813; Fashion Barn, Inc., Saddlebrook, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,756; General Electric Co., Motor Business Dept., Decatur, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,753; Consolidation Coal Co., Pursglove, No. 15 Mine, Osage, WV

U.S. imports of coal in 1987 and January through March 1988 were negligible.

Affirmative Determinations

TA-W-20,737; Schlage Lock Co., Rocky Mount, NC

A certification was issued covering all workers separated on or after May 26, 1987.

TA-W-20,736; Martin Shirt Co., Shenandoah, PA

A certification was issued covering all workers separated on or after June 9, 1987 and before July 30, 1988.

TA-W-20,733; Hasley Taylor/Thermos, Taftville, CT

A certification was issued covering all workers separated on or after June 7, 1987.

TA-W-20,748; Stewart Warner Corp., Bassick Div., Bridgeport, CT

A certification was issued covering all workers separated on or after June 13, 1987.

I hereby certify that the aforementioned determinations were issued during the period August 8, 1988—August 12, 1988 and August 15, 1988—August 19, 1988. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW. Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 23, 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88-19729 Filed 8-29-88; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-88-157-C]

BethEnergy Mines, Inc.; Petition for Modification of Application of Mandatory Safety Standard

BethEnergy Mines, Inc., Pennsylvania Division, P.O. Box 143, Eight Four, Pennsylvania 15330 has filed a petition to modify the applications of 30 CFR 75.1101-1(b) (deluge-type water spray systems) to its 84 Complex, Livingston Portal (I.D. No. 36-00958) located in Washington County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that nozzles attached to the branch lines be full cone, corrosion resistant and provided with blow-off dust covers.

2. As an alternate method, petitioner proposes that—

(a) Blow-off dust covers would be eliminated;

(b) A functional test of the system would be completed once per week; and

(c) A record of these tests would be maintained.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before Septermber 29, 1988. Copies of the petition are available for inspection at that address.

Date: August 24, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-19719 Filed 8-29-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-79-C]

Castle Gate Coal Co.; Petition for Modification of Application of Mandatory Safety Standard (Amendment)

Castle Gate Coal Company, P.O. Box 449, Helper, Utah 84526 has filed an amendment to a petition for modification. On April 3, 1988, Castle Gate Coal Company, submitted a petition to modify the application of 30 CFR 75.503 (permissable electric face equipment) to its Mine No. 3 (I.D. No. 42-00165) located in Carbon County, Utah. On June 1, 1988, MSHA published notice of the petition in the Federal Register (53 FR 20029), allowing interested parties 30 days to submit comments. On July 26, 1988, petitioner submitted a request to amend the originally submitted petition for modification. The amendment is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trailing cables be 500 feet.

2. Development in the 10th East panel will be by means of a three-entry system with crosscuts and entries on 104-foot by 140-foot centers and 140-foot by 100-foot centers. The size of the coal blocks is required due to the geological characteristics of the property. The size of the coal blocks requires the use of either longer trailing cables or distribution boxes. Longer trailing cables would be more easily protected from mechanical damage than distribution boxes. Distribution boxes are difficult to protect due to 16-foot-wide entries dictated by roof conditions and due to pitched seam and water problems.

3. As an alternate method, petitioner proposes to use 800 feet of No. 6 AWG trailing cables on shuttle cars and 650 feet of No. 6 AWG trailing cables on roof bolting machines.

4. Petitioner states that increasing the length of the shuttle car cables to 800 feet, and increasing the length of the roof bolter cables to 650 feet would eliminate the need for backspooling and the addition of junction boxes. Backspooling causes undue wear and damage to the trailing cable which results in premature failure and/or breakdown of the cable. This cable damage creates a greater potential for fire and shock hazards to occur. Elimination of junction boxes reduces required system maintenance and also eliminates another potential sources of fire and shock hazards.

5. Petitioner further states that no voltage-drop, motor overheating, dropping out of contractors, or starting problems due to low-voltage have been encountered with the machines.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this amendment to the petition for modification may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 29, 1988. Copies of the amendment and the original petition for modification are available at that address.

Dated: August 24, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-19720 Filed 8-29-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-146-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.902 (low- and medium-voltage ground check monitor circuits) to its Rend Lake Mine (I.D. No. 11-00601) located in Jefferson County, Illinois. The petition is filed under

section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that low- and medium-voltage resistance grounded systems include a fail-safe ground check circuit to monitor continuously the grounding circuits to assure continuity. The ground check will cause the circuit breaker to open when either the ground or pilot wire is broken.

2. As an alternate method, petitioner proposes to design and install low- and medium-voltage, 3-phase alternating current, resistance grounded circuits underground without ground wire monitoring conditioned upon compliance with the following:

(a) All circuits would be protected by circuit breakers to provide protection against undervoltage, grounded phase, short circuit and overcurrent;

(b) The source resistance grounded system would comply with all the requirements, with the addition of a potential transformer and overvoltage timing relay connected across the grounding resistor;

(c) Petition would apply only to stationary permanently installed equipment;

(d) The wiring and equipment supplied power from the resistance grounded source would be installed and maintained in accordance with any applicable requirements of the 1987 National Electrical Code;

(e) The circuit conductors from the source to the equipment would be installed in grounded rigid metal conduits. If a short section of liquid tight conduit is required, it would be bonded across to assure electrical continuity. All conduit would be installed and maintained in accordance with applicable requirements of the 1987 National Electrical Code; and

(f) In addition to the conduit, a separate grounding conductor would be installed within the conduit enclosing the associated power conductors. The grounding conductor would be used to ground the enclosures of each unit of equipment to the grounded side of the source grounding resistor. The size or capacity of the grounding conductor would be in accordance with the requirements of 30 CFR 75.701–4(a)(b).

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 29, 1988. Copies of the petition are available for inspection at that address.

Date: August 24, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88–19721 Filed 8–29–88; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–88–153–C]

Granny Rose Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Granny Rose Coal Company, P.O. Box 1098, Barbourville, Kentucky 40906, has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 2 Mine (I.D. No. 15–16215) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous miner, longwall face equipment and loading machine and is required to be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The buket is a drag type, where approximately 30–40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapsed time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure the detection of any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish writen comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 29, 1988. Copies of the petition are available for inspection at that address.

Date; August 22, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88–19722 Filed 8–29–88; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–88–144–C]

The Helen Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

The Helen Mining Company, R.D. No. 2, Box 2110, Homer City, Pennsylvania 15748–9558 has filed a petition to modify the application of 30 CFR 75.1100–3(b) (quantity and location of firefighting equipment) to its Homer City Mine (I.D. No. 36–00926) located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federl Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that waterlines be installed parallel to the entire length of belt conveyors.

2. Petitioner states that, due to severe winter weather, freezing conditions are encountered to fully charged waterlines installed near the slope opening continuing inby approximately 2,000 feet, along the slope belt conveyor.

3. As an alternate method, petitioner proposes to install an automatic dry pipe suppression system incorporating various safeguards as follows:

(a) The automatic dry pipe suppression system would only be used from October through April, and would only apply to the waterline located along the slope belt conveyer;

(b) An electric solenoid water valve would be provided to automatically charge the waterline when the automatic fire warning system for the belt conveyor is activated;

(c) A manual bypass valve would be installed in conjuction with the electric solenoid valve, so that the waterline can be charged during a power failure or in the event that the solenoid valve should fail to operate;

(d) A visual means would be provided to indicate that a supply of water under pressure is available to the electric and manual valve;

(e) The valve would be protected from freezing and would be readily accessible for inspection or manual operation;

(f) The automatic fire warning system, including the electric valve and the manual bypass valve would be inspected weekly and a functional test of the complete system would be made at least annually. The functional test would include charging the waterline by activating the electric valve with the automatic fire warning system for the slope belt. A record of the weekly inspection and annual functional test would be maintained by the operator;

(g) The dry pipe system would be purged of water left in the system as a result of testing or accidential actuation of the system to prevent ice from accumulating in the line and valves;

(h) A responsible person would be located on the surface at all times and would be trained in the procedures to follow in the event it becomes necessary to manualy activate the system; and

(i) All persons in the area of the slope would be instructed as to the operation of the dry pipe system.

4. Petitioner states that the proposed alternate method wil provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 29, 1988. Copies of the petition are available for inspection at that address.

Date: August 23, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-19723 Filed 8-29-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-142-C]

Lisa Lee Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Lisa Lee Coal Company, Box 25, Raven, Virginia 24639 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 2 (I.D. No. 44-03600) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that aircourses and an abandoned panel be examined in their entirety on a weekly basis.

2. Petitioner states that, due to roof falls and adverse conditions within the Left Mains Panel of the 001 Section weekly examinations would result in a serious hazard to the health and safety of certified personnel.

3. As an alternate method, petitioner proposes to take the following measures:

(a) Place barriers (wire fencing) along with danger signs at the entrances to the Left Mains Section;

(b) Setup checkpoints on the intake airway at spad station #G715 and on the return airways which are to both the right and left of the return airway at spad stations #F720 and #F725;

(c) Monitor quantity and quality of air entering and leaving the abandoned section. Methane has never been detected in this mine with either a flame safety lamp or an approved methane detector by mine officials;

(d) Examinations for air quality/ quantity would be conducted on a weekly basis and a log would be kept at the checkpoints. The log would be maintained and updated after weekly examinations; and

(e) Any variation to the "normal" air readings would initiate immediate corrective measures.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 29, 1988. Copies of the petition are available for inspection at that address.

Dated: August 23, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-19724 Filed 8-29-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-145-C]

New Era Coal Co. Inc.; Petition for Modification of Application of Mandatory Safety Standard

New Era Coal Company, Inc., 29501 Mayo Trail, Catlettsburg, Kentucky 41129 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 1 (I.D. No. 15-10753) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petititoner's statement follows:

1. The petition concerns the requirement that intake aircourses be examined in their entirety on a weekly basis.

2. Petitioner states, that, due to unsafe roof conditions and rock falls the idled area of the mine cannot be safely traveled. To restore one entry to a safe travelable condition, would require six months of hazardous work for the miners.

