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Wednesday  
November 14, 1984

# Selected Subjects

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## Selected Subjects

- Air Pollution Control**
  - Environmental Protection Agency
- Aviation Safety**
  - Federal Aviation Administration
- Claims**
  - Justice Department
- Courts**
  - Commodity Futures Trading Commission
- Crop Insurance**
  - Federal Crop Insurance Corporation
- Employee Benefit Plans**
  - Pension Benefit Guaranty Corporation
- Fisheries**
  - National Oceanic and Atmospheric Administration
- Food Additives**
  - Food and Drug Administration
- Milk Marketing Orders**
  - Agricultural Marketing Service
- National Banks**
  - Comptroller of Currency
- Natural Gas**
  - Federal Emergency Management Agency
- Quarantine**
  - Animal and Plant Health Inspection Service

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## Selected Subjects

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# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 441

[Doc No. 1654S; Amdt No. 1]

#### Table Grape Crop Insurance Regulations

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Interim rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) hereby amends the Grape Crop Insurance Regulations (7 CFR Part 441), effective for the 1985 and succeeding crop years by changing the end of the insurance period from October 31, to individual end-of-insurance-period dates by variety and county. The intended effect of this amendment is to provide the proper dates for the end of insurance period in order to maintain the actuarial integrity of the grape crop insurance program. The authority for the promulgation of the rule is contained in the Federal Crop Insurance Act, as amended.

**DATES:** Effective date: October 31, 1984  
Comment Date: Written comments, data, and opinions on this interim rule must be submitted not later than January 14, 1985 to be sure of consideration.

**ADDRESS:** Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

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

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1 (December 15,

1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

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

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

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

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants publication of this rule without providing a period of public comment prior to its publication. After the first year of crop insurance experience on table grapes, it is evident that the present October 31 date as the end of insurance period is not appropriate for the different varieties of such table grapes currently insured. Normal harvesting for such table grape varieties ranges from July 15 to October 31. Under the present date the insured may delay

harvest for an extended period of time thus substantially increasing FCIC's exposure to loss.

The Federal Crop Insurance Corporation is charged by the Federal Crop Insurance Act, as amended, to maintain an actuarially sound program of crop insurance protection. To permit the insured to delay harvest is counter to that mandate.

All changes for the 1985 policy must be on file prior to October 31, 1984. For that reason it is impractical to publish this rule for public comment prior to implementation.

Public comment on this rule is solicited for 60 days after the publication of this rule in the Federal Register. This rule will be scheduled for review so that any amendments made necessary by public comment may be published in the Federal Register as quickly as possible.

Any written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

#### List of Subjects in 7 CFR Part 441

Crop insurance, Table grapes.

#### Interim Rule

#### PART 441—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Table Grape Crop Insurance Regulations (7 CFR Part 441), effective for the 1985 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 441 is:

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

2. The table in 7 CFR 441.7(d) is amended by revising paragraph 7.f. to read as follows:

#### § 441.7 The application and policy.

\* \* \* \* \*

(d) \* \* \*

7. Insurance Period.

\* \* \* \* \*

f. The following applicable date of the calendar year in which the grapes are normally harvested:

California county(ies)	Variety	Date	
Fresno, Kern, and Kings.	Perlette.....	Aug. 15.	
	Cardinal.....	Do.	
	Exotic.....	Aug. 31.	
	Flame Seedless..	Do.	
	Supenor	Do.	
	Seedless.		
	Red Malaga.....	Sept. 15.	
	Queen.....	Do.	
	Thompson	Do.	
	Seedless.		
	Black Rose.....	Sept. 30.	
Madera, San Bernardino, and Tulare.	Italia.....	Do.	
	White Malaga.....	Oct. 15.	
	Ribier.....	Do.	
	Ruby Seedless...	Do.	
	All others.....	Oct. 31.	
	Merced, Stanislaus, and San Joaquin.	Flame Seedless..	Sept. 15.
		Thompson	Sept. 30.
		Seedless.	
		Ribier.....	Oct. 15.
		Flame Tokay.....	Do.
		All others.....	Oct. 31.
Riverside.....		Beauty	July 15.
		Seedless.	
		Perlette.....	Do.
		All others.....	July 31.

Done in Washington, D.C., on October 16, 1984.

Peter F. Cole,  
Secretary, Federal Crop Insurance Corporation.

Dated: November 8, 1984.

Approved by:

Edward Hews,  
Acting Manager.

[FR Doc. 84-29813 Filed 11-13-84; 8:45 am]

BILLING CODE 3410-08-M

### Agricultural Marketing Service

#### 7 CFR Part 1004

[Docket No. A0-160-A62-R03]

#### Milk in the Middle Atlantic Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This action amends temporarily the base plan provisions of the Middle Atlantic milk order. It provides that a dairy farmer's eligible deliveries to plants regulated under other Federal orders during the 1984 base-forming period of August-December be counted along with his/her deliveries of producer milk in computing the producer's base.

The action is based on evidence presented at a public hearing held on September 13, 1984, in Alexandria, Virginia. The change was proposed by a cooperative association. It was supported by a federation of five cooperatives which includes proponent and represents a substantial majority of the producers who supply milk to the market.

The amended order reflects current marketing conditions and assures orderly marketing in view of the critically short milk supply situation that exists in the Southeast.

Because of the limited time available to complete the rulemaking procedures, a recommended decision and the opportunity to file exceptions thereto with respect to this issue were omitted. Issuance of the amended order is favored by more than two-thirds of the producers who supplied milk to the market during the representative period of July 1984.

**EFFECTIVE DATE:** November 14, 1984.

**FOR FURTHER INFORMATION CONTACT:** Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding:

Notice of Hearing: Issued August 30, 1984; published September 6, 1984 (49 FR 35100).

Emergency Partial Final Decision: Issued October 17, 1984; published October 24, 1984 (49 FR 42737).

#### Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Middle Atlantic order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand

for milk in the said marketing area; and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional Findings.* It is necessary in the public interest to make this order amending the order effective upon publication in the Federal Register. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The emergency final decision of the Deputy Assistant Secretary containing all amendment provisions of this order was issued on October 17, 1984 (49 FR 42737). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the Federal Register, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the Federal Register. (Sec. 553(d), Administration Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

#### List of Subjects in 7 CFR Part 1004

Milk marketing order, Milk, Dairy products.

**Order Relative to Handling**

*It is therefore ordered*, that on and after the effective date hereof, the handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

**PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA**

In § 1004.92, paragraph (a) is revised to read as follows:

§ 1004.92 Computation of base for each producer.

\* \* \* \* \*

(a) For any producer, except as provided in paragraphs (b) through (f) of this section, the quantity of milk receipts shall be the total pounds of producer milk received by all pool handlers from such producer during the immediately preceding months of August through December. However, during the August-December, 1984 base-forming period only, the quantity of milk receipts shall include the total pounds of milk received from such producer: (1) As producer milk by pool handlers; and (2) as dairy farmer milk pooled on some other Federal order(s), which was reported and eligible to be diverted as producer milk pursuant to § 1004.12(d) but is subject to the classification and pricing provisions of such other order(s) issued pursuant to the Act and § 1004.12(f)(4).

\* \* \* \* \*

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

Effective date: November 14, 1984.

Signed at Washington, D.C., on: November 6, 1984.

C.W. McMillan,

*Assistant Secretary, Marketing and Inspection Services.*

[FR Doc. 84-29773 Filed 11-13-84; 8:45 am].

BILLING CODE 3410-02-M

**Animal and Plant Health Inspection Service**

**9 CFR Part 78**

[Docket No. 84-102]

**Brucellosis in Cattle; State and Area Classifications**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule.

**SUMMARY:** This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of

brucellosis by changing the classification of the State of Wisconsin from Class A to Class Free. This action is necessary because it has been determined that this State meets the standards for Class Free status. The effect of this action is to relieve certain restrictions on the interstate movement of cattle from the State of Wisconsin.

**EFFECTIVE DATE:** November 14, 1984.

**FOR FURTHER INFORMATION CONTACT:** Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 811, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8711.

**SUPPLEMENTARY INFORMATION:**

**Background**

A document published in the Federal Register on August 8, 1984 (49 FR 31659-31660) amended the brucellosis regulations in 9 CFR Part 78 by changing the classification of the State of Wisconsin from Class A to Class Free. The amendment, which was made effective August 8, 1984, relieves certain restrictions on the interstate movement of cattle from Wisconsin.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of August 8, 1984, still provides a basis for the amendment.

**Executive Order 12291 and Regulatory Flexibility Act**

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this action will not have a significant effect on the economy; 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 adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Changing the status of the State of Wisconsin reduces testing requirements on the interstate movement of certain cattle. Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by

the changes in status. Also, cattle from Certified Brucellosis-Free Herds moving interstate are not affected by these changes in status. It has been determined that the change in brucellosis status affirmed by this document will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

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.

**List of Subjects in 9 CFR Part 78**

Animal diseases, Cattle, Hogs, Quarantine, Transportation, Brucellosis.

Accordingly, the interim rule amending 9 CFR Part 78 which was published at 49 FR 31659-31660 on August 8, 1984, is adopted as a final rule.

**Authority:** Secs. 4, 5, and 6, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114a-1, 115, 120, 121, 125, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 6th day of November, 1984.

Billy G. Johnson,

*Acting Deputy Administrator, Veterinary Services.*

[FR Doc. 84-23842 Filed 11-13-84; 8:45 am]

BILLING CODE 3410-34-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 84-NM-72-AD; Amdt. 39-4954]

**Airworthiness Directives; Avian Balloon Models Sparrow, Falcon II, and Skyhawk**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** On July 31, 1984, the FAA issued a priority mail airworthiness directive (AD) effective upon receipt, to all known owners of Avian Balloon Models Sparrow, Falcon II, and Skyhawk. This AD requires the installation of a placard prohibiting further tethered flight, and inspection or replacement, as applicable, of the basket suspension cables. Also, modification of affected balloons was required by August 30, 1984. This action was prompted by a report of the failure

of two of four basket suspension cables on a Skyhawk balloon while in tethered flight. This AD is hereby published in the Federal Register to make it effective to all persons.

**EFFECTIVE DATE:** November 26, 1984.

This AD was effective earlier to all recipients of priority letter AD 84-15-01, dated July 31, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

**ADDRESSES:** The applicable service information may be obtained from Avian Balloon Company, South 3722 Ridgeview Drive, Spokane, Washington 99206. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Don Gonder, Airframe Branch, ANM-120S; telephone (206) 431-2927 Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** On July 31, 1984, the FAA issued a priority letter airworthiness directive (AD) 84-15-01, applicable to Avian Balloon Models Sparrow, Falcon II, and Skyhawk. Avian Balloon Company reported an incident involving the failure of two of four basket suspension cables on a Model Skyhawk balloon. The failure is attributed to a combination of design features and the excessive dynamic loads encountered during tethered flight. Avian Balloon Models Sparrow and Falcon II may also experience similar failures during tethered flight because of similar design features.

Failure to modify the design of the basket suspension system before further tethered flight could result in additional failures and possible separation of the basket from the balloon. Also, failure to detect existing damage to the suspension cables could result in cable failures at less than limit loads.

To prevent additional failures, further tethered flight was prohibited and balloons which had been used in tethered flight required cable replacement or inspection, depending upon design features. Modification to the basket suspension systems was required by August 30, 1984, regardless of whether the balloon was used for tethered flight because repeated free flights could cause cumulative damage and subsequent cable failure. The modification consists of the incorporation, on early production baskets, of certain design features found on later production baskets and relocating the cables on all baskets.

Accomplishment of these modifications permits further tethered flight.

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

**List of Subjects in 14 CFR Part 39**

Aviation safety, Aircraft.

**Adoption of the Amendment**

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

**Avian Balloon:** Applies to Avian Balloon Models Sparrow, Falcon II, and Skyhawk, serial numbers 1 through 120, 413, and 810. Compliance required as indicated, unless previously accomplished. To prevent possible separation of the basket from the envelope, accomplish the following:

A. Before further flight, install a placard using white lettering at least  $\frac{3}{16}$  inches high on a red background in full view of the pilot stating that "TETHERED FLIGHT IS PROHIBITED," and

B. Before further flight, to ensure the structural integrity of the basket suspension cables on balloons which have been used for tethered flight, accomplish the following:

1. For early production series baskets, which may be identified by the presence of a nico-press sleeve on each cable where it enters the top of the basket handrail, replace the two basket suspension cables with new  $\frac{5}{32}$ -inch diameter stainless steel cables meeting the Mil-W-83402B specification in accordance with Advisory Circular (AC) 43.13-1A, paragraph 196(b).

2. For later production baskets, which may be identified by a cable load plate on the bottom of the basket, inspect each of the four basket suspension cables from two inches above the top of the basket handrail to two inches below the handrail for broken strands, deformation, and kinking. Any damaged or kinked cables must be replaced with new  $\frac{5}{32}$ -inch diameter stainless steel cables meeting Mil-W-83402B specification in accordance with AC 43.13-1A paragraph 196(b).

C. No later than August 30, 1984, accomplish the following modification in accordance with Avian Service Bulletin No. 5, dated June 26, 1984:

1. Modify early production series baskets by replacing and relocating the basket suspension cables, replacing the basket skid plates, and adding the steel load plate.

2. Modify later production baskets by replacing and relocating the basket suspension cables.

D. Accomplishment of paragraph C., above, eliminates the need to accomplish paragraphs A. and B., allows the removal of the required placard, and permits tethered flight.

E. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service bulletins from the manufacturer may obtain copies upon request to the Avian Balloon Company, South 3722 Ridgeview Drive, Spokane, Washington 99206. These documents also may be examined at the FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 26, 1984 and was effective earlier to those recipients of priority letter AD 84-15-01 dated July 31, 1984.

(Secs. 313(a), 314(a), and 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-440, January 12, 1983); and 14 CFR 11.89)

**Note.**—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on November 5, 1984.

Thomas J. Howard,

*Acting Director, Northwest Mountain Region.*

[FR Doc. 84-29751 Filed 11-13-84; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 39**

[Docket No. 84-NM-113-AD; Amdt. 39-4955]

**Airworthiness Directives; Lockheed Model 1329 Series Aircraft**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) which requires a visual inspection of the JE24-1 empennage pivot fitting assembly for cracks and condition of attaching fasteners on all Lockheed Model 1329 series aircraft. The AD is prompted by

reports of cracks and loose fasteners on Model 1329 airplanes in the JE24-1 empennage pivot fitting at a point where the fitting attaches to the flange of the JE22-1 rear beam of the vertical stabilizer. Failure to detect cracks or loose fasteners in the pivot fitting could result in undue stress on the primary structures and the eventual failure of the empennage and loss of the airplane.

**EFFECTIVE DATE:** November 26, 1984.

Compliance is required within the next 25 hours time in service or 20 days after the effective date of this AD (unless already accomplished).

**ADDRESSES:** The applicable service bulletin may be obtained from Lockheed-Georgia Company, 86 South Cobb Drive, Marietta, Georgia 30063 Attention: Jetstar Support Dept. 64-26, Zone 435; telephone (404) 424-3281. A copy of the service bulletin is contained in the Rules Docket, Office of the Regional Counsel, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**FOR FURTHER INFORMATION CONTACT:** Jack Bentley, Aerospace Engineer, Airframe Branch, Federal Aviation Administration, Central Region, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, Georgia 30337; telephone (404) 763-7407

**SUPPLEMENTARY INFORMATION:** There have been two reports of cracks and loose fasteners found on Model 1329 airplanes in the JE24-1 empennage pivot fitting at a point where the fitting attaches to the flange of the JE22-1 rear beam of the vertical stabilizer. Complete failure of this fitting would result in undue stress on the primary structures, which could lead to the eventual failure of the empennage and loss of the airplane. Since this condition is likely to exist or develop on other airplanes of the same type design, and airworthiness directive is being issued which requires visual inspection of the JE24-1 empennage pivot fitting assembly for cracks and condition of attaching fasteners on Lockheed Model 1329 series aircraft, and repair and/or replacement of parts, as necessary.

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

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator,

§ 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

**Lockheed:** Applies to Lockheed Models 1329-23A, -23D, -23E, and -25 series airplanes, serial numbers 5001 through 5162 and 5201 through 5240, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To detect cracks which could lead to failure of the empennage and loss of the airplane, accomplished the following:

A. Within the next 25 hours flying time or within 20 days after the effective date of this airworthiness directive (AD), inspect for cracks, proper hardware, proper installation of hardware, and loose fasteners in the JE24-1 empennage pivot fitting at the point where the fitting attaches to the flange of the JE22-1 rear beam of the vertical stabilizer in accordance with Lockheed Alert Service Bulletins A329II-55-3 and A329-299, dated October 19, 1984. If loose fasteners or cracks are found, before further flight, repair or replace with new or serviceable parts, as necessary, in accordance with a method acceptable to or approved by the FAA.

B. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

This amendment becomes effective November 26, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and (14 CFR 11.69)).

**Note.**—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on November 5, 1984.

Thomas J. Howard,  
*Acting Director, Northwest Mountain Region.*

[FR Doc. 84-29750 Filed 11-13-84; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 84-NM-46-AD; Amdt. 39-4953]

**Airworthiness Directives; McDonnell Douglas Models DC-8F-54, -55; DC-8-61F, -62F, -63F, -71F, -72F, -73F; DC-9-15F, -32F, -33F; C-9A and C-9B (Military) Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) which requires a visual check of the main cargo door of certain McDonnell Douglas Models DC-8 and DC-9 series airplanes to ensure that the door is locked prior to each takeoff, until a dual door open indicating light system is installed. It is prompted by reported incidents of cargo doors opening in flight. This AD is necessary to preclude potential opening of the main cargo door in flight, a condition which could result in loss of the aircraft.

**EFFECTIVE DATE:** November 26, 1984.

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

**ADDRESSES:** The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90346, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Y. Mabuni, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90803; telephone (213) 548-2831.

**SUPPLEMENTARY INFORMATION:** In a recent incident, a main cargo door of a DC-8 airplane opened at approximately 100 feet AGL on final approach. The airplane landed without further incident. Prior to this, several incidents involving both DC-8 and DC-9 airplanes occurred in which the main cargo door inadvertently opened during takeoff or shortly after takeoff.

In one incident, the flight crew on a DC-9-15F airplane noticed that a "Door Warning" annunciator light illuminated during rotation; shortly thereafter, the main cargo door opened, resulting in severe controllability problems. The

crew was able to land the airplane approximately eight minutes after take-off without further incident. It was reported that prior to takeoff, the First Officer closed the door, thought it was locked, and checked it both externally from the top of the airstairs and with the cockpit annunciator light. The cargo door was apparently closed but not locked. Investigation of this incident revealed that the main cargo door annunciator light would extinguish with the cargo door merely resting on the door jamb, in the closed but not latched or locked position. Further investigation revealed a latent failure in the cargo door open indicating system.

Three other DC-9 operators have also reported inadvertent openings of the main cargo door. Two incidents occurred during rotation and one incident occurred at 1,200 feet AGL after takeoff.

In addition, eight DC-8 operators have also reported nine incidents of inadvertent opening of the main cargo door. Eight incidents occurred during takeoff or initial climb and one incident occurred during approach. Investigation disclosed that at least four of these reported incidents could definitely be attributed to a latent failure in the main cargo door open indicating system. This type of failure will extinguish the main cargo door annunciator light when the cargo door is merely resting on the door jamb, in the closed but not latched or locked position. It is suspected that the main cargo doors involved in the other incidents were closed but not locked, and that the unlock condition was not annunciated in the cockpit.

Inadvertent opening of the main cargo door also could occur during the cruise phase of flight. This situation could result in even more severe controllability problems, possible separation of the main cargo door, consequent structural damage, and potential loss of the airplane.

This AD requires a visual check of the main cargo door of certain McDonnell Douglas Model DC-8 and DC-9 series airplanes to ensure that the main cargo door is closed, latched, and locked prior to each takeoff, until: (1) Modification of the existing circuit is accomplished to include a circuit test function to check the integrity of the cargo door open indicating system, and (2) a new main cargo door open indicating circuit is installed which utilizes a proximity switch that will monitor the position of the main cargo door lockpins. Incorporation of these changes will assure reliable annunciation of the main cargo door locking system and will alert the flight crew whenever the main cargo door is unlocked.

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

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

#### Adoption of the Amendment

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

**McDonnell Douglas: Applies to McDonnell Douglas Models DC-8F-54, -55, DC-8-61F, -62F, -63F, -71F, -72F, -73F; DC-9-15F, -32F, -33F; and C-9A and C-9B (Military) airplanes, fuselage serial numbers 795 and prior, certificated in all categories. Compliance required as indicated unless previously accomplished.**

To preclude potential opening of the main cargo door in flight, a condition which could result in loss of the aircraft, accomplish the following:

A. Commencing within the next 30 calendar days from the effective date of this AD and until paragraph B., below, is accomplished, a flight crew member, a mechanic, or a ramp supervisor will ensure that the main cargo door is closed, latched, and locked prior to each takeoff as follows:

1. Perform visual check of the manual latch controls, located outside the main cargo door, to ensure that the latch actuating socket handle and the lockpin handle are in the LOCK position; or

2. Perform visual check of the latches and lockpins, located on the inside of the main cargo door, to ensure that the latches are in the closed position and the lockpins are in the locked position.

3. Prior to taxi, communication to the flight crew that the cargo door has been checked, closed, and locked.

B. Compliance with the requirements of paragraph A., above, may be terminated upon the installation of a new main cargo door open indicating circuit that utilizes a proximity switch, revision of the existing main cargo door open indicating circuit, and the installation of a main cargo door indicating system test circuit, as outlined in the Accomplishment Instructions of McDonnell Douglas DC-8 Service Bulletin 52-76, Revision 1, dated April 9, 1976; or Accomplishment Instructions of McDonnell Douglas DC-9 Service Bulletin 52-92, dated April 7, 1976; or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The checks and modifications specified in paragraphs A. and B. of this AD are not required on airplanes which have the main cargo door deactivated and secured in the closed and locked position in accordance with a method approved by the Manager, Los

Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, until that door is reactivated.

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

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective November 26, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

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

Issued in Seattle, Washington, on November 5, 1984.

Thomas J. Howard,  
Acting Director, Northwest Mountain Region.

[FR Doc. 84-29752 Filed 11-13-84; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 97

[Docket No. 24317; Amdt. No. 1281]

#### Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** An effective date for each SIAP is specified in the amendatory provisions.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP

*For Purchase*

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription*

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

**FOR FURTHER INFORMATION CONTACT:** Donald K Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-8277

**SUPPLEMENTARY INFORMATION:** This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete

regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice of Airman (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

**List of Subjects in 14 CFR Part 97**

Aviation safety, Approaches, Standard instrument.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

*Effective December 20, 1984*

- El Dorado, AR—Goodwin Field, VOR/DME RWY 4, Amdt. 8  
 El Dorado, AR—Goodwin Field, VOR RWY 22, Amdt. 12  
 El Dorado, AR—Goodwin Field, VOR/DME-1 RWY 4, Ong., Cancelled  
 El Dorado, AR—Goodwin Field, VOR/DME RWY 22, Ong., Cancelled  
 Kamuela, HI—Waimea-Kohala, VOR-A, Amdt. 9  
 Kamuela, HI—Waimea-Kohala, VOR RWY 4, Amdt. 11  
 Aurora, IL—Aurora Muni, VOR-A, Amdt. 10  
 Aurora, IL—Aurora Muni, VOR RWY 38, Amdt. 6  
 Carbondale/Murphysboro, IL—Southern Illinois, VOR-A, Amdt. 3  
 Marion, IL—Williamson County, VOR RWY 2, Amdt. 10  
 Marion, IL—Williamson County, VOR RWY 20, Amdt. 14  
 Olney-Noble, IL—Olney-Noble, VOR/DME-A, Amdt. 6  
 Winchester, IN—Randolph County, VOR-A, Amdt. 6  
 Lawrence, KS—Lawrence Muni, VOR/DME-A, Amdt. 6  
 Camdenton, MO—Camdenton Memorial, VOR-A, Amdt. 1  
 Kaiser/Lake Ozark, MO—Lee C. Fine Memorial, VOR RWY 3, Amdt. 2  
 Kansas City, MO—Kansas City Intl, VOR RWY 27, Amdt. 12  
 Rolla/Vichy, MO—Rolla National, VOR/DME RWY 4, Amdt. 2  
 Rolla/Vichy, MO—Rolla National, VOR RWY 22, Amdt. 7  
 Keene, NH—Dillant-Hopkins, VOR RWY 2, Amdt. 8  
 Poughkeepsie, NY—Dutchess County, VOR/DME RWY 6, Amdt. 5  
 Piqua, OH—Piqua, VOR-A, Amdt. 10  
 Piqua, OH—Piqua, VOR RWY 28, Amdt. 3  
 Ravenna, OH—Portage County, VOR-A, Amdt. 4  
 Phillipsburg, OH—Phillipsburg, VOR RWY 21, Amdt. 2  
 Youngstown, OH—Youngstown Elser Metro, VOR-C, Amdt. 1, Cancelled  
 Youngstown, OH—Youngstown Muni, VOR RWY 19, Amdt. 16  
 Tulsa, OK—Tulsa Intl, VOR/DME or TACAN RWY 8, Amdt. 2  
 Borger, TX—Hutchinson County, VOR RWY 17, Amdt. 6

Carthage, TX—Panola County—Sharp Field, VOR/DME-A, Amdt. 3  
 Gladewater, TX—Gladewater Muni, VOR/DME RWY 13, Amdt. 1  
 Henderson, TX—Rusk County, VOR/DME-A, Amdt. 2  
 Marshall, TX—Harrison County, VOR/DME-A, Amdt. 3  
 Milford, UT—Milford Muni, VOR-A, Amdt. 1  
 Spokane, WA—Felts Field, VOR/DME-A, Amdt. 4  
 Spokane, WA—Felts Field, VOR RWY 3L, Amdt. 1  
 Ashland, WI—John F. Kennedy Memorial, VOR RWY 2, Amdt. 3  
 Ashland, WI—John F. Kennedy Memorial, VOR RWY 31, Amdt. 3

*Effective October 26, 1984*

Borger, TX—Hutchinson County, VOR/DME RWY 35, Amdt. 1

*Effective October 25, 1984*

Parker, AZ—AVI Suquilla, VOR/DME-A, Amdt. 1  
 Richmond, VA—Richard Evelyn Byrd Intl, VOR RWY 34, Amdt. 19  
 Richmond, VA—Richard Evelyn Byrd Intl, VOR RWY 16, Amdt. 24

*Effective October 22, 1984*

Salisbury, NC—Rowan County, VOR RWY 2, Amdt. 2  
 Salisbury, NC—Rowan County, VOR-A, Amdt. 4

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

*Effective December 20, 1984*

Aurora, IL—Aurora Muni LOC RWY 9, Org., Cancelled  
 Olney-Noble, IL—Olney-Noble, LOC RWY 10, Amdt. 2  
 Clinton, IA—Clinton Muni, LOC RWY 3, Amdt. 3, Cancelled  
 Scottsbluff, NE—Scotts Bluff County, LOC BC RWY 12, Amdt. 5  
 Tyler, TX—Tyler Pounds Field, LOC BC RWY 31, Amdt. 16  
 Rutland, VT—Rutland State, LDA RWY 19, Amdt. 3  
 Marshfield, WI—Marshfield Muni, SDF RWY 34, Amdt. 3

3. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

*Effective December 20, 1984*

Port Heiden, AK—Port Heiden, NDB RWY 5, Amdt. 3  
 Port Heiden, AK—Port Heiden, NDB/DME RWY 5, Org.  
 Port Heiden, AK—Port Heiden, NDB RWY 13, Amdt. 3  
 Port Heiden, AK—Port Heiden, NDB/DME RWY 13, Org.  
 Tampa, FL—Tampa Intl, NDB RWY 36L, Amdt. 13  
 Carbondale/Murphysboro, IL—Southern Illinois, NDB RWY 18, Amdt. 10  
 Marion, IL—Williamson County, NDB RWY 20, Amdt. 8  
 Olney-Noble, IL—Olney-Noble, NDB RWY 3, Amdt. 10  
 Lawrence, KS—Lawrence Muni, NDB-B, Amdt. 4

Manhattan, KS—Manhattan Muni, NDB-A, Amdt. 16  
 Norton, KS—Norton Muni, NDB RWY 17, Org.  
 Norton, KS—Norton Muni, NDB RWY 35, Org.  
 Gladwin, MI—Gladwin, NDB RWY 27, Amdt. 1  
 Grayling, MI—Grayling AAF, NDB RWY 14, Amdt. 5  
 Kaiser/Lake Ozark, MO—Leo C. Fine Memorial, NDB RWY 21, Amdt. 4  
 Glasgow, MT—Glasgow Intl, NDB RWY 12, Amdt. 2, Cancelled  
 Glasgow, MT—Glasgow Intl, NDB RWY 30, Amdt. 2, Cancelled  
 Scottsbluff, NE—Scotts Bluff County, NDB RWY 12, Amdt. 5  
 Las Cruces, NM—Las Cruces International, NDB-A, Amdt. 2  
 Dayton, OH—James M. Cox Dayton Intl, NDB RWY 6L, Amdt. 4  
 Dayton, OH—James M. Cox Dayton Intl, NDB RWY 6R, Amdt. 4  
 Nashville, TN—Nashville Metropolitan, NDB RWY 20R, Amdt. 4  
 Jacksonville, TX—Cherokee County, NDB RWY 13, Amdt. 3  
 Henderson, TX—Rusk County, NDB RWY 16, Amdt. 1

Tyler, TX—Tyler Pounds Field, NDB RWY 13, Amdt. 14

Spokane, WA—Felts Field, NDB-A, Org.  
 Spokane, WA—Felts Field, NDB RWY 3L, Org.