3. As an alternate method, petitioner proposes to establish four evaluation points, one at the beginning, one in the

middle, and two at the end of the idled area, where a qualified person can examine the quantity and quality of air used to ventilate the idled area. These examinations would be made twice a week, instead of weekly, and recorded in the pre-shift/on-shift examination book.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before (September 29, 1988. Copies of the petition are available for inspection at that address.

Date: August 23, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-19725 Filed 8-29-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-155-C]

WESCO Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

WESCO Coal Company, Route 1, Box 279-A, Gray, Kentucky 40734 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15-16405) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous miner, longwall face equipment and loading machine and is required to be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternative method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure the detection of any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 29, 1988. Copies of the petition are available for inspection at that address.

Date: August 22, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-19726 Filed 8-29-88; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 88-87; Exemption Application No. D-7277, 7278, 7279 et al.]

Grant of Individual Exemptions; Harris Trust and Savings Bank (Harris) et al.

AGENCY: Pension and Welfare Benefits Administration, 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, DC. 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.

Harris Trust and Savings Bank (Harris); Located in Chicago, Illinois

[Prohibited Transaction Exemption 88–87; Exemption Application Nos. D–7277, D–7278 and D–7279]

Exemption

The restrictions of section 406(a)(1)(A) through (D) 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 (D) of the Code, shall not apply to the lending by Harris to Merrill Lynch Canada, Inc. of securities that are assets of employee benefit plans and trusts for which Harris acts as trustee, co-trustee, investment manager, custodian or agent, provided the conditions set forth in the notice of proposed exemption are met.

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 June 7, 1977, at 53 FR 20917.

Written Comments: The Department received a written comment which expressed approval of the proposed transactions that are described in the notice of proposed exemption. Accordingly, the Department has considered the entire record, including the comment letter received, and has determined to grant the exemption as it was proposed.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Morison Securities, Inc. (Morison); Located in Minneapolis, Minnesota

[Prohibited Transaction Exemption 88–88; Exemption Application No. D–7336]

Exemption

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 acquisition by various individuals who are clients of Morison of certain public limited partnership units (the Units) from their individual retirement accounts (the IRAs), their Keogh plans (the Keoghs) or their profit sharing plans (the PS Plans) for cash, provided the IRAs, Keoghs and PS Plans receive no less than the fair market value of the Units on the dates of the sales.[1]

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 June 7, 1988 at 53 FR 20919.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Mayfield Corporation Defined Benefit Pension Plan and Trust (the Plan) Located in Houston, Texas [Prohibited Transaction Exemption 88–89; Exemption Application No. D–7467]

Exemption

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 loans made by the Mary Iris Goldston Corporation to the Plan, provided that the terms and conditions of the loans were at least as favorable to the Plan as those which the Plan would receive in similar transactions with unrelated parties.[1]

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 July 15, 1988 at 53 FR 26912.

Effective Date: August 17, 1987.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Frank Pavel, D.D.S., Inc. Money Purchase Pension Plan (the Plan) Located in San Diego, California [Prohibited Transaction Exemption 88–90; Exemption Application No. D–7498]

Exemption

The restrictions of section 406(a)(1), (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 purchase of two limited partnership units by the self-directed account in the Plan of Frank Pavel, D.D.S. (Dr. Pavel), from Dr. Pavel and his wife; provided the terms and conditions of the transaction will be similar to those obtainable by the Plan 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 July 15, 1988 at 53 Fr 26913.

For Further Information Contact: Mrs. Betsy Scott of the Department, telephone (202) 523–8194. (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 described all material terms of the transaction which is the subject of the exemption.

[1] Because the IRAs meet the conditions described in 29 CFR 2510.3–2(d), there is no jurisdiction under Title I of the Act with respect to the IRAs. Because there are no employees covered under the Keoghs and PS Plans, there is no jurisdiction under Title I of the Act with respect to the Keoghs and PS Plans pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction with respect to the IRAs, PS Plans and the Keoghs under Title II of the Act pursuant to section 4975 of the Code.

[1] Since Mr. Jack H. Mayfield, Jr. is the only participant in the Plan there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Signed at Washington, DC, this 25th day of August, 1988.

Robert J. Doyle,

Acting Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88-19713 Filed 8-29-88; 8:45 am]

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[Application No. D-7454 et al.]

Proposed Exemptions; State Street Bank and Trust Company (the Bank) et al.

AGENCY: Pension and Welfare Benefits Administration, 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 Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. 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, DC 20210.

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 a complete statement of the facts and representations.

State Street Bank and Trust Company (the Bank); Located in Boston, Massachusetts

[Application No. D-7454]

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(b)(2) of the act shall not apply to: (1) The proposed purchase and sale of equity securities between collective investment index funds (the Index Funds) sponsored by the Bank; (2) the proposed purchase and sale of equity securities between the Index Funds and various model-driven collective investment funds (the Model-Driven Funds) sponsored by the Bank; (3) the proposed purchase and sale of equity securities between the Model-Driven Funds; and (4) the proposed purchase and sale of equity securities between the Index Funds or Model-Driven Funds (together, the Funds) and various large pension plans (the Large Plans), under the terms and conditions set forth in this notice of proposed exemption.

Summary of Facts and Representations

1. The Bank is a Massachusetts trust company which is subject to the supervision and examination of the Massachusetts Commissioner of Banks. The Bank is a member of the Federal Reserve Bank and its depositors' accounts are insured by the Federal Deposit Insurance Corporation. The Bank manages substantial amounts of assets, typically as a trustee or investment manager, for a variety of clients, including employee benefit plans subject to Title I of the Act (the Client Plans). The Bank's client accounts may be managed either as separate accounts for a single client or as commingled accounts (for example, group trusts organized pursuant to Rev. Rul. 81-100) for multiple clients (the Client Accounts).

2. The Bank is one of the largest investment managers in the United States in the area of passive investment management. Passive management involves investment in a fixed portfolio of securities, rather than a portfolio which changes according to an ongoing "active" evaluation of the desirability of particular equity securities. The Bank states that approximately $18.3 billion of its assets under management as of August 21, 1987 consisted of domestic and foreign equity securities being passively managed in the Index Funds and the Model-Driven Funds. Approximately $16.5 billion of the assets of the Funds are assets of the Client Plants.

The Bank has no beneficial ownership interest in any of the Funds. However, the Bank does maintain a defined benefit pension plan and a 401(k) savings plan for its eligible employees (the Bank Plans). The Bank states that the assets of the Bank Plans are invested from time to time in one or more Index Funds or Model-Driven Funds. As of August 31, 1987, the aggregate value of the assets of the Bank Plans was approximately $118.2 million.

3. The assets managed by the Bank in the Index Funds are invested pursuant to a strategy which attempts to replicate the performance of a predetermined third-party index, such as the Standard & Poor's 500 Composite Stock Price Index (the S&P 500 Index). The assets managed by the Bank in the Model-Driven Funds are invested pursuant to a strategy whereby investments are made in accordance with predetermined computer models. The applicant states that because the Funds are passively managed, the holdings of each Fund remain static unless one of several potential "trigger events" occurs.

First, an independent third party, such as Standard and Poors (S&P), may change the makeup of its index, which would require corresponding changes in the make-up of the portfolio of the Index Funds corresponding to that index.

Second, a threshold screen applied by the Bank may eliminate certain securities from the Index Fund or Model-Driven Fund even though such securities continue to be incldued in the related index or mdoel. Such a screening process may occur when the companies issuing the particular securities declare bankruptcy or are involved in an acquisition or merger. However, the Bank excludes relatively few securities of companies from its Index Fund portfolios for such reasons at any given time. The Bank states that, as a general rule, it will follow the decision of the third party creator of the index and will not exclude a security until it has been dropped from the index by the third party. For example, when Texaco, Inc., went into bankruptcy, its stock was not dropped from the S&P 500 Index and, therefore, the stock was retained in the Bank's S&P Index Funds. However, as an exception to the general rule situations may arise where the Bank's screening process may produce a "trigger event". For example, a successful tender offer may be made for a security that has been held in the Index Fund. In such cases, the Bank states that the Index Fund typically will tender its position in that security. Thus, even though S&P may continue to carry the security in the S&P 500 Index until the tender offer transaction has finally closed, the Bank will not attempt to acquire additional shares of that security in order to maintain its position. Rather, the Bank states that it will invest the cash proceeds of the tendered securities in its short term investment vehicles until a replacement security has been chosen by S&P and will then reposition the Bank's S&P Index Fund in that new security. The Bank notes that relatively few securities held in the Funds' portfolios are subject to tender offer transactions at any particualr time.

Third, the computer model upon which a particular Model-Driven Fund is based may change as a result of a change in the underlying objective criteria. Such criteria for the computer model are either prepared by an independent organization and made available to the Bank or are the product of investment strategies developed by the Bank's personnel.

For example, the investment objective of a particular Model-Driven Fund may be to track as closely as possible the performance of the S&P 500 Index, without having the Fund invest in all 500 securities of the S&P 500 Index. In order to accomplish this result, the Bank may use an "optimizer" computer program, prepared by an independent organization, which selects the 200 representative securities that are most likely to track the performance of the S&P 500 Index. Alternatively, the Bank might utilize an approach whereby those stocks in the S&P 500 Index which have the smallest capitalization would be excluded. Under either of these two approaches, once the approach has been selected for the particular Model-Driven Fund, everything is driven automatically by either the "optimizer" computer program or by the capitalization of the various stocks in the S&P 500 Index.

Fourth, the net amount available for investment in the particular Index Fund or Model-Driven Fund may increase or decrease, either due to the receipt of income which must be reinvested, the addition of assets to the Client Account, or the withdrawal of assets from the Client Account. The applicant states that in the case of the Client Plans, all such additions or deletions are made at the direction of an independent fiduciary. However, in the case of the Bank Plans, the additions or deletions are made at the direction of the Bank.

4. The applicant represents that since the Index Funds and the Model-Driven Funds are passively managed portfolios, the need to purchase or sell a particular security arises as the result of the occurrence of one of the triggering events described above. Such "trigger events" are, in most cases, the result of an event which occurs independent of any exercise of investment discretion by the Bank. Therefore, the Bank states that the amount, nature and timing of trades for both the Index Funds and the Model-Driven Funds, in most cases, are not subject to the exercise of any material degree of discretion by the Bank. The Bank notes that it would be exercising discretion in the context of trades which might arise by reason of the Bank's exercise of its discretion to change the computer models upon which certain of its Model-Driven Funds are based. However, the Bank represents that any cross-trade opportunities which arise by reason of its discretionary changes to the underlying computer models (i.e. the third triggering event described above) for any of the Mode-Driven Funds would not be executed with respect to those Funds. The Bank also notes that it would be exercising discretion in the context of cross-trades which arise as a result of additions or deletions to a Fund made by the Bank Plans. However, the Bank represents further that the Funds would be able to take advantage of cross-trade opportunities with a Fund that has produced a "trigger event" as a result of the additions or deletions made to that Fund by one of the Bank Plans only in certain limited circumstances (see Paragraph #10).

With respect to the timing of the transactions once a "trigger event" has occurred, the Bank states that it attempts to replicate any changes in the underlying index or model as quickly as possible. For example, when assets are deposited in an Index Fund, assets to be invested in domestic securities are typically invested within three days. If the assets are deposited in an international Index Fund, the Bank states that the orders are typically placed with independent brokers within three days, although the actual execution of those orders may take longer depending upon the particular overseas market. The Bank states further that if assets are being withdrawn from a Fund and sales must be made, such sales are typically implemented within three days of the withdrawal.

5. The applicant states that the Funds are often required to sell a particular security when one or more of the other Funds will be in the process of purchasing that same security. If the Funds effect the required transactions on the open market, each Fund incurs substantial transaction costs, including brokerage commissions, the so-called "marketmaker's spread", and the potential adverse market impact which may be caused by the trade itself.

The Bank states that if it were able to effect these transactions by means of a pre-arranged direct cross-trade between the Funds that must sell the particular security and the Funds which must buy that same security, the Bank could substantially reduce the amount of the commission costs for the Funds, and could eliminate entirely the marketmaker's spread and any potential for adverse market impact. Based on a review of the potential direct cross-trade opportunities during the period from January 1, 1987 to September 30, 1987, the Bank estimates that the ability to effect direct cross-trades would generate substantial savings to the Funds. The Banks states that the proposed cross-trading of the securities between the various Funds would be effected as quickly as possible, generally within three days.

6. In addition to transactions arising in connection with the automatic trading activities of the Index Funds and Model-Driven Funds, the Bank states that it is often retained to assist one of the Large Plans in liquidating all or a substantial portion of the securities held by the Large Plan. In such situations, the Bank acts as a "trading adviser" to the Large Plan. Each of the Large Plans has total

assets of at least $50 million. The Bank states that it is not a fiduciary for the Large Plan with respect to the underlying asset allocation decision which results in the Large Plan allocating assets to the Funds. Specifically, the Bank is not a fiduciary by reason of investment advice to the Large Plan when acting in the role of "trading adviser" to the Large Plan. Typically, the Bank's role as a "trading adviser" involves only advice on the mechanical aspects of accomplishing the Large Plan's asset allocation decision, such as arranging for the stock transactions so as to minimize transaction costs. Such liquidations are the result of the decision of an independent plan fiduciary to restructure the portfolio, in some cases to allow such portfolio to be managed by the Bank as an Index Fund or a Model-Driven Fund and in other cases to facilitate the realignment of the portfolio in connection with a change in investment managers or investment strategy. The applicant states that in the course of these restructrurings, the Large Plan will often be selling certain securities which the Funds are simultaneously in the process of purchasing as a result of a "trigger event." In such cases, the Large Plan and the Funds effect the transactions on the open market and, as a result, both the Large Plan and the Funds incur the transaction costs described above.

7. The Bank represents that it would be in the best interest of the Plan Clients and the Large Plan for direct cross-trades to be arranged and effected to the maximum extent possible. The Bank states that the avoidance or reduction of transaction costs made possible by direct cross-trading between the Funds, or between the Funds and the Large Plans, would be an economic benefit to the Plan Clients and the Bank Plans.

8. The Bank represents that it would receive its customary investment management or trustee fees with respect to the Plan Clients and its fee for acting as "trading adviser" to a Large Plan. However, the Bank would not receive any additional compensation on account of its effecting the direct cross-trades. The Bank represents further that to the extent that it is necessary to utilize a broker-dealer, all direct cross-trades would be effected through an independent broker-dealer which is not affiliated with the Bank. The Bank anticipates that the utilization of such an independent broker-dealer may be necessary in some cases to efficiently process the mechanical aspects of the direct cross-trade, particularly when the Bank is not the custodian or trustee for both parties to the transaction. For example, the need for an independent broker-dealer may arise in the context of transactions between the Funds, for which the Bank is the trustee or custodian, and one of the Large Plans, for which the Bank is only a "trading adviser" for the transaction and not a trustee or custodian for the assets of the Large Plan involved. The Bank states that where it is the trustee or custodian for both parties, the Bank may be able to efficiently process the mechanical aspects of the trade without the involvement of any broker-dealer, thereby resulting in the complete avoidance of any brokerage commissions. In no event would the Bank or any of its affiliates receive any brokerage commissions or other additional compensation as result of the direct cross-trades.

9. The Bank represents that all direct cross-trades would be for cash effected at a price equal to the closing price reported by the independent pricing service customarily utilized by the Bank for purposes of valuing the particular equity securities (and in the case of foreign securities, the particular currency). The independent pricing service used by the Bank gathers price information from all the relevant sources (i.e. the New York Stock Exchange, the American Stock Exchange, NASDAQ, etc.) and compiles the information into a format which is usable by the Bank. The Bank states that in the event that the number of shares of a particular security which all of the Funds and Large Plans propose to sell on a given day exceeds the number of shares of such security which all the Funds or the Large Plans propose to buy, or vice versa, the direct cross-trade opportunity would be allocated among potential sellers or buyers on the basis of a queue system.

The Bank proposes to utilize an approach whereby all investment funds would be placed in a queue, initially in alphabetical order. Any new Funds would be placed at the end of the queue as they come on line. Thus, the queue system would merely establish a listing of the Funds as potential buyers or sellers of securities. When cross-trade opportunities arise, the Bank would go down the list matching any buyers and sellers in the order in which they appear on the list until one side of the transaction or the other has been fully exhausted. The Bank states that after each cross-trade opportunity, the Fund at the top of the list would be rotated to the bottom of the list, regardless of whether that Fund participated in the cross-trade. Thus, the applicant states that since the queue moves up by one Fund after each cross-trade opportunity, all the Funds would have an opportunity to participate in direct cross-trading opportunities.

10. The Bank states that when direct cross-trades occur between the Funds and one or more of the Large Plans, the transactions would be effected only if the following conditions are satisfied: 1) The Large Plan's fiduciary, which is independent of the Bank, is fully informed in writing in advance of the cross-trading opportunity; 2) such fiduciary provides advance written approval, authorizing the Bank to engage in a cross-trade transaction; and 3) the Large Plan's fiduciary is informed in writing of the results of all direct cross-trading activity.

With respect to the participation of the Bank Plans in the Funds which would engage in the proposed direct cross-trading program, the Bank states that a Fund would not be eligible to participate in the cross-trading opportunities if the assets of the Bank Plans in the Fund exceed 10% of the total assets of the Fund. In addition, the Bank states that even if the 10% limitation is satisfied with respect to a particular Fund, the Fund would not be eligible to participate in direct cross-trading opportunities if the triggering event for the cross-trade opportunity involves the deposit of assets from a Bank Plan into the Fund or the withdrawal of assets by a Bank Plan from the Fund, and the Bank Plan's assets involved in such deposit or withdrawal constitute more than 5% of the total assets of the Bank Plan.

11. In summary, the applicant represents that the proposed transactions would satisfy the statutory criteria of section 408(a) of the Act because, among other things: (a) The Funds would buy or sell equity securities in direct cross-trading transactions only in response to various "trigger events" which, in most cases, arise independent of the exercise of investment discretion by the Bank; (b) the Large Plans would engage in cross-trades only in situations where the Bank has no discretion with respect to the investment decision; (c) the price for the equity securities would be the closing price for the securities on the day of trading; (d) the direct cross-trading between the Funds, or between the Funds and the Large Plans, would be conducted as quickly as possible, with securities transactions being effected generally within at least three days of the "trigger events" for the Funds; (e) the Funds and Large plans would save significant amounts of money on

brokerage commissions and other expenses normally associated with such transactions; and (f) the Bank would receive no additional fees as a result of the proposed cross-trades.

Notice to Interested Persons: A notice will be mailed by first class mail to each Plan which invests in the Funds. The notice will contain a copy of the notice of pendency of exemption as published in the Federal Register and an explanation of the rights of interested parties to comment on or request a hearing regarding the proposed exemption. Such notice will be sent to the above-named parties within two weks of the publication of the notice of pendency in the Federal Register.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Eastwood Printing and Publishing Company Profit Sharing Plan and Trust (the Plan); Located in Denver, Colorado

[Application No. D–7506]

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), (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 sale (the Sale) by the Plan to Siegel Investment Company (SIC), a limited partnership and a party in interest with respect to the Plan, of a certain parcel of real property located in Denver, Colorado (the Property); provided that the terms and conditions of the transaction are at least as favorable to those obtainable by the Plan in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 22 participants and total assets of $1,215,547.94 as of September 30, 1987. Noah Siegel (Mr. Siegel) is the Plan trustee and also the owner of the Employer. Mr. Siegel, his wife and two children are the owners of SIC.

2. The Property is located at 3201–3225 Blake Street, Denver, Colorado and covers a total area of 65,826 square feet. On-site improvements include a one-story building providing office and warehouse space and a paved yard with access to a railroad right-of-way. The real estate directly contiguous to the Property is owned by SIC.

On March 31, 1981, the Plan purchased the Property for $200,065 from Alfred J. Zarlengo, who, the applicant represents, is unrelated to the Plan, Mr. Siegel or SIC. During the term of its holding of the Property, the Plan expended $26,000.58 on taxes, insurance and maintenance. In addition, the Plan paid approximately $25,000 for capital improvements to the Property in 1985.