Spokane, WA—Felts Field, NDB-B, Amdt. 1, Cancelled

Ashland, WI—John F. Kennedy Memorial, NDB RWY 2, Amdt. 7  
 Marshfield, WI—Marshfield Mini, NDB RWY 4, Amdt. 11  
 Marshfield, WI—Marshfield Mini, NDB RWY 16, Amdt. 7

Minocqua/Woodruff, WI—Noble F. Lee Memorial Field, NDB RWY 10, Amdt. 6  
 Minocqua/Woodruff, WI—Noble F. Lee Memorial Field, NDB RWY 18, Amdt. 9  
 Minocqua/Woodruff, WI—Noble F. Lee Memorial Field, NDB RWY 28, Amdt. 8  
 Minocqua/Woodruff, WI—Noble F. Lee Memorial Field, NDB RWY 36, Amdt. 5

*Effective October 24, 1984*

Nashville, TN—Nashville Metropolitan, NDB RWY 2L, Amdt. 4

Nashville, TN—Nashville Metropolitan, NDB RWY 2R, Amdt. 4

*Effective October 22, 1984*

Salisbury, NC—Rowan County, NDB-A, Amdt. 7

4. By amending § 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

*Effective December 20, 1984*

Tampa, FL—Tampa Intl, ILS RWY 36L, Amdt. 12  
 Aurora, IL—Aurora Muni, ILS RWY 9, Org.  
 Carbondale-Murphysboro, IL—Southern Illinois, ILS RWY 18, Amdt. 10  
 Marion, IL—Williamson County, ILS RWY 20, Amdt. 9  
 Clinton, IA—Clinton Muni, ILS RWY 3, Org.  
 Manhattan, KS—Manhattan Muni, ILS RWY 3, Amdt. 3

Glasgow, MT—Valley Industrial Park, ILS RWY 28, Org., Cancelled  
 Scottsbluff, NE—Scotts Bluff County, ILS RWY 30, Amdt. 7  
 Keene, NH—Dillant-Hopkins, ILS RWY 2, Amdt. 10  
 Poughkeepsie, NY—Dutchess County, ILS RWY 6, Amdt. 4  
 Dayton, OH—James M. Cox Dayton Intl, ILS RWY 6L, Amdt. 3  
 Dayton, OH—James M. Cox Dayton Intl, ILS RWY 18, Amdt. 6  
 Dayton, OH—James M. Cox Dayton Intl, ILS RWY 24L, Amdt. 4  
 Dayton, OH—James M. Cox Dayton Intl, ILS RWY 24R, Amdt. 3  
 Youngstown, OH—Youngstown Muni, ILS RWY 14, Amdt. 3  
 Youngstown, OH—Youngstown Muni, ILS RWY 32, Amdt. 22  
 Nashville, TN—Nashville Metropolitan, ILS RWY 20R, Amdt. 4  
 Austin, TX—Robert Mueller Muni, ILS RWY 13R, Amdt. 7

*Effective October 26, 1984*

Grand Canyon, AZ—Grand Canyon National Park, ILS/DME RWY 3, Amdt. 1

*Effective October 25, 1984*

Richmond, VA—Richard Evelyn Byrd Intl, ILS RWY 16, Amdt. 6  
 Richmond, VA—Richard Evelyn Byrd Intl, ILS RWY 34, Amdt. 11

*Effective October 24, 1984*

Nashville, TN—Nashville Metropolitan, ILS RWY 2L, Amdt. 4

5. By amending § 97.31 RADAR SIAPs identified as follows:

*Effective December 20, 1984*

Dayton, OH—James M. Cox Dayton Intl, RADAR-1, Amdt. 4  
 Youngstown, OH—Youngstown Muni, RADAR-1, Amdt. 9  
 Nashville, TN—Nashville Metropolitan, RADAR-1, Amdt. 20

*Effective October 25, 1984*

Richmond, VA—Richard Evelyn Byrd Intl, RADAR-1, Amdt. 8

6. By amending § 97.33 RNAV SIAPs identified as follows:

*Effective December 20, 1984*

Aurora, IL—Aurora Muni, RNAV RWY 9, Amdt. 8, Cancelled  
 Aurora, IL—Aurora Muni, RNAV RWY 27, Amdt. 3  
 Lawrence, KS—Lawrence Muni, RNAV RWY 32, Amdt. 1  
 Rolla/Vichy, MO—Rolla National, RNAV RWY 22, Amdt. 2  
 Dayton, OH—James M. Cox Dayton Intl, RNAV RWY 6R, Amdt. 5  
 Piqua, OH—Piqua, RNAV RWY 26, Amdt. 4  
 Ravenna, OH—Portage County, RNAV RWY 27, Amdt. 1  
 Conroe, TX—Montgomery County, RNAV RWY 32, Org., Cancelled  
 Conroe, TX—Montgomery County, RNAV RWY 14, Org., Cancelled  
 Houston, TX—David Wayne Hooks Memorial, RNAV RWY 17R, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

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

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on November 2, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84-28749 Filed 11-13-84; 8:45 am]

BILLING CODE 4910-13-M

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Parts 701 and 795

#### Loans to Members and Lines of Credit to Members; Office of Management and Budget Approval of Collection Requirements

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA has received OMB approval of its collection requirements in its regulation governing loans to members and lines of credit to members. An OMB control number has been assigned to the collection requirements.

ADDRESS: National Credit Union Administration, 1776 G Street, NW, Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Hattie M. Ulan, Staff Attorney, Department of Legal Services, at the above address. Telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: On Wednesday, August 1, 1984, the final rule entitled "Loans to Members and Lines of Credit to Members" was published in the Federal Register (49 FR 30683). A statement regarding OMB approval of collection requirements was inadvertently left out of the preamble to

the final rule. A notice to this effect was published in the Federal Register on August 15, 1984 (49 FR 32540). OMB approval of the collection requirements (§ 701.21(c)(2) and the last sentences of §§ 701.21(g)(3) and 701.21(g)(4)) was obtained on October 3, 1984. The approval is valid through September 30, 1987. The OMB control number assigned to the three collection requirements is 3133-0092.

### § 795.1 [Amended]

Section 795.1 of the NCUA Regulations lists current OMB control numbers. The following should be added to the Display found in § 795.1(b).

12 C.F.R. part or section where identified and described	Current OMB control No.
701.21(c)(2)	3133-0092
701.21(g)(3)—last sentence	3133-0092
701.21(g)(4)—last sentence	3133-0092

(12 U.S.C. 1757, 1766(a) and 1789(a)(11))

Dated: November 7, 1984.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84-23700 Filed 11-13-84; 8:45 am]

BILLING CODE 7535-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 271

[Docket No. RM79-76-232 (Texas—40); Order No. 405]

#### High-Cost Gas Produced From Tight Formations; Final Rule

Issued November 8, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High-cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here the Federal Energy Regulatory Commission adopts the recommendation of the Railroad Commission of Texas that the Strawn Formation in the Whitehead (Strawn) Field in portions of Sutton,

Schleicher and Crockett Counties, Texas be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective December 10, 1984.

FOR FURTHER INFORMATION CONTACT:

Elisabeth Pendley, (202) 357-8511

or

Walter W. Lawson, (202) 357-8556

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

Based on a recommendation made by the Railroad Commission of Texas (Texas), the Commission amends its regulations<sup>1</sup> to include the Strawn Formation in the Whitehead (Strawn) Field in portions of Sutton, Schleicher and Crockett Counties, Texas, as a designated tight formation eligible for incentive pricing. The Director of the Office of Pipeline and Producer Regulation issued a notice proposing the amendment on August 30, 1984.<sup>2</sup>

Evidence submitted by Texas supports the assertion that the Strawn Formation located in the Whitehead (Strawn) Field in portions of Sutton, Schleicher and Crockett Counties, Texas, meets the guidelines contained in § 271.703(c)(2). The Commission adopts this recommendation.

This amendment shall become effective December 10, 1984.

#### List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

### PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(182) to read as follows:

<sup>1</sup>18 CFR 271.703(d) (1933).

<sup>2</sup>49 FR 35143, September 6, 1984. Comments on the proposed rule were invited and one comment was received. No party requested a public hearing and no hearing was held.

## § 271.703 Tight formations.

\* \* \* \* \*

## (d) Designated tight formations.

(182) Strawn Formation in Texas.  
RM79-232 (Texas-40).

(i) Delineation of formation. The Strawn Formation is found in the western part of the State of Texas. The designated area lies primarily in the extreme western part of Sutton County, and extends north into the southwest part of Schleicher County, and to the west into the eastern part of Crockett County.

(ii) Depth. The vertical limits of the Strawn Formation are defined by the Canyon sand and shale formations above and the Atoka formation below. The depth to the top of the formation is approximately 7,383 feet in the northeast part of the designated area and dips to 9,858 feet in the southwest, having an average depth of 8,300 feet to the top of the formation. In a type log, the Amoco Production Company Edwin S. Mayer, Jr. No. C-8 well, located in the northern part of the designated area, the thickness of the Strawn Formation is 306 feet. A gradual thickening of the formation occurs toward the south part of the designated area.

[FR Doc. 84-29857 Filed 11-13-84; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 178

[Docket No. 84F-0134]

## Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly[[6-[[[1,1,3,3-tetramethylbutyl]amino]-s-triazine-2,4-diyl]][(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a light stabilizer in polypropylene and high-density polyethylene. This action responds to a petition filed by Ciba-Geigy Corp.

**DATES:** Effective November 14, 1984; objections by December 14, 1984.

**ADDRESS:** Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm.

4-62, 5600 Fishers Lane, Rockville, MD 20857

**FOR FURTHER INFORMATION CONTACT:** Julius Smith, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In a notice published in the Federal Register of June 10, 1983 (48 FR 26890), FDA announced that a petition (FAP 3B3716) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.210) be amended to provide for the safe use of poly[[6-[[[1,1,3,3-tetramethylbutyl]amino]-s-triazine-2,4-diyl]][(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a light stabilizer in polypropylene and high-density polyethylene complying with 21 CFR 177.1520.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

## List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Food Safety and Applied Nutrition (21 CFR 5.61), Part 178

is amended in § 178.2010(b) by alphabetically inserting a new item in the list of substances, to read as follows:

## PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

## § 178.2010 Antioxidants and/or stabilizers for polymers.

\* \* \* \* \*

(b) \* \* \*

Substances	Limitations
Poly[[6-[[[1,1,3,3-tetramethylbutyl]amino]-s-triazine-2,4-diyl]][(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] (CAS Reg. No. 70624-18-9).	<p>For use only:</p> <p>1. At levels not to exceed 0.3 percent by weight of polypropylene complying with § 177.1520 of this chapter.</p> <p>2. At levels not to exceed 0.2 percent by weight of polyethylene complying with § 177.1520 of this chapter, that has a density equal to or greater than 0.94 gram per cubic centimeter.</p>

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 14, 1984 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. 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 regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

*Effective date.* This regulation is effective November 14, 1984.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C.) 321(s), 348)

Dated: November 5, 1984  
 Sanford A. Miller,  
 Director, Center for Food Safety and Applied  
 Nutrition.

[ER Doc. 84-29744 Filed 11-13-84; 8:45 am]  
 BILLING CODE 4160-01-M

**DEPARTMENT OF JUSTICE**

**Office of the Attorney General**

**28 CFR Part 15**

[Order No. 1074-84]

**Defense of Certain Suits Against  
 Federal Employees; Certification and  
 Defense of Certain Suits Against  
 Program Participants Under the  
 National Swine Flu Immunization  
 Program of 1976; and Certification and  
 Decertification of Certain Suits Based  
 Upon Acts or Omissions of  
 Contractors in Carrying Out an Atomic  
 Weapons Testing Program Under a  
 Contract With the United States**

**AGENCY:** Department of Justice.  
**ACTION:** Final rule.

**SUMMARY:** This order delegates to the Assistant Attorney General for the Civil Division the authority to make certifications that suits against certain contractors are based upon an act or omission by a contractor in carrying out an atomic weapons testing program under a contract with the United States. The certifications are authorized under section 1631(b) of the Department of Defense Authorization Act of 1985. This order also specifies the procedure for requesting certifications and provides for decertifications.

**EFFECTIVE DATE:** November 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Axelrad, Director, Torts Branch, Civil Division, U.S. Department of Justice, Washington, D.C. 20530 (202/724-6810).

**SUPPLEMENTARY INFORMATION:** This order concerns internal Department management and is being published for the information of the general public.

**List of Subjects in 28 CFR Part 15**

Authority delegations [Government agencies], Tort claims.  
 By virtue of the authority vested in me by section 1631(b) of the Department of Defense Authorization Act of 1985; 28 U.S.C. 509, 510; and 5 U.S.C. 301 and for the reasons set forth in the preamble, Title 28 of the Code of Federal

Regulations, Part 15, is amended as follows:

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

Authority: 5 U.S.C. 301; 10 U.S.C. 1089; 22 U.S.C. 817; 28 U.S.C. 509, 510 and 2679; 38 U.S.C. 4116; 42 U.S.C. 233, 247b and 2458a, and the Department of Defense Authorization Act of 1985.

2. The heading for Part 15 is amended by revising it to read as follows:

**PART 15—DEFENSE OF CERTAIN  
 SUITS AGAINST FEDERAL  
 EMPLOYEES; CERTIFICATION AND  
 DEFENSE OF CERTAIN SUITS  
 AGAINST PROGRAM PARTICIPANTS  
 UNDER THE NATIONAL SWINE FLU  
 IMMUNIZATION PROGRAM OF 1976;  
 AND CERTIFICATION AND  
 DECERTIFICATION OF CERTAIN  
 SUITS BASED UPON ACTS OR  
 OMISSIONS OF CONTRACTORS IN  
 CARRYING OUT AN ATOMIC  
 WEAPONS TESTING PROGRAM  
 UNDER A CONTRACT WITH THE  
 UNITED STATES**

\* \* \* \* \*

3. 28 CFR 15.1 is amended by adding a new paragraph (c) at the end thereof, as follows:

**§ 15.1 Expeditionary delivery of process and pleadings.**

(c) Any person against whom an action for injury, loss of property, personal injury, or death has been brought due to exposure to radiation based on acts or omissions by a contractor, as defined in section 1631(d) of the Department of Defense Authorization Act of 1985, in carrying out an atomic weapons testing program under a contract with the United States, shall promptly deliver all process and pleadings served upon such person, or an attested true copy thereof, to the Branch Director, Torts Branch, Civil Division, U.S. Department of Justice, Washington, D.C. 20530.

4. 28 CFR 15.2 is amended by adding a new paragraph (c) as follows:

**§ 15.2 Providing data bearing upon scope of employment or program participant status.**

\* \* \* \* \*

(c) A person against whom an action has been brought for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by a contractor, as defined in section 1631(d) of the Department of Defense Authorization Act of 1985, in carrying out an atomic weapons testing program under a contract with the

United States, shall deliver all information in the person's possession or reasonably available to the person concerning (1) the person's status as a contractor within the meaning of section 1631(d) of the Department of Defense Authorization Act of 1985; (2) the relation, if any, of the civil action or injury, loss of property, personal injury, or death due to exposure to radiation to acts or omissions by a contractor in carrying out an atomic weapons testing program under a contract with the United States; and (3) the subject matter of the action to the Branch Director, Torts Branch, Civil Division, U.S. Department of Justice, Washington, D.C. 20530, upon request within such time as shall be fixed and shall cooperate with the Justice Department in defense of said action upon request following certification of an action pursuant to section 1631(b) of the Department of Defense Authorization Act of 1985.

5. 28 CFR 15.3 is amended by adding a new paragraph (c) as follows:

**§ 15.3 Removal and defense of suits:**

\* \* \* \* \*

(c) The Assistant Attorney General in charge of the Civil Division is authorized:

(1) To make the certification provided for in section 1631(b) of the Department of Defense Authorization Act of 1985, with respect to civil actions or proceedings brought against persons for injury, loss of property, personal injury or death due to exposure to radiation based on acts or omissions by a contractor, as defined in section 1631(d) of the Department of Defense Authorization Act of 1985, in carrying out an atomic weapons testing program under a contract with the United States in any court or other tribunal;

(2) To withdraw that certification if further evaluation of the relevant facts or the consideration of new or additional information calls for such action, in the exercise of his sole discretion; and

(3) To redelegate to subordinate Division officials the authority delegated by this paragraph, provided that such re delegation shall be in writing and shall be approved by me before becoming effective.