From 1981 to 1985, the Property was leased to Colorado Sheepskin Services, Inc. for $790 per month. The Property's vacant yard was also leased to contractors who were not parties-in-interest. Since August, 1987, a portion of the Property has been leased to Graphic Arts Mailing, Inc., who the applicant represents, is not a party-in-interest. The Plan received rental payments of $1,500 per month, totalling $18,000 annually under the lease. The Plan pays real estate taxes, insurance and maintenance costs estimated to be $8,400 per annum.

3. The Property's fair market value was determined as of November 5, 1985 as $315,000 by Philip J. Barkan, S.R.A. and S.R.E.A., of Denver, Colorado (the Barkan Valuation). The Property was subsequently appraised by Clifford L. Cryer, M.A.I. and S.R.P.A., and W. Earl Wilson, Associate Appraiser, of Cryer & Company Appraisers, Inc. (the Cryer Appraisal). The Cryer Appraisal determined the Property's fair market value as of October 5, 1987 to be $285,000. By update to the Cryer Appraisal as of April 22, 1988, Messrs. Cryer and Wilson considered the special value of the Property to SIC as a contiguous landowner and determined that there was none in this instance.

4. SIC now proposes to purchase the improved Property from the Plan for cash in amount of $315,000, the fair market value determined in the Barkan Valuation. SIC represents that the Plan will pay no real estate commissions or fees of any kind, including legal fees, in connection with the transaction.

5. The applicant represents that the transaction will be in the best interests of the Plan and protective of the rights of the Plan's participants and beneficiaries because it will enable the Plan to divest itself of an illiquid investment which represents approximately 25 percent of the Plan's assets. The Plan's increased liquidity resulting from the Sale will facilitate distributions to terminated employees whose interests have vested in the Plan.

6. In summary, the applicant represents that the proposed transaction satisfies the exemption criteria set forth in section 408(a) of the Act because: (a) The Plan will receive at least the appraised fair market value for the Property; (b) the Sale will be a one-time transaction; (c) the Sale will be consummated for cash; (d) the Plan will incur no cost or fees with respect to the transaction; and (e) the applicant has represented the Sale to be in the best interest and protective of the Plan and its participants and beneficiaries because it will increase the Plan's liquidity and facilitate distribution of Plan assets to them.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the Plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Review Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Mrs. Betsy Scott of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

The O.C. Tanner Company Retirement and Savings Plan, the O.C. Tanner Manufacturing Retirement and Savings Plan, the O.C. Tanner Manufacturing Sales Representatives' Retirement and Savings Plan, the O.C. Tanner Employees Savings Plan and the O.C. Tanner Retirement and Savings Plan Group Trust (collectively, the Plans); Located in Salt Lake City, Utah

[Application Nos. D–7604 through D–7608]

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 sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application for section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to a series of loans (the Loans) by the Plans to the O.C. Tanner Company (the Employer), involving up to 25% of each of the Plan's assets, provided that the terms of the transactions are not less favorable to the Plans than those obtainable in arm's-length transactions with unrelated parties.

Summary of Facts and Representations

1. The Plans are qualified employee profit sharing plans and a qualified group trust with approximately 1,210 participants and total assets of approximately $26.6 million as of December 31, 1987. All of the Plans' assets are commingled in a group trust for investment purposes. The Employer is a closely held corporation engaged in the manufacture and marketing of emblematic jewelry. The trustee of the Plans is Obert C. Tanner and the administrative committee appointed to manage and administer the Plans includes Messrs. O. Don Ostler, W. Lowell Benson and Robert K. Anger, all of whom are employees of the Employer.

2. The Department granted a previous exemption to the applicant effective July 1, 1984 (Prohibited Transaction Exemption (PTE) 84–112, 49 FR 30608, July 31, 1984), to permit a series of loans by the Plans to the Employer involving up to 25% of each of the Plan's assets. The applicant requests that this exemption be expanded to include two new plans of the Employer that were not covered by the prior exemption (i.e., the O.C. Tanner Employees Savings Plan and the O.C. Tanner Retirement and Savings Plan Group Trust). The Plans propose to make the Loans over the remainder of the 10-year period which began July 1, 1984, the effective date of PTE 84–112, to the Employer involving up to, but never in excess of, 25% of the assets of each of the Plans, the amount of the Loans to be adjusted quarterly. The principal amount of the Loans will become fixed for the duration of the Loans at the end of 10 years from July 1, 1984 (i.e., June 30, 1994). That is, no additional loans will be made after June 30, 1994.

3. Loans made from the Plans are documented by one promissory note from the Employer to the group trust. Each calendar quarter representatives of the Employer meet with the Plans' independent fiduciary (see representation 7) to consider adjustment of the Loan balance. If a new Loan is to be allowed, the Employer pays off the previous Loan first and then executes a new promissory note reflecting the increased Loan balance. Prior to executing a new promissory note, the independent fiduciary reviews the process and issues a report stating that the new Loan is appropriate and suitable for the Loans.

4. The Loans will be repaid in quarterly payments of interest and principal to be made through the quarter ending June 30, 1989, each equal to the amount that would be necessary to amortize the current principal amount of the Loans at the then interest rate, in 20 equal consecutive quarterly payments. Since the entire outstanding principal balance on the Loans will vary, payments will be calculated as if the entire outstanding principal balance on the Loans were to be repaid with interest in level payments over 5 years. The Employer will be charged a rate of interest no less than the fair market rate of interest that would be charged by an unrelated lender for arms'-length loans of comparable amount, security, terms and conditions, as determined by the independent fiduciary. The interest rate will be adjusted at least annually and may be adjusted also whenever the principal amount of the Loans is increased or, in the opinion of the independent fiduciary, whenever the market rate for comparable loans changes sufficiently that a lender would reasonably be expected to request that the terms of the Loans be renegotiated. Notwithstanding the foregoing, the rate of interest on the Loans shall always equal or exceed the "prime" rate of interest charged by Chase Manhattan Bank plus two percent (2%).

5. The Loans will be secured by a first mortgage on the Employer's manufacturing facilities and related real property (the Property), located at and in the vicinity of 1930 South State Street, Salt Lake City, Utah. The mortgage will be evidenced by a standard trust deed, designating the Plans as beneficiaries and the independent fiduciary as trustee. The Property has been appraised by George Y. Fujii, an independent MAI appraiser with the firm of Reval Inc., Salt Lake City, Utah, as having a fair market value of $14,060,000 as of June 1988.[1] The Employer represents that it will add any additional collateral that may be required while the Loans are outstanding to assure that the value of the collateral is at all times equal to at least 200% of the outstanding balance of the Loans. A certified MAI appraiser will review this valuation at least annually. During the Loans' outstanding period, the Property will be kept adequately insured for the benefit of the Plans against fire or other loss at the expense of the Employer, and the independent fiduciary will determine at least annually that adequate insurance has been maintained.

6. In the event that the independent fiduciary shall retain or engage an attorney or attorneys to collect, enforce, or protect the Plans' interests with respect to the Loans, the Employer shall pay all of the costs and expenses of such collection, enforcement, or protection, including reasonable attorneys' fees, and the independent fiduciary may take judgement for all such amounts, in addition to the unpaid principal balance of Loans and accured interest thereon.

7. The trustee of the Plans will continue to appoint Kent D. Watson, C.P.A. (Mr. Watson), of Price Waterhouse, Salt Lake City, Utah, a certified public accountant who is experienced with both large and small business operations and who is the managing partner of the Price Waterhouse office in Salt Lake City, to serve as an independent fiduciary for the proposed Loans. Other than his previous service as independent fiduciary under PTE 84–112, Mr. Watson has no other relationship with the Employer or the Plans. Mr. Watson has been advised by legal counsel with regard to his duties, responsibilities, and liabilities as a fiduciary under the Act. Mr. Watson represents that he is aware of and understands the requirements of the Act and his responsibilities under it. In addition to reviewing the specific terms and conditions of the proposed Loans, Mr. Watson has represented that he will (a) Examine the Plans' investment portfolio; (b) consider the cash flow needs of the Plans; (c) give consideration to whether a sale of any of the Plans' assets is necessary; (d) examine the diversification of each Plan's assets in light of the loan investment; and (e) review the terms of the Loans to assure that they comport with the Plan's investment schemes. Mr. Watson will determine, prior to the making or increase of the Loans, that the Loans are appropriate and suitable as an investment for the Plans, that they are sound and reasonable under the circumstances and that any sale or liquidation of assets held by the Plans that might be required in order to make such loan or increase is prudent and reasonable. Mr. Watson will be responsible under the loan agreement for supervising the Loans to ensure that (1) The amount of the Loans never exceeds 25% of each Plan's assets, (2) the interest rate is always at least a fair market rate, (3) the Loans are at all times secured by a first mortgage on property worth at least 200% of the outstanding principal obligation, and (4) installments and repayment of the Loans are timely made. Mr. Waston has examined the terms of the proposed Loans and has initially determined that they are appropriate and suitable for the

[1] This appraisal was based on the premise that the Employer would continue to reside in the buildings acting as collateral. The Employer has agreed, in the case that it moves its offices from the buildings acting as the collateral, to immediately repay all of the Loans.

Plans. He will be required to make the same determination immediately prior to consummation of each of the transactions and will be empowered and required to approve each increase in the principal amount of the Loans. He will further be empowered and directed to enforce the terms of the loan agreement between the Plans and the Employer, including bringing suit or other appropriate process against the Employer in the event of default, allowing 10 days to foreclose on the mortgage; ascertaining at least annually that the Employer is maintaining adequate insurance on the Property in the Plans' favor against fire or other lose; and reporting at least annually to the trustee of the Plans on the performance of the Loans, including whether the value of the collateral remains equal to at least 200% of the outstanding balance of the Loans.

Mr. Watson represents that all of the prior Loans were administered in accordance with the terms set forth in PTE 84–112 and that the Loans were and continue to be an appropriate investment for the Plans. As independent fiduciary, Mr. Watson will be entitled to such information from the Employer and the Plans as may reasonably be necessary to fulfill his responsibilities, and he shall be paid reasonable compensation plus reimbursement for reasonable expenses, if any, including legal or appraisal fees or costs, as agreed upon with the trustee of the Plans. The Employer may also indemnify him for his acts performed reasonably and in good faith, while acting as the independent fiduciary.

8. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because: (a) The Loans are secured by real estate with an appraised value that is and will remain at least twice the amount of the Loans; (b) the Employer will insure the Property and add additional collateral so that the value of collateral securing the Loans is always at least 200% of the outstanding balance of the Loans; (c) the Loans have and will continue to be administered by an independent fiduciary; and (d) the trustee and the independent fiduciary have determined that the transactions are appropriate for the Plans and in the best interest of the Plan's participants and beneficiaries and protective of their interests.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Alton Engineering Profit Sharing Plan (the Plan); Located in Bethesda, Maryland

[Application No. D–7640]

Proposed Exemption

The Department is considering granting an exemption under the authority of 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 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 sale by the Plan of three limited partnership interests (the Interests) and a certain parcel of improved real property (the Property) to George J. Quinn (Mr. Quinn), a disqualified person with respect to the Plan, provided that the sale price is no less than the fair market value of the Interests and the Property as of the date of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which, as of April 30, 1988, had one participant and total assets of approximately $1,227,725. The trustees of the Plan are Mr. Quinn and his wife, Eileen S. Quinn.

2. The sponsor of the Plan is the Alton Engineering Company (the Employer). The Employer is a Maryland corporation located at 9407 Elsmere Court, Bethesda, Maryland. Mr. Quinn is the sole stockholder of the Employer. The Employer is engaged in the business of providing general contracting services. However, the Employer has been relatively inactive since 1980 and has had only one active employee, Mr. Quinn.

The Employer decided to terminate the Plan effective April 30, 1984. At the time of termination, all of the participants in the Plan, except for Mr. Quinn, had terminated their employment with the Employer. By letter dated July 25, 1986, the Internal Revenue Service determined that the Plan was qualified upon termination. The participant's interests in the Plan were subsequently liquidated, except for the amount due to Mr. Quinn. Therefore, Mr. Quinn is the only remaining participant in the Plan.[1]

3. The Interests are described as follows:

(1) a 1.365% interest in the Columbia Pike Limited Partnership (the Columbia Pike L.P.), which owns a single parcel of improved real property located at 5600 Columbia Pike, Fairfax County, Virginia; (2) a 1.249% interest in a 37.7 acre parcel of unimproved real property located in Montgomery County, Maryland, which is owned by the Wilgus Associates Limited Partnership (Wilgus) and held by the Plan under the Paramount Development Limited Partnership (the Paramount L.P.), which is a partner with Wilgus; and (3) a 2.5% interest in the Cohen-Donnelly Associates Limited Partnership, which owns the following: (i) A garden apartment complex located on Missouri Avenue and 13th Street, NW., Washington, DC; (ii) a 3-story, walk-up apartment building located at 5301 New Hampshire Avenue, NW., Washington, DC; and (iii) and a purchase money deed of trust secured by a 3-story garden apartment development located at 7406 Hancock Avenue, Takoma Park, Maryland.

The Property is a 100% fee simple interest in certain improved real property located at 32 N Street, SE., Washington, DC.

4. The Plan acquired the Interests and the Property from unrelated parties prior to the effective date of the Act. In addition to the Interests owned by the Plan, Mr. Quinn owns a 2.5% interest in the Paramount L.P., and holds or controls, along with the Employer, a 12.6% interest in the Columbia Pike L.P. (together, the Quinn Interests). The applicant represents that the Quinn interests were acquired, in each case, at the same time that the Plan acquired its Interests in those same partnerships, which was prior to the effective date of the Act. The applicant states that part of the Quinn Interests in the Columbia Pike L.P. were later sold to other investors, some of whom are related to Mr. Quinn. The applicant states further that there haved been no additional acquisitions of ownership interests in any of the limited partnerships (the Partnerships) by either Mr. Quinn, the Employer, or the Plan.[2]

The applicant represents that neither the Property nor the underlying properties owned by the Partnerships have ever been leased to, or used by, a party in interest or disqualified person with respect to the Plan.

[1] Because Mr. Quinn is the only participant in the Plan and the employer is wholly-owned by Mr. Quinn, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[2] In this proposed exemption, the Department expresses no opinion as to whether the continued holding of the Interests by the Plan and the Quinn Interests by Mr. Quinn, subsequent to the effective date of the Act, violated any provision of Part 4 of Title I of the Act.

5. The Interests and the Property were appraised on November 20, 1987 by John E. Gogarty, M.A.I. (Mr. Gogarty), an independent, qualified real estate appraiser and consultant in Washington, DC. Mr. Gogarty states that the Interests and the Property had a fair market value of approximately $347,350 and $45,000, respectively, as of November 20, 1987. Mr. Quinn proposes to purchase the Interests and the Property from the Plan for cash in an amount equal to their fair market value, as estabished by Mr. Gogarty's appraisal. The applicant states that Mr. Gogarty's appraisal will be updated for purposes of the proposed transaction and that there will be no brokerage commissions or other expenses incurred by the Plan in connection with the sale.

6. The applicant represents that the proposed transaction is in the best interests of the Plan because the Interests and the Property are not easily liquidated and that the Plan may not be able to obtain the appraised fair market value for the Interests and the Property if the Plan is forced to sell these assets on the open market. In addition, the applicant states that the Plan may lose its tax qualified status unless it is liquidated shortly. Mr. Quinn has considered taking the Interests and the Property as a distribution in kind as part of his total distribution from the Plan. However, Mr. Quinn represents that he wants to "roll over" his entire distribution from the Plan to an individual retirement account (IRA) and has had difficulty finding a corporate trustee that is willing to hold the Property and the Interests in an IRA. Therefore, Mr. Quinn believes that the proposed transaction will assist the Plan in liquidating its assets and will enable the Plan to expedite the distribution of such assets.

7. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 4975(c)(2) of the Code because: (a) The sale will be a one-time transaction for cash; (b) the Plan will receive an amount equal to the fair market value of the Interests and the Property, as established by an independent, qualified appraiser; and (c) the Plan will not pay any brokerage commissions or other expenses with respect to the sale.

Notice to Interested Persons: Because Mr. Quinn is the only participant in the Plan, it has been determined that there is no need to distribute the notice of proposed exemption to 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: Mr. E.F. Williams of the Department, telephone (202) 523–8883. (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 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.

(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 describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 25th day of August, 1988.

Robert J. Doyle,

Acting Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88–19714 Filed 8–29–88; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Meeting; Ocean Sciences Research Advisory Panel

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ocean Sciences Research.

Date and Time: September 20–22, 1988.

Place: American Association for the Advancement of Science, 1333 H Street, NW., Washington, DC 20005. Rooms: First Floor Conference Room A, First Floor Conference Room B, Eighth Floor Conference Room, Eleventh Floor Conference Room.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Head, Ocean Sciences Research Section, Room 609, National Science Foundation, Washington, DC 20550, Telephone (202) 357–9600.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in oceanography.

Agenda: Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

August 23, 1988.

[FR Doc. 88–19655 Filed 8–29–88; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reoganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 11, No. 1).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, specal nuclear, and byproduct material are abnormal occurrences.

The report to Congress is for the first calendar quarter of 1988. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described. During the report period, there were three abnormal occurrences at the nuclear power plants licensed to operate: a potential for common mode failure of safety-related components due to a degraded instrument air system at Fort Calhoun; common mode failures of main steam isolation valves at Perry Unit 1, and a cracked pipe weld in a safety injection system at Farley Unit 2.

There were six abnormal occurrences at other NRC licensees: a diagnostic medical misadministration; a breakdown in management controls at the Georgia Institute of Technology research reactor facility; the release of polonium–210 from static elimination devices manufactured by the 3M Company; two therapeutic medical misadministrations, and a significant widespread breakdown in the radiation safety program at Case Western Reserve University research laboratories.

There was one abnormal occurrence reported by an Agreement State (Texas) involving radiation injury to two radiographers.

The reports also contains information updating some previously reported abnormal occurrences.

A copy of the report is available for public inspection and/or copying at the NRC Public Document Room, 1717 H. Street, NW., Washington DC 20555, or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies of NUREG–0090, Vol. 11, No. 1 (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. A year's subscription to the NUREG–0090 series publication, which consists of four issues, is also available.

Copies of the report may also be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Bethesda, MD, this 24th day of August 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88–19675 Filed 8–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–315 and 50–316]

Indiana Michigan Power Co., Donald C. Cook Nuclear Plant, Units Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the approval of a procedure for the disposal of contaminated concrete at the Donald C. Cook Nuclear Plant, pursuant to 10 CFR 20.302, as requested by Indiana Michigan Power Company (the licensee). D.C. Cook Nuclear Plant is located in Berrien County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed action would approve the onsite disposal of contaminated concrete resulting from the replacement of the steam generators in D.C. Cook Unit No. 2.

The Need for the Proposed Action

To provide access for complete replacement of the four steam generator lower assemblies, a large opening will be cut in each of the reinforced concrete doghouses surrounding the steam generators. Large sections of reinforced concrete will need to be removed from the Unit 2 steam generator doghouse enclosures and must be disposed of. The licensee proposes to decontaminate the concrete to the extent practical. Following decontamination of the concrete, the licensee intends to dispose of the concrete outside the protected area fence, but within the D.C. Cook Nuclear Plant site boundary. The chosen site is presently the site of concrete spoils and other construction remnants left from the construction of the plant.

Environmental Impacts of the Proposed Action

By letter dated February 29, 1988 the licensee submitted an application for the onsite disposal of contaminated concrete slabs, a licensed material not previously considered by the Commission's staff in the D.C. Cook Final Environmental Statement (FES) dated August 1973. The application, prepared in accordance with 10 CFR 20.302(a), contains a detailed description of the licensed material, thoroughly analyzes and evaluates the information pertinent to the effects on the environment of the disposal of the licensed material, and commits the licensee to follow specific procedures to minimize the risk of unexpected or hazardous exposure.

The proposed action would allow the licensee to retain contaminated concrete on site at the D.C. Cook Nuclear Plant. Large sections of reinforced concrete will be removed from the D. C. Cook Unit No. 2 steam generator doghouse enclosures and must be disposed of. Decontamination by mechanical removal of paint, and surface concrete to a depth of 1/16", will eliminate the majority of the contamination accumulated in the concrete. However, the concrete sections will have trace quantities of Cobalt-60 (Co-60), Cesium-134 (Cs-134), and Cesium-137 (Cs-137) distributed in the remaining outer surfaces. The concrete will be removed in 24 to 30 large slabs ranging in weight from 25 to 70 tons each. It is planned to dispose of the material in this form, as large structural segments. The roof sections are three feet thick, and the wall portions are two feet thick. The estimated total weight of the slabs is 920 tons. This total includes an estimated 65 tons of reinforcing steel and steel structural supports.