Dated: November 1, 1984.  
 William French Smith,  
 Attorney General.

[FR Doc. 84-29742 Filed 11-13-84; 8:45 am]  
 BILLING CODE 4410-01-M

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 935****Ohio Abandoned Mine Land Reclamation Plan Amendment****AGENCY:** Office of Surface Mining, Interior.**ACTION:** Final rule; Correction.

**SUMMARY:** This document corrects a final rule on Ohio's abandoned mine land reclamation plan amendment that appeared at page 41024 in the Federal Register of Friday, October 19, 1984 (49 FR 41024). The action is necessary to correct typographical errors in date citations.

**FOR FURTHER INFORMATION CONTACT:** Charles V Smith, (202) 343-7972 or William Miska, (614) 866-0578.

**SUPPLEMENTARY INFORMATION:** The following corrections are made in 49 FR 41024 of October 19, 1984:

1. On page 41024 in the first line of the summary "(April 22, 1984)" is corrected to read "(April 2, 1984)"

2. On page 41024 in the third line, second to the last paragraph of the middle column, "(April 12, 1984)" is corrected to read "(April 2, 1984)"

3. On page 41025 in the first line, first paragraph of the middle column, "(May 7, 1984)" is corrected to read "(September 5, 1984)".

4. On page 41025 the Authority cite in first column "304 U.S.C. 1201" is corrected to read "30 U.S.C. 1201."

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

Dated: November 8, 1984.

William B. Schmidt,

Assistant Director, Program Operations and Inspection Office of Surface Mining.

[FR Doc. 84-29831 Filed 11-13-84; 8:45 am]

BILLING CODE 4310-05-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA Action MO 1612; A-7-FRL 2716-5]****Approval and Promulgation of the Missouri State Implementation Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rulemaking.

**SUMMARY:** The Missouri Department of Natural Resources submitted the rules, Sampling Methods for Air Pollution Sources and Reference Methods, and requested that they be approved as part

of the Missouri State Implementation Plan (SIP) in a letter dated August 14, 1984. The Sampling Methods for Air Pollution Sources rule defines methods for performing emission sampling on air pollution sources. The Reference Methods rule provides reference methods to determine ambient air quality for the purpose of enforcing air pollution control regulations.

**EFFECTIVE DATE:** This action will be effective January 14, 1985 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** A copy of the State's submission is available for review at the following addresses:

Environmental Protection Agency,  
Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106  
Missouri Department of Natural Resources, 1101 Rear Southwest Blvd., Jefferson City, Missouri 65101  
Environmental Protection Agency,  
Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460  
Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

Written comments should be sent to: Daniel J. Wheeler, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Daniel J. Wheeler at the above address or call (816) 374-3791, (FTS) 758-3791.

**SUPPLEMENTARY INFORMATION:** Federal regulations require State Implementation Plans to provide for monitoring of ambient air quality and the status of compliance of air pollution sources. The State of Missouri is amending rule 10 CSR 10-6.030, Sampling Methods for Air Pollution Sources, and rule 10 CSR 10-6.040, Reference Methods, to eliminate all specific dates of the Code of Federal Regulations (CFR) reference methods and add a statement that the latest effective date of any reference method shall be designated in Missouri's New Source Performance regulation, 10 CSR 10-6.070. This portion of the amendment is a nonsubstantive change, the purpose of which is to simplify Missouri's incorporation by reference of certain federal requirements.

The amendments also serve to update Missouri's incorporation by reference of federal requirements relating to reference and sampling methods for air pollutants and air pollution sources. Thus, Missouri has adopted EPA's amendments to test methods in 40 CFR Part 60, Appendix A, reference methods

in 40 CFR Part 50, Appendices A through H, and equivalent methods in 40 CFR Part 53, as of July 1, 1983.

The Sampling Methods for Air Pollution Sources rule adopts methods for performing emission sampling on air pollution sources. This rule cites the reference methods described in 40 CFR Part 60, Appendix A, and other EPA documents. This rule satisfies the requirements in the CFR referring to methods used for monitoring the compliance of air pollution sources.

The Reference Methods rule provides reference methods for determining ambient air quality. This rule cites the reference methods described in the appendices of 40 CFR Part 50, for determining ambient pollutant concentrations and for determining compliance with the ozone standard. The rule also cites equivalent methods as approved by 40 CFR Part 53. This rule satisfies the requirements of 40 CFR Part 58, Ambient Air Quality Surveillance, which identifies the acceptable methods for monitoring ambient air quality.

Action: EPA approves this submission as a revision to the Missouri SIP. EPA believes this action is noncontroversial and is approving it without prior proposal. The public is advised that this action is effective January 14, 1985 unless we receive written notice within 30 days from the date of publication that someone wishes to submit adverse or critical comments. In such case, this action will be withdrawn and rulemaking will commence again by announcing a proposal of this action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements.

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

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities.

Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Office of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended, August 1977 (42 U.S.C. 7410).

**List of Subjects in 40 CFR Part 52**

Incorporation by Reference, Air Pollution Control Agency, Ozone, Sulfur Oxides, Nitrogen Oxides, Lead, Particulate Matter, Carbon Monoxide, Hydrocarbons.

Date: November 7, 1984.

William D. Ruckelshaus,  
Administrator.

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations, is amended as follows:

**Subpart AA—Missouri**

Section 52.1320 is amended by adding a new paragraph (c)(47) as follows:

**§ 52.1320 Identification of plan.**

(c) The plan revisions listed below were submitted on the dates specified.

(47) In a letter dated August 14, 1984, the Missouri Department of Natural Resources submitted the rules, 10 CSR 10-6.030, Sampling Methods for Air Pollution Sources, and 10 CSR 10-6.040, Reference Methods.

[FR Doc. 84-29805 Filed 11-13-84; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Part 775**

[OPTS-62007B; TSH-FRL 2716-8]

**Disposal of Waste Material Containing Tetrachlorodibenzo-p-dioxin—Change of Administrative Authority**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA issued a final rule on the prohibition of the disposal of tetrachlorodibenzo-p-dioxin (TCDD) which was published in the Federal Register of May 19, 1980 (45 FR 32686). In that rule, authority related to the disposal of TCDD-contaminated waste was delegated to the Assistant Administrator for Pesticides and Toxic Substances. This action transfers that authority to the Assistant Administrator for Solid Waste and Emergency Response. This is a procedural rule change that is not required to be made subject to public comment.

**EFFECTIVE DATE:** December 14, 1984.

**FOR FURTHER INFORMATION CONTACT:** Jim Cummings, Office of Solid Waste (WH-562B), Environmental Protection Agency, Rm. M-2802, 401 M St., SW.,

Washington, D.C. (20460), (202-382-5864).

**List of Subjects in 40 CFR Part 775**

Environmental protection, Hazardous materials, Waste and treatment disposal.

Dated: October 26, 1984.

Alvin L. Alm,  
Acting Administrator.

**PART 775—[AMENDED]**

Therefore, 40 CFR 775.183(a) is revised to read as follows:

**§ 775.183 Definitions.**

\* \* \* \* \*

(a) "Assistant Administrator" means the EPA Assistant Administrator for Solid Waste and Emergency Response.

\* \* \* \* \*

(Sec. 6 Toxic Substances Control Act (TSCA), Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605))

[FR Doc. 84-29310 Filed 11-13-84; 8:45 am]

BILLING CODE 6560-50-M

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****43 CFR Public Land Order 6577**

[I-18220]

Idaho; Public Land Order No. 6547; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

**SUMMARY:** This order will correct an error in the land description of Public Land Order No. 6547 of June 18, 1984.

**EFFECTIVE DATE:** November 14, 1984.

**FOR FURTHER INFORMATION CONTACT:** Larry R. Lievsay, Idaho State Office 208-334-1735.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The land description in Public Land Order No. 6547 of June 18, 1984, in FR Doc. 84-16896, published at page 26053 in the issue of June 26, 1984, is corrected as follows:

On page 26053, under T. 23 N., R. 20 E., the line reading "Sec. 12, 13, and 14," should read, "Sec. 12, 13 and 24."

Dated: November 5, 1984.

Garrey E. Carruthers,  
Assistant Secretary of the Interior.

[FR Doc. 84-29759 Filed 11-13-84; 8:45 am]

BILLING CODE 4310-84-M

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 2**

[FCC 84-503]

**Treaties and Other International Agreements**

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** The information contained in Part 2 of the Commission's Rules regarding treaties and other international agreements is by this document being removed. The Commission is not the authentic source of this information, which is readily available elsewhere.

**EFFECTIVE DATE:** November 30, 1984.

**FOR FURTHER INFORMATION CONTACT:** Ms. Claire Jacobsen, FCC Treaty Branch, 2025 M Street, NW., Washington, D.C. 20554, (202) 653-8151.

**SUPPLEMENTARY INFORMATION:****List of Subjects in 47 CFR Part 2**

Treaties.

**Order**

In the matter of deletion of Part 2, Subpart G, "Treaties and Other International Agreements"

Adopted: October 18, 1984.

Released: October 24, 1984.

By the Commission.

1. Subpart G of Part 2 of the Commission's Rules and Regulations contains four separate listings. The first details treaties and other international agreements to which the United States is a party, except for those which appear in the three listings which follow it. The second sets forth bilateral agreements in force between the United States and other countries relating to the reciprocal granting of amateur radio authorizations. The third contains certain superseded treaties and agreements which remain in force between the United States and other countries by virtue of their failure to become a party to subsequent treaties and agreements. The last lists a portion of the body of treaties and agreements which relate to the International Civil Aviation Organization (ICAO).

2. All of the information above is available from other sources, most of which are more authoritative. "Treaties in Force" lists treaties and other international agreements of the United States on record with the Department of State and which have not expired, been denounced by the parties, replaced or

otherwise definitely terminated. It is compiled by the Department's Treaty Affairs Staff, Office of the Legal Adviser, and is offered for sale as the Department's Publication 9351 by the U.S. Government Printing Office. The publication is issued annually.

3. Information on the current status of treaties and other international agreements is published regularly in the Department of State Bulletin. It is the official record of U.S. foreign policy. Included are not only treaties and other international agreements to which the United States has recently become a party, but also those to which the United States may become a party. The latter are, of course, so characterized. The contents of the Bulletin are not copyrighted, and items contained therein may be reprinted. It too is offered for sale by the U.S. Government Printing Office.

4. The full, certified text of each of the over 10,000 treaties and other international agreements are compiled, edited, indexed, and published by authority of law (1 U.S.C. section 113) which provides in relevant part that:

" United States Treaties and Other International Agreements shall be legal evidence of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and agreements, therein contained, in all the courts of the United States, the several States, and the territories and insular possessions of the United States."

These authoritative works include treatment of radio matters, together with numerous other subjects touching upon radio usage such as those relating to ICAO which are now listed in § 2.603(d) of the Commission's Rules and Regulations. The "United States Treaties and Other International Agreements" series is available in larger libraries, and for inspection at the Department of State's and the Commission's respective headquarters, and it is offered for sale by the U.S. Government Printing Office.

5. ICAO itself publishes a wealth of information bearing upon international agreements relating to all aspects of civil aviation, including radio usage. For example, the "ICAO Bulletin" contains a concise account of the activities of the Organization, together with current information on related international agreements, ICAO publications, their contents, amendments, supplements, corrigenda and prices. They may be secured from the following address: International Civil Aviation Organization (Attention: Distribution Officer), P.O. Box 400, Succursale: Place de l'Aviation Internationale, 1000 Sherbrooke Steet, West, Montreal, Quebec, Canada H3A 2R2.

6. With respect to bilateral international acts which bear upon the amateur radio service, the Commission has for some time regularly released a Public Notice, currently entitled "International Amateur Radio Arrangements", with the most recent Notice released August 8, 1984. In addition to setting forth all countries with which reciprocal operating agreements are in force, it also details all countries with which third party agreements apply. As such Public Notices are regularly observed in the specialized press, it would appear that they more directly meet the public need than parallel information appearing in Subpart G of Part 2.

7. Thus with respect to Part 2, Subpart G, of the Commission's Rules and Regulations, the available information suggests that the Commission has been undertaking duplicative work, and further, that in general more authoritative sources of the information heretofore contained in Part 2, Subpart G, is publicly available from other sources. In view of said continued availability, the notice of proposed rulemaking provisions set forth at 5 U.S.C. 553 are rendered unnecessary by virtue of section 553(b)(3)(B) thereof.

#### PART 2—[AMENDED]

##### §§ 2.601-2.603 [Removed]

8. It is therefore ordered that, effective November 30, 1984, Subpart G, consisting of the title and §§ 2.601-2.603 of Part 2 of the Commission's Rules and Regulations is hereby removed and reserved.

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

Federal Communications Commission.  
William J. Tencarro,  
Secretary.

[FR Doc. 84-29489 Filed 11-13-84; 8:45 am]  
BILLING CODE 6712-01-M

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 676

[Docket No. 40803-4139]

##### King Crab Fishery of the Bering Sea and Aleutian Islands Area

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

**ACTION:** Final rule.

**SUMMARY:** NOAA issues a final rule to implement a fishery management plan for the king crab fishery of the Bering

Sea and Aleutian Islands area (FMP). Under this final rule, NOAA will evaluate current and future State of Alaska (State) laws and regulations for conformance with the FMP and applicable Federal law. NOAA intends to request approval from the Director of the Federal Register to incorporate by reference in the Federal Register those Alaska laws and regulations applicable to the king crab fishery that are approved by NOAA. These NOAA-approved State laws and regulations, when incorporated by reference, will be listed at §676.25 and will have force and effect as Federal regulations for the Bering Sea and Aleutian Island area. This action is necessary to promote full participation in the conservation and management of king crab stocks in the Bering Sea and Aleutian Islands area by all persons interested in this fishery, whether or not they are residents of the State. This action is intended to provide for the continued active participation of the State in the management of king crab fisheries of the Bering Sea and Aleutian Islands area.

**EFFECTIVE DATE:** December 2, 1984.

**ADDRESS:** Copies of the FMP, environmental impact statement, and regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, telephone 907-274-4563.

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Travers (Alaska Regional Counsel, NOAA), 907-586-7414.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 29, 1983, the North Pacific Fishery Management Council (Council) adopted the FMP under section 302 of the Magnuson Fishery Conservation and Management Act (Magnuson Act). In accordance with sections 303-305, the FMP was submitted to the Secretary of Commerce (Secretary) for approval and implementation.

Rather than prescribing specific management measures for the fishery it covers, the FMP sets forth general standards and criteria for the management of that fishery. It provides a flexible framework for the development of specific management measures consistent with these standards and criteria, without requiring amendment of the FMP itself to incorporate those measures. Underlying the framework is the concept that existing and new State laws and regulations can be applied to vessels

fishing for king crab in the fishery conservation zone (FCZ) if, after Federal review, they are found to be consistent with the FMP, the Magnuson Act, and other applicable law.

The FMP provides management standards and criteria dealing with the following measures: (1) Determination of optimum yield; (2) fishing seasons; (3) gear restrictions; (4) gear placement limitations; (5) gear storage limitations; (6) vessel tank inspections; (7) restrictions on taking female crabs; (8) registration areas; (9) inseason adjustments of time and area restrictions; (10) permit requirements; (11) reporting requirements; and (12) recreational and subsistence fisheries. The FMP also specifies the optimum yield (OY) of the fishery it covers by prescribing a method by which the annual allowable catch from that fishery must be determined, using the best available scientific information.