The outer surfaces of the doghouse structures are in the upper containment volume. The surfaces were painted with nuclear Grade I paint prior to operation of the unit. However, the airborne contamination inside containment, arising due to normal operations, has brought small amounts of radioactive contamination into contact with the surfaces. Over the ten years of plant operation, the small amounts of contamination have diffused through the paint and into the outer layer of concrete. Inside the doghouse structure, airborne contamination again has contributed to the deposition of radioactivity on the walls.

Radiological analysis was performed on samples of paint and underlying concrete from the outside wall of the doghouse structures. Three nuclides were found in the concrete: Cobalt-60, Cesium-134, and Cesium-137. The average of the measured sample concentration of each nuclide is given in the licensee's application and is shown below in Table 1. The licensee indicated in the application that the concentrations represent the activity expected in the surface of the concrete when it is disposed of after decontamination. The licensee used maximum measured sample concentration in portions of the radiological impact assessment to insure conservatism in the calculations, and these values are summarized in Table 1 also.

To calculate the total activity present in the concrete, the licensee's estimate was made, based on the sample data, of the amount of diffusion of the radionuclides into the concrete. Diffusion is a physical phenomena generally applied to gaseous and liquid materials 'migrating' into a host material. The amount of diffusion of one material into another is dependent on the properties of both materials, the tempreature, and the concentration of the diffusing material at the surface of contact. Water evaporating into air is an example of diffusion. The process of diffusion for the subject concrete was modeled mathematically according to Fick's Law which is a natural exponental function. The concentration of the diffusing material (i.e., the radioiosotopes) at the contact surface migrates into the host material, here being concrete, and gradually decreases with depth from the surface. The mathematical model never reaches zero concentration due to the properties of exponential functions, therefore practically, one chooses a very small cut off point at which it can be assumed the concentration has essentially reached zero. The licensee chose the cut off in this case to be the depth at which the surface activity concentration was decreased by 100,000 times. Actual activity at this level would be impossible to measure and is several times below natural background levels of radiation. This depth was calculated to be approximately one inch. To be more conservative, the licensee assumed that all of the calculated activity in the one inch of concrete was uniformly near the surface. Based on this conservative assumption it would be contained in the first one-tenth of an inch. This assumption was used in the exposure pathway dose calculations. The licensee calculated the total activity by integrating the concentration to this depth over the entire surface area of the concrete blocks.

The licensee indicated in the application that several conservative assumptions were made in calculating the total activity content of the concrete. First, the surface area was calculated based on total volume of concrete and a uniform thickness of two feet. This effectively creates approximately 25 percent more potentially contaminated surface area than actually exists. Second, all surfaces were assumed to be equally contaminated. Due to the presence of the protective steel liner plate, any contamination on the inner concrete surface is expected to be small relative to that measured on the outer surface. Table 1 indicates the licensee's total calculated activity of each radionuclide based on both the average of the sample concentrations and on the maximum concentrations measured in the surface.

TABLE 1.—RADIOACTIVITY CONTENT OF THE DOGHOUSE CONCRETE

Nuclide	Half-life (years)	Ave. conc. (pCi/gm)	Max. conc. (pCi/Gm)	Ave. based activity (uCi)	Max. based activity (uCo)
Co-60	5.3	1.33	2.70	7.8	16.0
Cs-134	2.1	0.33	0.70	1.9	4.1
Cs-137	30.0	2.60	7.70	15.4	45.6
Total		4.26	11.10	25.1	65.7

Prior to disposal, items embedded in the concrete such as equipment supports, anchor bolts, and conduit and piping restraints shall be cut off flush with the concrete surface. The painted surface of the concrete will be removed to a minimum depth of ½" into the underlying concrete by a mechanical scarifying process.

The decontaminated blocks will again be surveyed prior to release for disposal. Any areas on the blocks which do not meet radiation protection release criteria, or exceed the assumptions made in the radiation dose evaluation of the application, will be further decontaminated prior to release for disposal.

The proposed disposal method for the concrete blocks is to remove them to an area outside the protected area fence, but within the Donald C. Cook Nuclear Plant site boundary. The Cook Nuclear Plant is located in Lake Township, Berrien County, Michigan, approximately 11 miles South-Southwest of the center of Benton Harbor, Michigan. The plant site consists of approximately 650 acres situated along the eastern shore of Lake Michigan. A more detailed description of the plant site area can be found in the "Final Environmental Statement Related to Operation of Donald C. Cook Nuclear Plant Units 1 and 2" (FES), August 1973.

The chosen site is presently the site of concrete spoils and other construction remnants left from the construction of the plant. The site is more than 200 yards away from any area occupied by plant personnel on any regular basis, and is 150 yards away from Thornton Road. The site is also surrounded by earthern mounds on all sides, with the exception of the access point.

Once the concrete is in place, it will not be visible except at the access point. It has not yet been determined whether or not the slabs will be stacked or individually laid down, but the maximum actual area occupied by the blocks will be less than 20 x 25 yards.

An evaluation of the potential radioactive dose to a plant site worker and to a member of the general public was performed by the licensee to determine the radiological impact of placing the concrete in the proposed location. The calculations were performed using applicable methodologies in Regulatory Guide 1.109, NUREG/CR-3332, and *Introduction to Health Physics*, Cember.

The licensee, in the application, stated all potential exposure pathways recommended by Regulatory Guide 1.109 were evaluated with the exception of potential dose from incineration of the waste. There is no feasible scenario by which the concrete would be burned. The licensee's evaluation consisted of a determination of the environmental pathways through which radiological exposure could be expected to occur and an evaluation of the radiological consequences of the disposal of the concrete for each of the pathways considered. The following environmental pathways were considered:

(1) External exposure from the concrete—occupational and intruder

(2) Internal exposure due to release of contaminants to surface and ground water—ingestion of drinking water, fish and other aquatic foods, and well water

(3) Internal exposure due to agricultural activities on the disposal site following loss of institutional control—ingestion of vegetables, meat and dairy products

(4) Internal exposure due to inhalation of resuspended contaminated concrete dusts—occupation, and intruder following loss of institutional control.

This evaluation demonstrates that any doses to occupational workers, intruders, and members of the general public would be very small, and far lower than the levels permitted for unrestricted areas by 120 CFR 20.105.

In the FES for the operation of D.C. Cook, the Commissioner's staff considered the potential effects on the environment of licensed material from operation of the plant and, in the summary of radiological impacts, concluded that "* * * the routine operation of the Cook Station is expected to add only a small increment to the natural background dose." ". . . these doses correspond to concentrations which are a small percentage of permissible standareds set forth in 10 CFR Part 20.

Since the disposal proposed in the licensee's application dated February 29, 1988, involves licensed materials containing much less than 0.1 percent of the radioactivity, primarily Cobalt-60, Cesium-134, and Cesium-137, already considered acceptable in the FES, and involve exposure pathways much less significant and radiochemical forms much less mobile than those considered in the FES, the Commisson's staff considers this site-specific application for the D.C. Cook Nuclear plant to have insignificant radiological impact. The Commission's staff accepts the evaluations of the licensee documented in Attachment 1 of the February 29, 1988, application as further assurance that the proposed disposal procedures will have a negligible effect on the environment and on the general population in comparison to normal background radiation.

Alternatives to the Proposed Action

An alternative to on-site burial would be to ship and dispose of the concrete slabs at an offsite licensed disposal site. The overall benefit from the proposed method for the disposal of these slightly contaminated concrete slabs will be cost saving of approximately $1.6 million and a saving of burial site space of approximately 16,000 cubic feet, which can be used for other radwaste of higher activity. The alternative would not be environmentally preferable.

Alternative Use of Resources

This action involves no use of resources not previously considered in connection with the "Final Environmental Statement Related to Operation of Donald C. Cook Nuclear Plan Units 1 and 2" dated August 1973.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application dated February 29, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Maude Preston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 23rd day of August 1988.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Project Directorate III–1, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 88–19676 Filed 8–29–88; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–55]

Unfair Trade Practices; Icicle Seafoods; USTR Determination

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Proposed Determination and Action Under Section 301.

SUMMARY: Pursuant to 19 U.S.C. 2414, as amended by section 1301 of the Omnibus Trade and Competitiveness Act of 1988, the United States Trade and Competitiveness Act of 1988, the United States Trade Representative is required to determine whether United States rights under a trade agreement are being denied by Canada's prohibition on the export of unprocessed Pacific herring and pink and sockeye salmon. The Trade Representative is also considering any appropriate action (subject to the Specific direction, if any, of the President) in response to Canada's practice. The USTR welcomes comments regarding such determination or responsive action with respect to current or anticipated Canadain measures.

DATE: Written comments will be accepted through Sept. 30, 1988.

ADDRESS: Comments should be addressed to the Chairman, Section 301 Committee, Office of the United States Trade Representative, Room 223, 600 17th St., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Les Glad, Economist, Office of the United States Trade Representative, (202) 395–3077.

SUPPLEMENTARY INFORMATION: On April 1, 1986, Icicle Seafoods and nine other companies with fish processing facilities in Washington or southeastern Alaska filed a petition under section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411, et seq.) alleging that Canada prohibits exports of unprocessed Pacific herring and pink and sockeye salmon, and that this policy is an unjustifiable trade practice which violates Article XI of the General Agreement on Tariffs and Trade (GATT). Article XI prohibits most types of export restrictions.

On May 16, 1986, pursuant to 19 U.S.C. 2412(a), the Trade Representative initiated an investigation on the basis of this petition (51 FR 19,648). Also on May 16, the Trade Representative requested bilateral consultations with representatives of the government of Canada.

These consultations were held on Sept. 3 and Oct. 27, 1986. They failed to yield a satisfactory resolution of the issue. The USTR therefore invoked the formal dispute settlement procedures of the GATT and won a favorable decision that was adopted by the GATT Council in March 1988.