In adopting the FMP, the Council intended that, to the extent practicable, the State should continue to play a leading role in the management of this king crab fishery. Since 1960, shortly after it attained statehood, Alaska has developed a sophisticated management system for the king crab fishery off its shores, both within and beyond the three-mile limit. This system, representing the acquired expertise of scores of State of Alaska employees and an investment by that State over the years of many millions of dollars, could not be duplicated in the immediate future by NOAA. At the same time, some residents of States other than Alaska who participate in the king crab fishery off that State have long been concerned about their lack of representation on the Alaska Board of Fisheries (Board) and in the Alaska Department of Fish and Game (ADF&G), the agencies that manage fisheries on behalf of the State.

Under the final rule, delegation to the State will take effect upon receipt by the Secretary of a statement signed by the Governor of Alaska accepting delegation on behalf of the State. This acceptance is one time only; further amendments of regulations or the FMP are not subject to further acceptances by the Governor. If the Governor should at any time withdraw his acceptance of the delegation, the FMP would be implemented through NOAA regulations. Under the final rule, the FMP will be implemented by the Board and ADF&G in consultation with the Council, which includes non-Alaskan representatives, and subject to the approval by NOAA of individual management measures adopted by the

Board or ADF&G. The final rule delegates management authority for the fishery to the State, and specifies the procedures by which existing and future State management measures are to be evaluated for consistency with the standards and criteria of the FMP. These procedures are designed to ensure that all interested persons have the opportunity to make their views on State management measures known to NOAA while preventing unnecessary delay in their implementation or amendment. Consultation between the Council and the Board concerning proposals for new management measures will be conducted at joint meetings of those two bodies. When the State circulates for public comment a summary of agency and public proposals pertaining to king crab management in the management unit that will be considered by the Board and Council, NOAA will publish a notice of availability in the Federal Register requesting comment on the proposal package. The Council will continue to announce in the Federal Register meeting places, times, and agenda items pertaining to joint Council/Board meetings.

Pending approval by the Secretary, new State management measures may govern fishing for king crab beyond the three-mile in the Bering Sea and Aleutian Islands area only by vessels registered under the laws of the State. After approval, State management measures, including orders issued to adjust fishing times and/or seasons, will acquire the force and effect of Federal law and will apply to all vessels fishing for king crab in the Bering Sea and Aleutian Islands area. At times the Secretary may find that other regulations or amendments to existing regulations are necessary to fully implement the FMP. The Secretary is authorized to promulgate such regulations or regulatory amendments, after consultation with the Council, that are consistent with the FMP and in accordance with other requirements of law.

Under the FMP and the rule, each vessel fishing for king crab beyond the three-mile limit in the Bering Sea and Aleutian Islands area will be required to obtain a Federal permit from the Secretary.

The FMP covers only the king crab fishery of the Bering Sea and Aleutian Islands area, and excludes the fishery in the Gulf of Alaska. King crab stocks in the Gulf of Alaska are biologically discrete from those in the Bering Sea and Aleutian Islands area and thus can be managed separately from them. The king crab fishery of the Gulf of Alaska

is, to a much greater extent than the fishery covered in the FMP, relied upon heavily by small local fleets. This fact renders much more difficult an assessment of the socioeconomic costs and benefits of the management standards and criteria for the Gulf of Alaska. While an FMP may eventually be adopted for the Gulf of Alaska fishery, the Council decided that implementation of an FMP for the Bering Sea and Aleutian Islands area should not be delayed for the significant period that will be required to assess the costs and benefits of Federal management in the Gulf of Alaska. NOAA concurs with this decision. In addition, a significant reason for having Federal conservation and management is the concerns expressed by non-Alaskan participants about the representation of their interests in the State of Alaska management system. The expression of these concerns has been more urgent in connection with the king crab fishery of the Bering Sea and Aleutian Islands area than with the Gulf of Alaska king crab fishery.

#### Changes in the Final Rule From the Proposed Rule

The proposed rule (49 FR 33033, August 20, 1984) is changed at 50 CFR 676.2 by correcting the longitude description in the definition of Bering Sea and Aleutian Islands area to read 164°47'30" as stated in the FMP instead of 167°47'30", by deleting the species *Lithodes covesi* from the definition of king crab, and by renumbering § 676.20(b) as § 676.24.

#### Public Comments

Written comments were received from the ADF&G, the North Pacific Fishing Vessel Owners' Association, (NPFVOA) and the U.S. Coast Guard. These comments are summarized and responded to below.

#### Alaska Department of Fish and Game

*Comment:* Inclusion of the brown king crab (*Lithodes aequispina*) fishery in the FMP was an oversight. This fishery should be deleted, since it is only exploratory except in the Adak area. Around Adak, management is limited to a minimum size limit and a fishing season. Alternatively, the FMP itself should be modified to incorporate the existing State management program, limited presently to that described above for Adak.

*Response:* The FMP specifically includes brown king crab in section 7.3 "Biological and Environmental Characteristics of the Resource." This species is intended, therefore, to be

managed as a "commercially important species of king crab in Alaskan waters." The fact that stocks of brown king crab around Adak are managed presently only with respect to established sizes and seasons seems unimportant. This fishery is relatively new and data obtained on sizes, as well as future analyses of data on abundance, sex, and recruitment, are expected to yield information on acceptable biological catch on which OY may partly be based, as is done for the more significant blue and red king crab fisheries. Including the brown king crab fishery in the FMP is consistent with the Council's intent.

*Comment:* The eastern boundary of the management unit described at § 676.2 should be 164°47'30" W longitude instead of 167°47'30" W longitude.

*Response:* The final rule has been changed in accordance with the comment.

*Comment:* The deep sea red king crab, *Lithodes couesi*, should be deleted from the definition of king crab in the proposed regulations. Little information on this species exists other than its infrequent occurrence in scientific surveys. Commercial development of this species is doubtful, and Federal management is thus not required.

*Response:* This species is deleted from § 676.2 of the proposed regulations. The Council apparently did not determine that *Lithodes couesi* was in need of Federal management, because it did not include this species in the FMP.

*Comment:* Fishermen who fish king crab in the FCZ under a Federal permit and land in the State of Alaska will be required to purchase either a State landing permit or a State fishing permit. To promote effective State recordkeeping and to satisfy the Council's intent that all vessels fishing in the management unit, regardless of whether they enter State waters, be subject to delegated Federal management to the State, the rule should require those vessels to obtain an Alaska vessel license too, so that all vessels will be registered under the laws of the State. The cost of this license, which defrays administrative costs, is equal for both resident and non-resident fishermen.

*Response:* Because the fees charged for State of Alaska fishing permits are higher for non-residents than for residents, and because these fees are not limited to administrative costs, they could not lawfully be applied to king crab caught in the FCZ under the FMP Section 16.05.490 of Alaska Statutes Title 16 requires, as a condition to delivery or landing of fish or engaging in commercial fishing in the State, a

license for commercial a vessel, including a vessel used in charter service for the recreational taking of fish and shellfish. Obtaining a vessel license would arguably cause these vessels to be registered under the laws of the State. Neither the vessel license requirement nor the State provision for landing permits purport to apply in the FCZ. Because their effect is limited to State waters, they are not within the scope of the FMP, and NOAA takes no position as to their validity or effect.

*Comment:* As long as the delegation works as envisioned with little disruption to the fishing public or to the management and enforcement agencies, the State will support the cooperative State/Federal approach to king crab management provided for in the FMP. Should this system fail to achieve this goal, the State may be obligated to pursue a different regulatory goal.

*Response:* Comment noted.

*Comment:* Would the FMP allow the assessment of criminal penalties by the State, which currently can assess such penalties for fishing violations under State law?

*Response:* The majority of violations of regulations under the FMP could be prosecuted under either State or Federal law. Whether State criminal sanctions could be used to punish behavior that would merit only civil penalties under the FMP would ultimately have to be settled by the courts, but the availability of such criminal penalties would be favored by NOAA.

#### *North Pacific Fishing Vessel Owners' Association*

The NPFVOA submitted comments that incorporated by reference its previous comments submitted in nine letters and one memorandum during the period between March 23, 1981, and December 2, 1983. These earlier documents were attached to the comment letter. The 217 individual points raised in five of these letters have been responded to in the final environmental impact statement on the FMP, which is available from the Council (see ADDRESS). The points raised in the other three letters and the memorandum, as well as those raised in the NPFVOA comment letter on the notice of proposed rulemaking, are responded to here.

*Comment:* Primary review of the FMP and Federal delegation to the State of Alaska should be conducted in Washington, D.C., where fisheries matters are viewed from a national perspective. Review of the FMP by the Alaska Region of NMFS and by the NOAA Alaska Regional Counsel cannot be objective, because of their

participation in the development of the FMP and consequent vested interest in its approval.

*Response:* While initial review of the FMP and its implementing regulations takes place at the regional level, all regional determinations are subject to review and concurrence at the national level. This is true both within NMFS and within the NOAA Office of General Counsel. Such review at the national level is designed to ensure consideration of the national perspective and to safeguard the objectivity of the review process.

*Comment:* Delegation of management responsibilities to the State is illegal, because Congress did not intend for the Council or NOAA to delegate their responsibilities under the Magnuson Act to the State. Allowing such delegation in this case could undermine the regional council system throughout the country.

*Response:* This comment might have merit if the Council and NOAA had purported to delegate unfettered fishery management authority to the State. The Council, which is composed of Alaskan residents and of residents of other States, and NOAA do not intend usurpation of their responsibilities by the State. The delegation language in § 676.1(b) has been modified to clarify the subsection's intent that the delegation parallel the role for the State set forth in FMP (Section 6, protocol between NOAA and the State of Alaska). Under the final rule, NOAA will review existing and new State laws and regulations, and only those found to meet the test of consistency with the FMP, Magnuson Act, and other applicable law will be imposed on vessels fishing in the management area. The Council and NOAA may change or cancel the delegation arrangement any time they find that the purpose and standards of the Magnuson Act are being frustrated. Under the final rule, NOAA is required to ensure that the Magnuson Act is adhered to, and NOAA may be held judicially accountable for any failure to meet this responsibility.

*Comment:* How may an FMP be implemented that discriminates against non-residents by charging fishermen, operating in the FCZ but who land in State waters, differing fees for State fishing permits on the basis of their being residents or non-residents?

*Response:* NOAA agrees that the State fishing permit requirement, which was intended to cover fishing in the FCZ, cannot apply to king crab caught in the FCZ under the FMP. The State's Commercial Fisheries Entry Commission (CFEC) has modified the fishing permit requirement by allowing issuance of

landing licenses for qualified, Federally permitted vessels that intend to land in State waters. Hence, fishermen fishing in the FCZ will have the option of purchasing a CFEC landing license or a State fishing permit. The fee for a landing license is intended to compensate the State for benefits conferred on nonresidents out of State revenues. Such a landing license requirement would not be subject to review under the king crab FMP, or under the Magnuson Act itself, because it would not purport to govern fishing for king crab beyond three miles. While the CFEC landing license requirement is not currently subject to review under the Magnuson Act, it is subject to judicial review under general constitutional standards in the application of which NOAA has no special authority.

*Comment:* The FMP institutionalizes a conflict of interest. Because State management agencies are made up solely of Alaskans and are required by law to protect the interests of Alaskans, they will inevitably place Alaskan interests above those of the nation. In doing this, they will almost always be able to construct an explanation that meets the criteria of the FMP. The FMP does not provide a means for Federal review of the rejection of proposals by the State.

*Response:* As noted above, NOAA is confident that it and the Council can exert sufficient review authority over State actions to remedy any threat of a conflict of interest affecting management of the fishery. We specifically have concluded that actions having discriminatory purpose and effect that were not reasonably related to a specific national interest would not receive Federal approval merely because they superficially appeared to meet some of the FMP's specific criteria. Because the Secretary can promulgate regulations additional to those of the State that are approved under the FMP, NOAA can consider the adoption of proposals that were rejected by the State upon the request of the persons making the proposal (see § 676.24).

*Comment:* The FMP's socioeconomic criteria favor Alaska interests. "Pro-Alaskan" factors are going to weigh heavily in any Board decision.

*Response:* NOAA has not found the criteria to favor Alaska interests, and intends to use its review authority under the FMP to ensure that the interests of all users of king crab are given equal weight in the management of the fishery.

*Comment:* The FMP should encompass all the westward king crab fisheries. In spite of the FMP's elaborate justification, the decision to exclude

other westward king crab fisheries was political.

*Response:* As stated above, no data are available to indicate that king crab stocks are so interrelated between the management unit and elsewhere in the Gulf of Alaska as to require coordinated management. In fact, the stocks of the Bering Sea and Aleutian Islands area are biologically distinct from those of the Gulf of Alaska. NOAA concurs, however, with the commenter's view that exclusion of other westward king crab fisheries from the FMP was largely political. Implementation of this FMP for the given management unit is largely in response to concerns of non-resident fishermen and boat owners who pressed for Federal management as a result of their concerns for their representation in the State system. Implementation of this FMP does not represent a finding that State management has been inadequate. It only recognizes the view of many participants in the fishery that Federal management may be needed to ensure equal treatment of all U.S. citizens engaged in this fishery.

*Comment:* NOAA and the Council have not vigorously implemented the Joint Statement of Principles that currently provides for informal Federal participation in the management of king crab in the FMP's management area. This raises the concern that implementation of the FMP will be similarly lax.

*Response:* While NOAA believes that the Joint Statement has been effectively implemented in spirit, we concede that there have been departures from some of its specific provisions. There are two main reasons for this, neither of which should affect implementation of the FMP. First, the Joint Statement was to a large extent experimental, and certain of its procedures proved difficult to implement fully given the schedules of the Council and the Board of Fisheries. These procedures are significantly different from those of the FMP. Second, NOAA and the Council do not have the formal review authority under the Joint Statement, authority that they would have under the FMP. NOAA hopes that the working relationships that were established with State agencies during the implementation of the Joint Statement will facilitate cooperative management under the FMP.

*Comment:* If the FMP is implemented, NOAA and the Council must closely monitor the actions of the State agencies to ensure compliance with the FMP and the national standards of the Magnuson Act.

*Response:* We agree, and firmly commit NOAA to this course of action. We assure the commenter that the FMP

will be implemented in a way that will assure equal treatment for all users of king crab through efficient, inexpensive administrative procedures. NOAA and the Council will not be passive participants in this process, and will do what is necessary to ensure that management of the fishery is in full compliance with the requirements of the Magnuson Act and other Federal law.

#### *U.S. Coast Guard*

*Comment:* Delegating authority to the State of Alaska to implement the FMP is inconsistent with section 306 of the Magnuson Act, which provides that "no State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries."

*Response:* The above sentence in section 306 ends with the phrase " \* \* \* unless such vessel is registered under the laws of the State." The only vessels in the FCZ that the State will regulate under its own authority after implementation of the FMP will be those registered under its laws. Vessels registered with the State will not be subject in the FCZ to State laws and regulations which have been disapproved by NOAA, however. All other vessels in the management area will be subject only to State regulations that have first been approved by NOAA as Federal rules. We regard such approval as incorporation of State law as contemplated by section 303(b)(5). NOAA has concluded that the quoted sentence of section 306 does not apply to such regulations, but only to regulations that have effect only under State law.