Representatives of the United States and Canada again consulted bilaterally on March 9–11, 1988. On March 22, 1988, the government of Canada announced that it would eliminate the export restrictions effective Jan. 1, 1989. However, the government of Canada also announced that it will immediately replace these export restrictions with new landing and inspection requirements prior to export. The requirement will apply to exports of the species of fish at issue in the GATT case, and might also be imposed on other species.

Pursuant to 19 U.S.C. 2414, as amended by section 1301 of the Omnibus Trade and Competitiveness Act of 1988, the USTR is required to determine whether Canada's export restrictions deny "rights to which the United States is entitled" under the GATT. If this determination is affirmative, he is further required to take appropriate and feasible action in response (subject to the specific

direction, if any, of the President) unless a specified exception applies.

The USTR welcomes comments regarding such determination and responsive action. USTR is particularly interested in comments on the current economic effects of Canada's export restrictions, and on the effects of a new Canadian landing requirement, as applied to: (a) Pacific herring; (b) pink and sockeye salmon; (c) chum, coho, and chinook salmon; and/or (d) Pacific groundfish. Comments should address the probable impact of alternative landing requirements such as those involving: off-loading and inspection in a Canadian port; or transfer of a "fish ticket" from a vessel to Canadian authorities in a Canadian port, without off-loading; or transfer of fish from a Canadian fishing vessel to a tender vessel in Canadian waters. USTR additionally invites comments on the economic impact on U.S. processors of Canadian quality inspection of unprocessed fish before export, and on the utility or necessity of such a program in promoting the quality of U.S.-processed fish products. USTR also invites comments on appropriate U.S. responses to alternative Canadian landing and/or inspection requirements.

Comments should be filed in accordance with the regulations in 15 CFR 2006.8 and are due no later than Sept. 30.

Judith H. Bello,

General Counsel, Chairman, Section 301 Committee.

[FR Doc. 88-19650 Filed 8-29-88; 8:45 am]

BILLING CODE 3190-01-M

Generalized System of Preferences (GSP); Review of Country Practice Petitions and Public Hearings

Summary: The purpose of this notice on the GSP annual review is (1) to announce the acceptance for review of petitions to modify the status of countries as GSP beneficiary countries in regard to their practices as specified in 15 CFR 2007.0(b) and (2) to announce the timetable for public hearings to consider petitions accepted for review.

I. Acceptance of Country Practice Petitions for Review

Notice is hereby given of acceptance for review of country practice petitions requesting modification in the status of countries presently designated as GSP beneficiary countries, as provided for in Title V of the Trade Act of 1974 (the Act) (19 U.S.C. 2461–2465). These petitions were submitted, and will be reviewed, pursuant to regulations codified at 15 CFR part 2007.

Acceptance for review of the petitions listed herein does not indicate any opinion with respect to a disposition on the merits of the petitions. Acceptance indicates only that the listed petitions have been found to be eligible for review by the GSP Subcommittee and the Trade Policy Staff Committee (TPSC), and that such review will take place.

1. Information Subject to Public Inspection

Information submitted in connection with the hearings will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2007.7. Briefs or statements must be submitted in twenty copies in English. If the document contains business confidential information, twenty copies of a nonconfidential version of the submission along with twelve copies of the confidential version must be submitted. In addition, the document containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the document. The version that does not contain business confidential information (the public version) should also be clearly market at the top and bottom of each and every page (either "public version" or nonconfidential")

2. Communications

All communications with regard to these hearings should be addressed to: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., Room 517, Washington, DC 20506. The telephone number of the Secretary of the GSP Subcommittee is (202) 395–6971. Questions may be directed to any member of the staff of the GSP Information Center.

II. Deadline for Receipt of Requests To Participate in the Public Hearings

The GSP Subcommittee of the TPSC invites submissions in support of or in opposition to any petition listed in this notice. All such submissions should conform to 15 CFR 2007, particularly §§ 2007.0, 2007.1(a)(1), 2007.1(a)(2), and 2007.1(a)(3).

Hearings will be held on October 3–5 beginning at 10:00 a.m. in the Commerce Department auditorium, 14th and Constitution Avenue, NW., Washington, DC. The hearings will be open to the public and a trascript of the hearings will be made available for public inspection or can be purchased from the reporting company.

Requests to present oral testimony at the public hearings should be accompanied by twenty copies, in English, of all written briefs or statements and should be received by the Chairman of the GSP Subcommitte no later than the close of business Monday, September 19. Oral testimony before the GSP Subcommittee will be limited to five minute presentations that summarize or supplement information contained in briefs or statements submited for the record. Post-hearing briefs or statements will be accepted if submitted in twenty copies, in English, no later than close of business Monday, October 24. Rebutal briefs should be submitted in twenty copies, in English, by close of business Monday, November 21.

Parties not wishing to appear may submit written briefs or statements in twenty copies, in English, in connection with countries under consideration in the public hearings, provided that such submissions are filed by Wednesday, October 26 and conform with the regulations cited above.

III. Cases Accepted for Review Regarding Country Practices, Pursuant to 15 CFR 2007.0(b)

Pursuant to 15 CFR 2007.0(b), the TPSC has accepted for review petitions to review the status of Burma, Haiti, Israel,[1] Liberia, Malaysia, and Syria as GSP beneficiary countries in relation to their practices relating to worker rights.

In veiw of the fact that a review of the Central African Republic's eligibility in relation to its practices with respect to worker rights is already in progress, and that Paraguay and Chile have been indefinitely suspended from the GSP list of beneficiary countries, comments on the worker rights practices of these three countries will also be welcomed during the public hearing and comment process described in section II. In addition, since the review of Thailand's practices with regard to intellectual property rights has been extended to December 15, 1988, comments will also be welcomed on this issue.

Pursuant to 15 CFR 2007.0(b), the TPSC has accepted for review a request filed by Occidental Petroleum Corporation to review Venezuela's status as a GSP beneficiary country in

[1] The present decision to accept review of Israeli worker rights practices is without prejudice to the U.S. Government's ultimate position on whether the West Bank and Gaza should be deemed part of the "country of" Israel for purposes of section 502(b)(8). The United States has consistently refrained from any action that would have the effect of recognizing, either impliedly or expressly, the de jure incorporation of the occupied territories into Israel.

relation to its practices regarding the expropriation of Occidental's property without providing compensation.

Sandra J. Krostoff,

Chairwoman, Trade Policy Staff Committee.

[FR Doc. 88-19730 Filed 8-29-88; 8:45 am]

BILLING CODE 3190-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meeting

Notice is hereby given of meetings of the Prospective Payment Assessment Commission on Tuesday and Wednesday, September 13-14, 1988, at the Omni Shoreham Hotel, 2500 Calvert Street, Northwest, Washington, D.C.

The Subcommittee on Diagnostic and Therapeutic Practices will be meeting in the Ambassador Room at 9:00 a.m., September 13, 1988. The Subcommittee on Hospital Productivity and Cost-Effectiveness will convene its meeting at 9:00 a.m. in the Diplomat Room on September 13, 1988.

The Full Commission will convene at 3:00 p.m. on September 13, 1988, in the Diplomat Room. The Commission will meet the following day at 9:00 a.m. in the Diplomat Room where a panel will provide expertise on particular aspects of the Medicare Cost Report and to better understand the implications of using these data for policy purposes.

Donald A. Young,

Executive Director.

[FR Doc. 88-19844 Filed 8-29-88; 8:45 am]

BILLING CODE 6820-BW-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-26024; File No. 600-24]

Self-Regulatory Organizations; Delta Government Options Corp.; Application for Registration as a Clearing Agency; Extension of Time for Submission of Comments

On July 29, 1988, Delta Government Options Corporation ("Delta") files with the Commission an application for full registration as a clearing ageny under Section 17A of the Securities Exchange Act of 1934, 15 U.S.C. 78q-1 ("Act"). On August 5, 1988, the Commission published in the Federal Register notice of Delta's filing and invited commentators to submit, on or before August 26, 1988, written data, views and arguments ("comments") concerning that application.[1]

Several potential commentators have requested an extension of the time period for submitting comments concerning Delta's application for registration and Delta's requests for exemption from various requirements of section 17A of the Act. Accordingly, the Commission has determined to extend the time for submission of comments to September 9, 1988. All comments received on or before September 9, 1988, will be considered by the Commission in deciding whether to approve Delta's application and grant Delta's exemption requests. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, 450 5th Street, NW., Washington, DC 20549. Reference should be made to File No. 600-24. Copies of the application and of all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington DC.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 24, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-19698 Filed 8-29-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #6648]

New York; Declaration of Disaster Loan Area

The City of Rome, New York, constitutes an Economic Injury Disaster Loan Area as a result of damages from a fire which occurred on July 4, 1988 at the Price Chopper Mall. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on May 19, 1989 at the address listed below: Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fairlawn, NJ 07410.

Or other locally announced locations. The interest rate for eligible small business concerns without credit available elsewhere is 4 percent and 9 percent for eligible small agricultural cooperatives without credit available elsewhere.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Date: August 19, 1988.

James Abdnor,

Administrator.

[FR Doc. 88-19646 Filed 8-29-88; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 02/02-0518]

Magazine Partners, Inc.; Application for License To Operate as a Small Business Investment Company

An Application for a License to operate a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 *et seq.*) has been filed by Magazine Partners, Inc., 457 North Harrison Street, P.O. Box 1155, Princeton, New Jersey 08540, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1988).

The proposed officers, directors, and owners of Magazine Partners, Inc. are as follows:

Name and address	Position	Percentage of ownership
William R. Robins, 696 Kingston Road, Princeton, NJ 08540.	President, Treasurer, Director, and Manager.	0
Paul H. DeCoster, 450 West End Avenue, New York, New York 10024.	Secretary and Director.	0
Nancy Hood Robins, 696 Kingston Road, Princeton, NJ 08540.	Director	100% (indirectly).
Magazine Funding, Inc., 457 North Harrison St., Princeton, NJ 08540.		100%.

Magazine Funding, Inc. (MFI), is wholly owned by Bleak House, Inc. 457 North Harrison St., Princeton, NJ 08540. Bleak House, Inc. is controlled by Nancy Hood Robins.