*Comment:* The entire scheme of FMP implementation is contrary to the Magnuson Act, because the rule contemplates subsequent approval of laws and regulations submitted directly by the State to the Secretary with no opportunity for Council involvement up to that point, thereby undermining the Council's mandated duties and responsibilities.

*Response:* The commenter is not familiar with the extensive coordination by the Council with the Alaska Board of Fisheries that involves joint meetings to receive public comment on proposed measures. Both the Board and the Council benefit from the public forum. The Board is well positioned to request information and/or advice from the Council prior to its making determinations, and the Council is similarly situated to offer such information and advice. Thus, the Council is deeply involved in Board actions and is able to influence development of new regulations prior to

Secretarial review. The Council, of course, retains the options of changing the FMP's criteria or otherwise directly regulating the fishery if it is dissatisfied with the State's actions.

*Comment:* The scheme for incorporation by reference of State laws and regulations under 1 CFR Part 51 should be reexamined for the possibility that they may be ineligible for such incorporation. State laws and regulations may not be available to the general public within the time for public comment.

*Response:* The NOAA General Counsel has advised that the intended incorporation by reference as contemplated by the final rule is appropriate under 1 CFR 51.7, because the State laws and regulations in question constitute published criteria and standards. The State's fishing laws and regulations are published and distributed in great quantity, as are all proposals for new regulations. Current State channels for their distribution are very effective, and these will be supplemented, as necessary, by NOAA and the Council.

*Comment:* The Coast Guard as well as the public will be confused as to what regulations actually apply to the king crab fishery as a result of the promulgation method.

*Response:* NOAA intends to make clear at the time of each review under the FMP exactly what regulations apply. The approved and disapproved State laws and regulations will be cited specifically in the Federal Register.

*Comment:* The FMP and implementing rule provide for different tasking and review responsibility as exemplified by the provision in the FMP for the Commissioner of ADF&G to promulgate emergency rules and order while the Secretary will do so under the implementing rule; and as exemplified by the FMP's provision that the Regional Director have review authority while the rule assigns responsibility to the Secretary.

*Response:* Exercise of most of the Secretary's functions under the FMP will be delegated within NOAA to the Regional Director. Both the Secretary and the Commissioner may promulgate emergency regulations and orders under the FMP.

*Comment:* The new standard facilitation of enforcement regulations should be incorporated into the proposed rules.

*Response:* This was done in the notice of proposed rulemaking.

#### Classification

The Secretary has determined that the FMP is necessary for the conservation

and management of the king crab fishery in the Bering Sea and Aleutian Islands area and that it is consistent with Magnuson Act and other applicable law.

The Council prepared a final environmental impact statement for this FMP; a notice of availability was published September 28, 1984, at 49 FR 38355.

The Administrator of NOAA has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. His determination is based on the RIR/FRFA prepared by the Council for this rule. The RIR/FRFA is essentially the same in content as the RIR/initial regulatory flexibility analysis that was summarized in the preamble to the proposed rule (49 FR 33033, August 20, 1984).

This rule will have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (RFA), and this effect is described in the RIR/FRFA. One measure, a requirement for a Federal permit, was not analyzed in the RIR/FRFA, but by itself is not significant under RFA. The determination is based on the supporting statement submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act to support OMB clearance of the permit requirement. A summary of this information follows:

The Federal permit provided for by the FMP and the proposed rule would be issued to vessel owners free of charge with no requirement other than the submission of certain information. A cost to vessel owners is the time required to apply for a permit, estimated at half an hour per respondent. About 360 vessel owners may apply for permits, resulting in an aggregate time cost of 180 hours annually. If time is worth \$5.00 per hour, the aggregate cost is \$900 for all vessel owners. Thus, this requirement will have no significant economic effect. The main purposes of the Federal permit requirement are to generate information about the size and characteristics of the fleet for future management purposes and to make administrative permit revocation or modification available to NOAA as a response to violations of the management measures applicable to the king crab fishery.

This rule contains a collection of information requirement at § 676.4 that is subject to the Paperwork Reduction Act (PRA). This requirement was submitted to the OMB for review under section 3504(h) of the PRA and has been approved under OMB Control Number 0648-0097.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal

zone management program of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State Office of Management and Budget waived its option to review this determination on August 2, 1984.

#### List of Subjects in 50 CFR Part 676

Administrative practice and procedure, Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 2, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

For the reason set out in the preamble, 50 CFR Chapter VI is amended by adding a new Part 676, to read as follows:

#### PART 676—KING CRAB FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

##### Subpart A—General Measures

###### Sec.

- 676.1 Purpose and scope.
- 676.2 Definitions.
- 676.3 Relation to other laws.
- 676.4 Permits.
- 676.5 General prohibitions.
- 676.6 Facilitation of enforcement.
- 676.7 Penalties.

##### Subpart B—Management Measures

- 676.20 Initial implementation of the FMP.
- 676.21 New State laws and regulations.
- 676.22 Reconsideration of a final notice by the Secretary.
- 676.23 Amendment of the FMP.
- 676.24 Reservation of Secretarial authority to supersede or supplement.

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

##### Subpart A—General Measures

###### § 676.1 Purpose and scope.

(a) Regulations in this part govern fishing for king crab by vessels of the United States within the Bering Sea and Aleutian Islands area.

(b) Subject to the other provisions of this part, the State of Alaska is delegated authority to implement its role described in the Fishery Management Plan for the King Crab Fishery of the Bering Sea and Aleutian Islands Area (FMP).

(c) Subject to other requirements of law, this part takes effect upon receipt by the Secretary of a statement signed by the Governor of the State of Alaska accepting the provisions of this part on behalf of the State and identifying the agencies that will exercise the authority

to implement the FMP delegated by paragraph (b) of this section (designated agency).

#### § 676.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

*Authorized officer* means—

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of Transportation to enforce the provisions of the Magnuson Act; and

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

*Bering Sea and Aleutian Islands area* means those waters outside the State of Alaska lying south of the Bering Strait and east of the U.S.-U.S.S.R. Convention line of 1867, and extending south of the Aleutian islands for 200 miles between the Convention line and 164°47'30" W. longitude.

*Council* means the North Pacific Fishery Management Council, 411 West Fourth Avenue, Suite D, Anchorage, AK 99510, telephone 907-274-4563.

*Designated agency* means one or more agencies designated by the Governor of the State of Alaska under § 676.1(c) of this part.

*Fish* includes king crab.

*Fishing* means—

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking or harvesting of fish;

(c) Any other activity which reasonably can be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a) through (c) of this definition.

*Fishing vessel* means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for fishing or for assisting or supporting a vessel engaged in fishing.

*Fishery management plan (FMP)* means the Fishery Management Plan for the King Crab Fishery of the Bering Sea and Aleutian Island Area.

*King crab* means the following species of the family Lithodidae:

(a) *Paralithodes camtschatica*, red king crab;

(b) *Paralithodes platypus*, blue king crab; and

(c) *Lithodes aequispina*, brown or golden king crab.

*Magnuson Act* means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

*Operator*, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

*Regional Director* means the Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, telephone 907-586-7221.

*Secretary* means the Secretary of Commerce.

*Vessel of the United States* means—

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than 5 net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

#### § 676.3 Relation to other laws.

(a) *Federal law.* For regulations governing fishing by vessels of the United States for halibut, see regulations of the International Pacific Halibut Commission at 50 CFR Part 301; for those governing fishing for groundfish off Alaska, see 50 CFR Parts 672 and 675; for those governing salmon fishing off Alaska, see 50 CFR 674; for those governing fishing for Tanner crab, see 50 CFR Part 671; and for those governing permits and certificates of inclusion for the taking of marine mammals, see 50 CFR Part 216.

(b) *State law.* Each law and regulation of the State of Alaska approved by NOAA under this part will be proposed for incorporation by reference in the Federal Register in accordance with 1 CFR Part 51. Those State laws and regulations that are approved by the Director of the Federal Register for incorporation by reference under 1 CFR Part 51 will be listed at § 676.25. Other laws and regulations of the State that are approved by NOAA under this part will be reprinted in the Federal Register. Laws of the State of Alaska that may be approved by NOAA under this part are codified in Title 16 of the *Alaska Statutes*. Regulations of the State of Alaska that may be approved by NOAA under this part are codified in Title 5 of the *Alaska Administrative Code*. Copies of these laws and regulations may be obtained from the Alaska Department of Fish and Game, Commercial Fisheries Division, P.O. Box 3-2000, Juneau, AK 99802, telephone 907-465-4210.

#### § 676.4 Permits.

(a) *General.* No vessel of the United States may fish for king crab in the Bering Sea and Aleutian Islands area without first obtaining a permit issued under this section. Each such permit will be issued without charge.

(b) *Application.* A vessel owner may obtain a permit required under the preceding subsection by submitting to the Regional Director a written application containing the following information:

- (1) The applicant's name, mailing address, and telephone number;
- (2) The name of the vessel;
- (3) The vessel's U.S. Coast Guard documentation number or State registration number;
- (4) The home port of the vessel;
- (5) The length of the vessel;
- (6) The type of fishing gear to be used; and
- (7) The signature of the applicant.

The Regional Director may accept a completed State of Alaska commercial fishing license application in satisfaction of the requirements of this subsection.

(c) *Issuance.* (1) Upon receipt of a properly completed application, the Regional Director will issue the permit required by paragraph (a) of this section.

(2) Upon receipt of an incomplete or improperly completed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(d) *Notification of change.* Any person who has applied for and received a permit under this section must give written notification of any change in the information provided under paragraph (b) of this section to the Regional Director within 30 days of the date of that change.

(e) *Duration.* A permit issued under this section authorizes the permitted vessel to fish for king crab in the Bering Sea and Aleutian Islands area during a single specified year, and continues in full force and effect through December 31 of the year for which it was issued, or until it is revoked, suspended, or modified under 50 CFR Part 621 Civil Procedures).

(f) *Alteration.* No person may alter, erase, or mutilate any permit issued under this section. Any such permit that has been intentionally altered, erased, or mutilated will be invalid.

(g) *Transfer.* Permits issued under this section are not transferable or

assignable. Each such permit is valid only for the vessel for which it is issued. The Regional Director must be notified of a change in ownership under paragraph (d) of this section.

(h) *Inspection.* Any permit issued under this section must be carried aboard the vessel whenever the vessel is fishing for king crab in the Bering Sea and Aleutian Island area. The permit must be presented for inspection upon request of any authorized officer.

(i) *Sanctions.* Subpart D of 50 CFR Part 621 (Civil Procedures) governs the imposition of permit sanctions against a permit issued under this section. As specified in that Subpart D, a permit may be revoked, modified, or suspended if the permitted vessel is used in the commission of an offense prohibited by the Magnuson Act or this part; and such a permit must be revoked if a civil penalty or criminal fine imposed under the Magnuson Act and pertaining to a permitted vessel is not paid.

(Approved under OMB Control Number 0648-0097)

#### § 676.5 General prohibitions.

It is unlawful for any person to—

(a) Fish for king crab in the Bering Sea and Aleutian Islands area, except as allowed by this part, or the laws and regulations of the State of Alaska approved under this part at the time such fishing occurs;

(b) Fish for king crab in the Bering Sea and Aleutian Islands area without, or in violation of, a valid permit issued under this part;

(c) Violate any other provision of the Magnuson Act or this part, or other applicable laws;

(d) Fail to comply immediately with enforcement and boarding procedures specified in § 676.6 of this part;

(e) Possess, have custody or control of, ship, transport, import, export, offer for sale, sell, or purchase any king crab taken or retained in violation of the Magnuson Act, this part, any permit issued under this part, or any law or regulation of the State of Alaska approved under this part;

(f) Refuse to allow an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, any permit issued under this part, or any law or regulation of the State of Alaska approved under this part;

(g) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (f) of this section;

(h) Resist a lawful arrest for any act prohibited by the Magnuson Act, this part, any permit issued under this part, or any law or regulation of the State of Alaska approved under this part; or

(i) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such person has committed any act prohibited by the Magnuson Act, this part, any permit issued under this part, or any law or regulation of the State of Alaska approved under this part.

#### § 676.6 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel and its gear, equipment, fishing record (where applicable), and catch for purpose of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signs, placards or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must—

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communication by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (. — . —) <sup>1</sup>, <sup>2</sup> is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (. — — — — — — — — — —) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (. — — . — . — —) means "you should stop or heave to; I am going to board you."

(4) "L" (. — .) means "you should stop your vessel instantly."

#### § 676.7 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty, permit sanction, and forfeiture provisions of the Magnuson Act, to 50 CFR Part 620 (Citations), to 15 CFR Part 904 (Civil Procedures), and to other applicable law.

<sup>1</sup>Period (.) means a short flash of light.

<sup>2</sup>Dash (—) means a long flash of light.

**Subpart B—Management Measures****§ 676.20. Initial implementation of the FMP**

After promulgation of this part, the Secretary will publish in the Federal Register a notice of approval which specifies the laws and regulations of the State of Alaska governing fishing for king crab in the Bering Sea and Aleutian Islands area then in effect that he finds to be inconsistent with the FMP; declares that the laws and regulations so specified cease to govern fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska; declares that all laws and regulations of the State of Alaska governing fishing for king crab in the Bering Sea and Aleutian Islands area then in effect that are not so specified are approved under this part and govern all fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska; and states the findings and conclusions upon which the Secretary's action is based. The Secretary will not publish the notice provided for in this section until interested persons have been afforded a period of at least 45 days in which to comment on laws and regulations of the State of Alaska governing fishing for king crab in the Bering Sea and Aleutian Islands area then in effect and the consistency of those laws and regulations with the FMP. The statement of findings and conclusions contained in the notice published under this section must respond to the comments received during this period. The Secretary will publish the notice provided for in this section after he has consulted with Council concerning his action and the findings and conclusions upon which it is based.

**§ 676.21 New State laws and regulations.**

(a) *New State laws.* (1) Within 30 days after final enactment of a law of the State of Alaska governing fishing for king crab in the Bering Sea and Aleutian Islands area that was not in effect when the notice provided for in § 676.20 of this part was published, the Secretary will publish in the Federal Register a notice requesting comments by any interested person on that law and whether it is consistent with the FMP. Interested persons will have the opportunity to submit comments for a period of at least 45 days after publication of the notice requesting comments.

(2) Within 120 days after final enactment of a law referred to in paragraph (a)(1) of this section, and after consultation with the Council, the

Secretary will publish in the Federal Register a notice of approval which—

(i) Specifies any provision of that law that he finds to be inconsistent with the FMP;

(ii) declares that any provision so specified does not govern fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska;

(iii) declares that all provisions of that law which are not so specified are approved under this part and will govern all fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska; and

(iv) states the findings and conclusions upon which the Secretary's action is based, responding to comments received under the notice provided for in paragraph (a)(1) of this section.

(3) A law referred to in paragraph (a)(1) of this section will govern fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel registered under the laws of the State of Alaska, until the Secretary publishes the notice provided for in paragraph (a)(2) of this section. If a law or regulation of the State of Alaska that was previously approved under this part conflicts with a law governing fishing for king crab in the Bering Sea and Aleutian Islands area under this paragraph, the previously approved law or regulation will cease to be approved under this part with respect to vessels registered under the laws of the State of Alaska. When the Secretary publishes a notice under paragraph (a)(2) of this section disapproving the conflicting provisions of the new law, the previously approved law or regulation will once again be considered approved under this part with respect to vessels registered under the laws of the State of Alaska.

(b) *New State regulations.* (1) As soon as practicable after the designated agency of the State of Alaska publishes for public comment a proposed regulation governing fishing for king crab in the Bering Sea and Aleutian Islands area that was not in effect when the notice provided for in § 676.20 of this part was published, the Secretary will publish in the Federal Register a notice requesting comments by any interested person on that proposal and whether it is consistent with the FMP. The notice will require that such comments be submitted to the designated agency in accordance with the agency's administrative procedures. It will explain that the Secretary will determine whether any such proposed

regulation that may be adopted by that agency is consistent with the FMP on the basis of the administrative record developed before that agency.

(2) Within 45 days after the adoption by the designated State agency of a proposed regulation referred to in paragraph (b)(1) of this section and after consultation with the Council, the Secretary will publish in the Federal Register a notice of approval which—

(i) Specifies any provision of that regulation that he finds to be inconsistent with the FMP;

(ii) declares that any provisions so specified do not govern fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska;

(iii) declares that all provisions of that regulation that are not so specified are approved under this part and govern all fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska; and

(iv) states the findings and conclusions upon which the Secretary's action is based. The statement of findings and conclusions contained in the notice published under this paragraph will be based upon the administrative record developed before the designated agency of the State of Alaska and will respond to relevant points raised in comments submitted to that agency on the proposed regulation.

(3) A regulation referred to in paragraph (b)(1) of this section may govern fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel registered under the laws of the State of Alaska, until the Secretary publishes the notice provided for in paragraph (b)(2) of this section. If a regulation of the State of Alaska that was previously approved under this part conflicts with a regulation governing fishing for king crab in the Bering Sea and Aleutian Islands area under this paragraph, the previously approved regulation will cease to be approved under this part with respect to vessels registered under the laws of the State of Alaska. When the Secretary publishes a notice under paragraph (b)(2) of this section disapproving the conflicting provisions of the new regulation, the previously approved regulation will once again be considered approved under this part with respect to vessels registered under the laws of the State of Alaska.

(4) As soon as practicable after the designated agency of the State of Alaska adopts, without opportunity for public comment, a regulation

establishing an inseason management measure or emergency action governing fishing for king crab in the Bering Sea and Aleutian Islands area that was not in effect when the notice provided for in § 676.20 of this part was published, the Secretary will publish in the Federal Register a notice of approval having the content prescribed for a notice published under paragraph (b)(2) of this section. A regulation referred to in this paragraph may govern fishing for king crab in the Bering Sea and Aleutian Islands area by vessels registered under the laws of the State of Alaska until the Secretary publishes the notice provided for in this paragraph. If a regulation of the State of Alaska that was previously approved under this part conflicts with a regulation governing fishing for king crab in the Bering Sea and Aleutian Islands area under the second sentence of this paragraph, the previously approved regulation will cease to be approved under this part with respect to vessels registered under the laws of the State of Alaska. When the Secretary

publishes a notice provided for in this paragraph disapproving the conflicting provisions of the new regulation, the previously approved regulation will once again be considered approved under this part with respect to vessels registered under the laws of the State of Alaska.

**§ 676.22 Reconsideration of a final notice by the Secretary.**

Within ten days after publication in the Federal Register of a notice of final action by the Secretary under § 676.20 or 676.21 of this part, any person may request the Secretary to reconsider and change that action. The request will specify the proposed change in the action, and the reasons that change is believed to be necessary. The request will not be considered to have been made until it has been received at the address specified in the notice of the action. Within 30 days after publication of the notice of final action in the Federal Register, the Secretary will grant or deny all requests for

reconsideration of that action that have been made, and will promptly publish a notice of such grant or denial in the Federal Register.

**§ 676.23 Amendment of the FMP**

The procedures of §§ 676.20 and 676.22 for initial review and approval of existing laws and regulations of the State of Alaska will be repeated upon each implementation of any amendment of the FMP

**§ 676.24 Reservation of Secretarial authority to supersede or supplement.**

The Secretary, after consultation with the Council, may promulgate and amend such other regulations as may be necessary to implement the FMP fully, in accordance with other requirements of law. This includes regulations superseding or supplementing any State law or regulation disapproved under §§ 676.20, 676.21, or 676.22 of this part.

[FR Doc. 84-29317 Filed 11-9-84; 10:09 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register

Vol. 49, No. 221

Wednesday, November 14, 1984

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

## DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 84-35]

Rules, Policies and Procedures for Corporate Activities; Establishment of Domestic Branches, Seasonal Agencies and CBCT's

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of the Comptroller of the Currency (Office) is proposing to amend its policies and procedures for the establishment of domestic branches, seasonal agencies and customer bank communication terminals (CBCTs). The Office is proposing to amend its regulations on branches and CBCTs to streamline the application process. Generally, banks which operate in a satisfactory manner and maintain a satisfactory record of compliance with the Community Reinvestment Act (CRA) could be granted a single approval to establish multiple branches, CBCTs and seasonal agencies within a three-year time period. The proposal is intended to benefit national banks by removing burdensome and costly regulatory requirements to establish a branch, CBCT, or seasonal agency.

**DATE:** Written comments must be submitted on or before January 14, 1985.

**ADDRESSES:** Comments should be directed to: Docket No. [—], Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East, SW., Washington, D.C. 20219, Attention: Lynnette Carter.

Comments will be available for public inspection and photocopying at the same location.

The collection of information requirements contained in §§ 5.30(i) and 5.31(d) of this proposed rule have been

submitted to the Office of Management and Budget for review under 44 U.S.C. 3504(h). Comments specifically addressing those information collection requirements should be directed to this Office at the above address and should also be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20500, Attention: Desk Officer for the Comptroller of the Currency.

**FOR FURTHER INFORMATION CONTACT:** Randall J. Miller, Manager, Policy, or Joseph W. Malott, National Bank Examiner/Policy Analyst, Bank Organization and Structure (202) 447-1184, or Dorothy Sable, Senior Attorney (202) 447-1880, Office of the Comptroller of the Currency.

### SUPPLEMENTARY INFORMATION:

#### Purpose

The purpose of this proposal is to minimize costs and burdens on national banks and the Office by clarifying policies and streamlining the procedures to establish domestic branches, seasonal agencies and CBCTs.

#### Background

This proposal is part of the Office's Corporate Activities Review and Evaluation (CARE) Program. That program is described in the Federal Register (45 FR 68586) dated October 15, 1980, and involves a comprehensive review of Office rules, policies, procedures, and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE program are to minimize the costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures, and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition.

#### Proposal

The Office is proposing to revise §§ 5.30 and 5.31 which prescribe the application process a national bank must use to establish a domestic branch, seasonal agency or CBCT. Sections 5.30 and 5.31 would be amended to incorporate a new procedure providing for a single application for blanket approval for the establishment of multiple branches, seasonal agencies, or CBCTs, for a period of three years. The

approval would be renewable for additional three year periods.

Under blanket approval, a bank is required to notify the Office prior to opening each individual branch, seasonal agency or CBCT, to specify the location of the branch or agency, and to state how federal and state capital requirements are met. A bank operating in a state which restricts or conditions branching is also required to certify to the Office how the establishment of each individual branch or CBCT comports with the conditions or restrictions of state law. A bank may apply for blanket approval if it has been in business for at least two years, is operating in a satisfactory manner and has maintained a satisfactory record of helping to meet the credit needs of its local community, including low and moderate income areas under the Community Reinvestment Act, 12 U.S.C. 2901 and 12 CFR Part 25. If a bank does not have blanket approval, it must apply for prior approval from the Office for the establishment of each individual branch, seasonal agency or CBCT in accordance with policies and procedures set forth in §§ 5.30 and 5.31.

A bank seeking blanket approval must publish notice of the filing of the application for blanket approval in accordance with § 5.8. A 30-day public comment period will commence on the day of publication. During that period, community groups and other members of the public-at-large, who believe that the applicant bank has not met its responsibilities under the CRA, are encouraged to provide comments on the applicant bank's record of meeting the credit needs of its community, including low and moderate income areas. The Office also will assess the applicant's record of helping to meet its community's credit needs including low and moderate income areas through examinations conducted during the blanket approval period. In this regard, the Office is particularly interested in comments concerning how banks should be encouraged to meet their responsibilities to consider the views of consumers and community groups on their CRA performance.

The Office would like to point out that it may extend the 30-day comment period if in the judgement of the Office, the applicant has failed to file all the required supporting data in time to permit review by interested persons, or

if the Office determines that other extenuating circumstances exist. Further, while public notice in a newspaper is the official notice of filing an application, a record of receipt of and action taken by the Office concerning corporate applications may be obtained from the Weekly Bulletin. The Weekly Bulletin is provided by the district offices. National banks, non-profit organizations, community groups and regulators are currently entitled to receive one annual subscription free of charge.

In states which do not restrict branching, publication is not required when the bank subsequently notifies the Office of the establishment of an individual branch, seasonal agency or CBCT. However, a bank operating in a state which restricts branching geographically or otherwise is required under the blanket approval procedure to publish each subsequent notice of intent to establish individual branches, seasonal agencies or CBCTs, and to furnish the Office with evidence that the publication requirement has been met.

Although a bank in a state which restricts branching must comply with the publication requirements of § 5.8 for each individual notice of intent to establish a branch, seasonal agency or CBCT, the 30-day public comment period set forth in § 5.10 is reduced. The proposed public comment period is 15 days for a branch or seasonal agency and 10 days for a CBCT.

#### Discussion

On July 9, 1982, the Office published in the Federal Register (47 FR 29823) revised policies and procedures regarding applications to establish domestic branches, seasonal agencies, and CBCT branches. The principal changes in §§ 5.30 and 5.31 were:

- The elimination of market and competitive analyses except as required by state law, and
- The establishment of a procedure for approval of multiple CBCT branches provided the branches are established within nine months of preliminary approval. As a result of these changes, new streamlined forms and procedures were adopted which require certification by the applicant on matters relating to compliance with state law, capital adequacy, insider transactions and permissible investment in bank premises. The elimination of the requirement to submit market and competitive information permitted substantial reductions in application length and complexity with accompanying reductions in applicant preparation time and in the Office staff review time.

#### Domestic Branches and Seasonal Agencies

Under the current requirements, a bank must submit an application for each domestic branch or seasonal agency (henceforth, "domestic branch") it seeks to establish. The proposed regulation will allow a bank to seek blanket approval to establish multiple domestic branches during a period of three years. The Office will generally grant blanket approval to a bank which has been in business for at least two years provided it is operating in a satisfactory manner and has maintained a satisfactory record of helping to meet the credit needs of its entire community. Having received blanket approval, a bank may establish domestic branches at its discretion, provided the following conditions are met:

1. A bank operating in a state which does not restrict branching must notify the Office at least five days prior to the opening of an individual branch. The notice must certify compliance with capital and other legal requirements and restrictions.

2. A bank operating in a state which restricts branching geographically or otherwise must certify that the establishment of an individual domestic branch is in conformance with state law. The Office will prepare and make available a list of states which restrict branching. Notification of intent to open a domestic branch from a bank in a state which restricts branching will activate a 30-day review period, starting on the date on which the Office receives the notification. During this period, the Office will review the notification to assess compliance with state law.

3. Office approval of a proposed domestic branch must not violate the provisions of the National Environmental Policy Act or the National Historic Preservation Act. If any proposed domestic branch will have, or is likely to have, a significant impact on the human environment, or will affect any district, site, building or structure listed in, or eligible for listing in, the *National Register of Historic Places*, then the notification of intent to establish it shall be accompanied by an explanation of the impact, proposed steps to mitigate any adverse impact and any other information which the applicant believes will facilitate the approval process. If the establishment of a domestic branch may have a significant environmental impact or affect an historic place, there will be a 30-day review period during which the Office will determine whether approval would comport with the relevant act.

When a 30-day review period is required, the bank may consider the proposed domestic branch approved for opening after the date the review period ends, unless notified by the Office to the contrary. The Office may notify the bank of approval in less than 30 days. The 30-day period may be extended if the filing raises issues that require additional information or time for analysis. If the 30-day period is extended, the bank may act only upon written notice by the Office. There are additional legal requirements associated with the establishment of a domestic branch including the prohibition against insider transactions which grant terms or conditions more favorable than those available to unrelated parties; the prohibition against management interlocks (12 U.S.C. 3201 and 12 CFR Part 26); and the capital requirements in 12 U.S.C. 36(d), 51, and 371d. All banks are required to certify compliance with these provisions upon establishing a branch.

If the establishment of a domestic branch will change the bank's existing community delineation, the board of directors is required to adopt an amended CRA statement at its first regular meeting after the change.

Blanket approval is renewable for successive periods of three years so long as the bank continues to operate in a satisfactory manner and maintains a satisfactory CRA record. The proposal contemplates renewals through a request procedure rather than a new application. Requests for renewal should be received by the Office prior to the expiration of the approval currently in force. The Office requests comment on whether renewals should be obtained through a written request or whether a new application, including publication and a comment period, should be required.

The Office may revoke a blanket approval if the bank becomes subject to special supervisory concern, if its CRA record is no longer satisfactory, or if other comparable circumstances exist. The bank will be notified of the reasons for revocation. The revocation is effective on the date the bank is notified of the revocation. The bank then must apply for prior approval of each individual branch.

In addition, if the Office determines that a branch or seasonal agency has been established or is operating in violation of law or regulation, the bank may be subject to such penalties and sanctions as the Office is empowered to impose including revocation of the approval for the branch.

## CBCT Branches

The Office views the establishment of a CBCT branch as a relatively minor capital investment. In fact, banks frequently make larger capital investments without Office approval as part of the normal course of conducting the business of banking. Therefore, the Office will grant blanket approval for CBCT branches to all banks that have been in operation for two years and that have a satisfactory CRA record. A bank which proposes to establish a CBCT branch in a state which does not restrict CBCT branching only has to notify the Office five days prior to opening the CBCT branch. A bank proposing to establish a CBCT branch in a state which restricts CBCT branching must certify its compliance with state law in conjunction with the notification of intent to establish an individual CBCT branch. The notification activates a 15-day review period during which the Office determines if the proposed CBCT branch complies with state law.

Similarly, if the CBCT branch will have, or is likely to have, a significant impact on the environment or affect an historic place, the Office has a 15-day review period to determine whether approval comports with law.

The bank may consider the proposed CBCT branch approved after the end of the review period unless notified by the Office to the contrary. The Office may notify the bank of approval in less than 15 days. The 15-day period may be extended if the filing raises issues that require additional information or time for analysis. If the 15-day period is extended, the bank may establish a CBCT branch only upon written notice by the Office. If a bank has its blanket approval revoked because of a less than satisfactory CRA record, then it must apply for prior approval of each individual CBCT.

### Text Under Consideration

No change is expected for many current portions of §§ 5.30 and 5.31; however, technical amendments will be necessary to implement the changes proposed in this notice. The Office believes that language similar to the following will be added or incorporated into existing §§ 5.30 and 5.31.

#### *I. Domestic Branches and Seasonal Agencies.*

(a) *Blanket approval.* (1) A bank which has been in business for at least two years, is operating in a satisfactory manner, and has maintained a satisfactory record of helping to meet the credit needs of its entire community including low and moderate income

areas, may request preauthorized blanket approval to establish domestic branches or seasonal agencies for a three-year period.

(2) *Application for blanket approval.* A bank must submit an application for blanket approval to establish domestic branches or seasonal agencies to the appropriate district office. A bank need not specify the location of proposed branches and/or seasonal agencies in its blanket approval application. The decision on the application will be based on all three criteria set forth in (a)(1).