The Applicant will begin operations with a capitalization of $1,000,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns. Its target client group is small, established, privately-held companies, speciality magazines, newsletters, and periodicals. The Applicant intends to conduct its business in the State of New Jersey and other states throughout the nation.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the Applicant under their management including profitability and financial soundness, in

[1] Securities Exchange Act Rel. No. 25956 (August 1, 1988), 53 FR 29536.

accordance with the Act and Regulations.

Notice is hereby given that any person may, no later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in Princeton, New Jersey.

(Catalog of Federal Domestic Assistance Program no. 59.011, Small Business Investment Companies)

Dated: August 24, 1988.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 88-19643 Filed 8-29-88; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council Meeting; Public Meeting; Iowa

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Des Moines, will hold a public meeting at 7:00 p.m. on Sunday, October 2, 1988, at the Scheman Center, Iowa State University campus, Ames, Iowa to meet jointly with the Advisory Councils for the Iowa Department of Economic Development and the Iowa Small Business Development Centers to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Conrad Lawlor, District Director, U.S. Small Business Administration, 210 Walnut Street, Seventh Floor, Des Moines, Iowa 50309, (515) 284-4422.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 22, 1988.

[FR Doc. 88-19645 Filed 8-29-88; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council Meeting Public Meeting; Montana

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Helena, will hold a public meeting at 8:30 a.m. on Friday, October 21, 1988, at the Ponderosa Inn, Executive Suite 406, 220 Central Avenue, Great Falls, Montana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John R. Cronholm, District Director, U.S. Small Business Administration, Federal Office Building, 301 South Park, Drawer 10054, Helena, Montana 59626-(406) 449-5381.

Donald Clarey,

Deputy Administrator.

August 23, 1988.

[FR Doc. 88-19644, Filed 8-29-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD-88-073]

National Boating Safety Advisory Council Subcommittee on Propeller Guards; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety advisory Council's Subcommittee on Propeller Guards to be held on Thursday and Friday, September 22 and 23, 1988, at the Boston Whaler Company, 1149 Hingham Street, Rockland, Massachusetts, beginning at 8:30 a.m. on both days and ending at 5:00 p.m. on Thursday and at 12:00 noon on Friday. The agenda for the meeting will be as follows:

1. To discuss the issue of propeller guards on recreational watercraft relating to personal safety and performance factors.

The meeting is open to the public. Persons wishing to present oral statements at the meeting should so notify the Executive Director of the Council no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain W.S. Griswold, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-NAB), Washington, DC 20593-0001, or by calling (202) 267-0997.

Dated: August 19, 1988.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 88-19599 Filed 8-29-88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 24, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub.L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0089.

Form Number: 1040NR.

Type of Review: Revision.

Title: U.S. Nonresident Alien Income Tax Return.

Description: This form is used by nonresident alien individuals and foreign estates and trusts to report their income subject to tax and compute the correct tax liability. The information on the return is used to determine whether income, deductions, credits, payments, etc., are correctly figured. Affected public are nonresident alien individuals, estates, and trusts.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 180,000.

Estimated Burden Hours Per Response: 6 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1,111,379 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 88-19603 Filed 8-29-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 24, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: None.
Type of Review: New Collection.
Title: Customer Survey on IRS Tax Publications.
Description: The information we get will help us identify who our customers are and how we can better meet their needs. It will point us to possible problem areas in certain publications. We can then produce a more understandable publication that will reduce the burden on taxpayers and help them comply with the tax laws. The random sample will come from taxpayers requesting the targeted publication(s).
Respondents: Individuals or households.
Estimated Number of Respondents: 2,302.
Estimated Burden Hours Per Response: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 230 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 88–19604 Filed 8–29–88; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 24, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Office, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0113.
Form Number: CF 1002.
Type of Review: Extension.
Title: Certificate of Payment of Tonnage Tax.
Description: The Certificate of Payment of Tonnage Tax is generated by U.S. Customs upon payment of tonnage tax and light money by the master of the vessel. It is presented to Customs upon each entry of the vessel during the tonnage year to ensure against overpayment of tonnage taxes.
Respondents: Businesses or other for-profit.
Estimated Number of Recordkeepers: 233,839.
Estimated Burden Hours Per Recordkeeper: 3 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeep Burden: 11,692 hours.
Clearance Officer: B. J. Simpson (202) 566–7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 88–19605 Filed 8–29–88; 8:45 am]
BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination; Art of Paolo Veronese 1518–1588

Notice is hereby given of the following determination: Pursuant to the authority versted in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "The Art of Paolo Veronese 1518–1588" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also detemine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, DC, beginning on or about November 13, 1988, to on or about February 20, 1989, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

R. Wallace Stuart,
Acting General Counsel.
Date: August 24, 1988.
[FR Doc. 88–19659 Filed 8–29–88; 8:45 am]
BILLING CODE 8230–01–M

Culturally Significant Objects Imported for Exhibition; Determination; Michelangelo: Draftsman, Architect

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Michelangelo: Draftsman, Architect" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, in Washington, DC, beginning on or about October 9, 1988, to on or about December 11, 1988, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202–485–7988, and the address is Room 700, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547.

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202–485–7988, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

Date: August 24, 1988.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 88-19658 Filed 8-29-88; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination; Pastoral Landscape: The Legacy of Venice et al.

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "The Pastoral Landscape: The Legacy of Venice (at the Gallery); and The Pastoral Landscape: The Modern Vision (at The Phillips Collection)" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art and at the Phillips Collection in Washington, DC, beginning on or about November 6, 1988, to on or about January 22, 1989, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Date: August 24, 1988.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 88-19660 Filed 8-29-88; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202-485-7988, and the address is Room 700, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547.

Culturally Significant Objects Imported For Exhibition; Determination; Tuscan Drawings

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Tuscan Drawings of the Sixteenth Century from the Uffizi: Fra Bartolommeo to Cigoli" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. I also determine that the temporary exhibition or display of the listed exhibit objects at the Detroit Institute of Arts, beginning on or about October 16, 1988 to on or about January 8, 1989, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Date: August 19, 1988.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 88-19657 Filed 8-29-88; 8:45 am]

BILLING CODE 8230-01-M

Meeting of the Book and Library Advisory Committee

A meeting of the Book and Library Advisory Committee will take place on September 19, 1988, at 301 Fourth Street SW., Room 849, Washington, DC, from 10:00 a.m. to 12:00 noon.

The committee will be discussing various ongoing international book and library programs.

Please contact Louise Wheeler on (202) 485-8889 for further information.

Dated: August 24, 1988.

Charles N. Canestro,

Committee Management Officer.

[FR Doc. 88-19663 Filed 8-29-88; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Lorie Nierenberg of the Office of the General Counsel of USIA. The telephone number is (202) 485-8827, and the address is Room 700, U.S. Information Agency, 301-4th Street, SW., Washington, DC 20547.

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held September 14, 1988 at the Voice of America, 330 Independence Avenue, SW., Washington, DC from 9:30 a.m. to 11:30 p.m.

The Commission will meet at the Voice of America for a tour of VOA's Master Control and renovated studios, and to observe VOA's multilingual text processing system. The Commission will meet with VOA Director Richard Carlson and VOA Deputy Director Bob Barry to discuss VOA Modernization.

Please call Gloria Kalamets, (202) 485-2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: August 23, 1988.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 88-19662 Filed 8-29-88; 8:45 am]

BILLING CODE 8230-01-M

Meeting of the Voice of America Broadcast Advisory Committee

A meeting of the Voice of America Broadcast Advisory Committee has been scheduled for September 14, 1988, in Room 3300, 330 Independence Avenue SW., Washington, DC, from 12:00 noon to 2:30 p.m.

Matters to be discussed are:

(1) New program initiatives;

(2) Impact of budget on VOA operations;

(3) Status of VOA modernization;

(4) Progress of studio renovation;

(5) Future purpose and role of the committee.

Please contact Louise Wheeler on (202) 485-8889 for further information.

Dated: August 24, 1988.

Charles N. Canestro,

Committee Management Officer.

[FR Doc. 88-19661 Filed 8-29-88; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 168
Tuesday, August 30, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

August 25, 1988–G.

FCC To Hold Open Commission Meeting, Thursday, September 1, 1988

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, September 1, 1988, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Mass Media—1—Title: In the Matter of Advanced Television Systems and Their Impact on the Existing Television Broadcast Service; Review of Technical and Operational Requirements: Part 73–E, Television Broadcast Stations; Reevaluation of the UHF Television Channel and Distance Separation Requirements of Part 73 of the Commission's Rules. Summary: The Commission will consider further action in this proceeidng on the technical, economic, legal, and policy issues relating to authorizing and establishing an advanced television system for terrestrial broadcasting.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence, Office of Public Affairs, telephone number (202) 632–5050.

Issue date: August 25, 1988.

Federal Communications Commission.

H. Walker Feaster, III,

Acting Secretary.

[FR Doc. 88–19838 Filed 8–26–88; 3:13 pm]

BILLING CODE 6712-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 29, September 5, 12, and 19, 1988.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 29

There are no meetings scheduled for the Week of August 29.

Week of September 5—Tentative

Wednesday, September 7

10:00 a.m.
Briefing on Proposed Rule on Degreed Operators (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, September 8

2:00 p.m.
Briefing on Final Rule on Emergency Planning and Preparedness Requirements for Nuclear Power Plant Fuel Loading and Initial Low Power Operations (Public Meeting)

Week of September 12—Tentative

Monday, September 12

2:00 p.m.
Briefing on Severe Accident Policy for Future Light Water Reactors (Public Meeting)

Friday, September 16

10:00 a.m.
Briefing by Health Physics Society on Below Regulatory Concern Issues (Public Meeting) (Tentative)
10:15 a.m.
Briefing on Policy Paper on Radiation Risks Which are Below Regulatory Concern (Public Meeting)
11:45 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of September 19—Tentative

There are no meetings scheduled for the Week of September 19.

ADDITIONAL INFORMATION: Affirmation of "Interim Rule for Collection of Required Fees Mandated by Congress (Public Law 100–203)" (Public Meeting) was held on August 5.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

August 25, 1988.

Andrew L. Bates,

Office of the Secretary.

[FR Doc. 88–19823 Filed 8–26–88; 3:18 pm]

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