(b) *Notification of establishment of each individual branch.* If its application for blanket approval is granted, the bank must notify the Office each time a branch is opening as described below. Notification must be submitted by hand or by registered mail, return receipt requested. Notification must be received by the Office prior to the date blanket approval expires.

(1) *Notification-state that do not restrict branching.* A bank which has received blanket approval and which is located in a state that the Office has determined does not restrict branching, will notify the Office of a branch or seasonal agency opening at least five days prior to the opening. The notification must include the location of the branch or seasonal agency and the proposed date upon which the branch or seasonal agency will commence business. The bank must also certify that the establishment of the branch or seasonal agency is in compliance with state law, and that the capital requirements of 12 U.S.C. 36(d), 51, and 371d have been met. In addition, the bank must certify that the establishment of the branch or seasonal agency does not involve a prohibited insider transaction or a prohibited management interlock as defined in 12 U.S.C. 3201.

(2) *Notification-states that restrict branching.* A bank which has received blanket approval and which is located in a state that the Office has determined restricts branching geographically or otherwise shall notify the Office of a branch or seasonal agency opening at least 30 days prior to the opening. The notification must include the location of the branch or seasonal agency and the proposed date upon which the branch will commence business. Further, the bank shall also submit the certifications required in (b)(1) as well as any documentation the Office may require to determine that the proposed branch or seasonal agency is in compliance with state law. The bank may open the proposed branch or seasonal agency 30 days after the date on which notification is received by the Office unless the bank

is advised to the contrary. The Office may notify the bank of approval to open in less than 30 days. The 30-day period may be extended if the filing raises issues that require additional information or time for analysis. If the 30-day period is extended, the bank may establish the branch or seasonal agency only upon written notice by the Office.

(3) *NEPA and NHPA requirements.* The bank must determine if the proposed branch or seasonal agency will have a significant effect on the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), or will affect any district, site, building or structure listed in, or eligible for listing in, the *National Register of Historic Places* compiled pursuant to the National Historic Preservation Act (16 U.S.C. 470i). Based on this determination, the bank must either certify that the branch or seasonal agency does not fall within the provisions of these Acts or submit, with the notification, sufficient information to enable the Office to assess the impact or effect and to determine compliance with the relevant Act. In the latter situation, the bank may open the proposed branch or seasonal agency 30 days after the date on which notification is received by the Office unless advised to the contrary. The 30-day period may be extended if the filing raises issues that require additional information or time for analysis. If the 30-day period is extended, the bank may establish the branch or seasonal agency only upon written notice by the Office.

(c) *Renewal.* If a bank desires to renew blanket approval, it must submit a written request for renewal prior to the expiration of the blanket approval. For a renewal to be approved, a bank must meet the same safety and soundness, and CRA requirements governing all blanket approvals.

(d) *Revocation.* The Office may revoke blanket approval if at any time the bank becomes subject to special supervisory concerns, if its record of helping to meet the credit needs of its entire community, including low and moderate income neighborhoods is found less than satisfactory, or if other comparable circumstances exist. The Office will inform the bank of the reasons for the revocation. The revocation will become effective when the Office notifies the bank of its decision. If blanket approval is revoked, the bank may seek approval for an individual branch or seasonal agency.

(e) *Rules of general applicability.* Sections 5.8, 5.9, 5.10, and 5.11 apply to applications for blanket approval. In states the Office has determined do not

restrict branching, the provisions of §§ 5.8, 5.9, 5.10 and 5.11 do not apply to the notification submitted by a bank to establish individual branches or seasonal agencies under blanket approval. Sections 5.8, 5.9, 5.10 and 5.11 do apply to notifications for individual branches submitted by banks located in states which the Office has determined do restrict branching.

However, the public comment period pursuant to § 5.10 is limited to 15 days.

(f) *Commencement of business.* A bank must notify the Office of the date a branch becomes operational for customer use.

(g) *Fees under blanket approval.* (There will be a fee to cover Office costs. The amount of that fee is now under study.)

(h) *Examination and supervision.* If the Office determines by examination or otherwise that a branch or seasonal agency has been established or is operating in violation of law or regulation, the bank may be subject to such penalties and sanctions as the Office is empowered to impose, including revocation of approval for the branch or seasonal agency.

(i) *Forms.*

CC-7021-10: Application for Blanket Approval or to Establish a Domestic Branch/CBCT Branch

## II. Customer-Bank Communication Terminal (CBCT) Branches (Blanket and individual approval)

(a) *Policy.* It is the general policy of the Office to approve applications or letters of notification to establish and operate CBCT branches provided that approval would not violate the provisions of applicable federal law or state law that is incorporated into federal law. The Office reserves the right to deny or to grant approval subject to fulfillment of certain conditions if:

(1) A proposed CBCT branch would violate the law of the state in which the bank operates;

(2) A CBCT branch would violate the provisions of 12 U.S.C. 36(d), 51, or 371d;

(3) A financial, or other business arrangement, direct or indirect, involving the CBCT branch, with bank insiders (directors, officers, employees, and shareholders owning or controlling, directly or indirectly, 10 percent or more of any class of the subject bank's voting stock) involves terms and conditions more favorable to the insiders than would be available in a comparable transaction with unrelated parties;

(4) Approval of a CBCT branch would not comport with the provisions of 42 U.S.C. 3321 *et seq.* (The National Environmental Policy Act) or 16 U.S.C.

470f (The National Historic Preservation Act); or

(5) The bank has failed to maintain a satisfactory record of helping to meet the credit needs of its community including low and moderate income areas.

(b) *Blanket approval.* (1) A bank which has operated for at least two years and which has maintained a satisfactory record of helping to meet the credit needs of its entire community including low and moderate income areas may request preauthorized blanket approval to establish CBCT branches for a three-year period.

(2) *Application for blanket approval.* A bank must submit an application for blanket approval to establish CBCT branches to the appropriate district office. An application for blanket approval need not specify the location of proposed CBCT branches. The decision on the application will be based on both of the criteria set forth in (b)(1).

(3) *Notification of establishment of individual CBCTs.* The bank must notify the Office each time a CBCT branch is opening in accordance with the provisions described below. The notification must be submitted by hand or by mail, returned receipt requested. Notification must be received by the Office prior to the date blanket approval expires.

(i) *Notification-states that do not restrict branching.* A bank which has received blanket approval and which is located in a state the Office has determined does not restrict CBCT branching, must notify the Office of the CBCT branch opening at least five days prior to the opening. The notification shall contain the location of the CBCT branch and the proposed date upon which business will commence at the CBCT branch. The bank must also certify that the establishment of the CBCT branch is in compliance with state law, and that the the capital requirements of 12 U.S.C. 36(d), 51, and 371d have been met. In addition, the bank must certify that the establishment of the CBCT branch does not involve a prohibited insider transaction.

(ii) *Notification-states that restrict branching.* A bank which is located in a state which the Office has determined restricts CBCT branching geographically or otherwise shall submit the notice and certifications required in (b)(3)(i) as well as any documentation the Office may require to determine that the proposed CBCT will comply with state law. A bank operating in a state which restricts CBCT branching geographically or otherwise, may consider the proposed CBCT branch approved for activation 15

days after the date on which notification is received by the Office unless advised to the contrary. The Office may notify the bank of approval in less than 15 days. The 15-day period may be extended if the filing raises issues that require additional information or time for analysis. If the 15-day period is extended the bank may activate the CBCT only upon written notice by the Office.

(iii) *NEPA and NHPA requirements.* The bank must determine if the proposed CBCT branch will have a significant effect on the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), or will affect any district, site, building or structure listed in, or eligible for listing in, the *National Register of Historic Places* compiled pursuant to the National Historic Preservation Act (16 U.S.C. 470f). Based on this determination, the bank must either certify that the CBCT branch does not fall within the provisions of these Acts or submit, with the notification, sufficient information to enable the Office to assess the impact or effect and to determine compliance with the relevant Act. In the latter situation, the bank may open the proposed CBCT branch 15 days after the date on which notification is received by the Office unless advised to the contrary. The 15-day period may be extended if the filing raises issues that require additional information or time for analysis. If the 15-day period is extended, the bank may establish the CBCT branch only upon written notice by the Office.

(4) *Renewal.* If a bank desire to renew blanket approval, it must submit a written request for renewal prior to the expiration of the blanket approval. For a renewal to be approved, a bank must meet the same safety and soundness, and CRA requirements governing all blanket approvals.

(5) *Revocation.* The Office may revoke blanket approval if at any time the bank's record of helping to meet the credit needs of its entire community, including low and moderate income areas is found to be less than satisfactory, or if other comparable circumstances exist. The Office will inform the bank of the reason for the revocation. The revocation will become effective when the Office notifies the bank of its decision. If blanket approval is revoked, the bank may seek approval for an individual CBCT branch.

(6) *Rules of general applicability.* In states the Office has determined do not restrict CBCT branching, the provisions of §§ 5.8, 5.9 and 5.10 do not apply to the notification submitted by a bank to

establish an individual CBCT branch under blanket approval. Section 5.8, 5.9 and 5.10 generally do apply to a notification for an individual CBCT branch submitted by a bank located in a state which the Office has determined restricts CBCT branching. However, in states that restrict CBCT branching, the public comment period on CBCT branch publications pursuant to § 5.10 will be limited to 10 days. Section 5.11 does not apply to any CBCT filing.

(c) *Commencement of business.* A bank must notify the Office of the date a CBCT branch becomes operational for customer use.

(d) *Application for individual CBCT branch(es).* (1) A bank which has not applied for blanket approval or which has had blanket approval revoked or denied, may apply for approval to establish a CBCT branch by mailing, return receipt requested, or by hand delivering an application (Form CC-7021-01) to the district office where the bank is located. The bank may request approval through a single application, for as many CBCT branches as the bank proposes to establish within nine months after the approval date. Each proposed location must be listed on the application.

(2) *Rules of general applicability.* Applications are generally subject to the provisions of §§ 5.8, 5.9 and 5.10. However, the public comment period for CBCT branch applications pursuant to § 5.10 will be limited to 10 days and CBCT applications are not subject to § 5.11.

(3) *Decisions.* Banks may consider their application approved after 15 days from the date the application is received by the Office unless the bank is notified to the contrary. The Office may notify the bank of approval in less than 15 days. The 15-day period may be extended if the filing raises issues that require additional information or time for analysis. If the 15-day period is extended, the bank may establish a branch only upon written notice by the Office.

(4) *Expiration of approval.* A CBCT branch approval expires if the CBCT is not in operation within nine months after the approval date.

(5) *Authorization.* The CBCT branch will be considered established on the date it becomes operational for customer use. The bank must notify the appropriate district office by letter of the location(s) of the CBCT(s) and the date of establishment within seven days after the establishment date.

(e) *Fees.* (There will be a fee to cover Office costs. The amount of that fee is now under study.)

(f) *Forms.*

#### CC-7021-01: Application for Blanket Approval or to Establish a Domestic Branch/CBCT Branch

##### Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 98-354m 5 U.S.C. 601 *et seq.*) the Comptroller of the Currency has certified that the proposed amendments, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed amendments would ease the burden of the existing regulations. The effect of the amendment is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments as well as larger institutions.

##### Regulatory Impact Analysis

The Office has determined that the proposed amendments do not constitute a "major rule" and, therefore, do not require a regulatory impact analysis.

##### List of Subjects in 12 CFR Part 5

National banks, Domestic branches, Seasonal agencies, Customer bank communication terminals, CBCT branches.

Dated: June 29, 1984.

C.T. Conover,

*Comptroller of the Currency.*

[FR Doc. 84-2937 Filed 11-13-84; 9:45 am]

BILLING CODE 4810-33-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 83-NM-72-AD]

#### Airworthiness Directives: Boeing Model 707/720 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM) and withdrawal of NPRM.

**SUMMARY:** This notice proposes a new airworthiness directive (AD) which would require structural inspections and repairs or replacement, as necessary, on certain high time Boeing Model 707/720 series airplanes to assure continued airworthiness. Some Boeing Model 707/720 series airplanes are approaching or exceeding the manufacturer's original objective fatigue design life. These older airplanes are the ones most likely to develop fatigue cracking. The manufacturer has completed a structural reevaluation to identify structurally significant items where, if cracking does

develop and is permitted to grow undetected, may result in an inability of an airplane to carry the required loads specified in the applicable certification regulations. This proposed AD defines structural maintenance requirements for the identified items necessary to preclude this potentially catastrophic condition, and replaces an NPRM previously issued related to this same subject which is withdrawn.

**DATE:** Comments must be received on or before January 7, 1985.

**ADDRESSES:** The service documents may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Carlton A. Holmes, Airframe Branch, ANM-120S, FAA, Northwest Mountain Region, Seattle Aircraft Certification Office; telephone (206) 431-2926. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD, will be filed in the Rules Docket.

##### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-72-AD, 17900 Pacific

Highway South, C-68966, Seattle, Washington 98168.

## Discussion

### Background

The first Model 707 aircraft were introduced into airline service in 1958, followed by the Model 720 in 1961. Some aircraft have been in service for over 25 years. To support maintenance planning, the original Boeing 707 Service, Inspection and Overhaul Program was developed by an Inspection and Overhaul Committee of the Air Transport Association of America with the technical assistance of the Boeing Company. It was submitted to the CAA (now FAA) Maintenance Review Board for approval in June 1958. This program, as modified and approved by the Maintenance Review Board, was used by individual airlines to develop their detailed maintenance programs. Thereafter, these programs and the experience gained from actual airline maintenance operations were used by Boeing as a basis for preparing a Maintenance Planning Document (MPD), D6-7552, which was released in 1961. The MPD was developed and has been revised at regular intervals to reflect the latest production aircraft configuration and fleet maintenance experience. It has been provided to each airline purchasing a new airplane from Boeing to serve as a guide in developing a customized maintenance program. This program was revised periodically as an airline gained experience. An airline's initial program, as well as later revisions, were submitted each time to the FAA for review and approval. The Boeing MPD is not, however, directly applicable to, nor may it be said to be adequate for, an airplane that has been in service for any extended period of time.

A significant number of transport category airplanes, including the B-707/720 models, are approaching their design life goal. It is expected that these airplanes will continue to be operated beyond this point. The incidence of fatigue cracking on these airplanes is expected to increase as airplanes reach and exceed their goals. In order to evaluate the impact of increased fatigue cracking with respect to maintaining fail-safe design and the damaged tolerance of the airplane structure, large transport airplane manufacturers have been requested to conduct a structural reassessment of these airplanes, using modern damage tolerance evaluation techniques. The criteria for this reassessment are contained in FAA Advisory Circular (AC) 91-56, "Supplemental Structural Inspection Program for Large Transport Category

Airplanes," as well as § 25.571 (Amdt. 25-45) of the Federal Aviation Regulations (FAR). The Boeing Company used modern damage tolerance evaluation techniques and advanced analysis techniques in the area of fracture mechanics and residual strength analysis, which were not available during the original design and certification of the Boeing Models 707/720 airplanes.

This structural reassessment involved:

1. The identification of structural parts or components which contribute significantly to carrying flight, ground, pressure, or control loads. The failure of any of these components would affect the structural integrity necessary for the safety of the airplane. It is, therefore, necessary to establish or confirm their damage tolerance or fail-safe characteristics. These are called Structural Significant Details (SSD).

2. The calculation of residual strength, with multiple site damage and interactive crack growth under typical flight and ground loading, such that the airplane structure can sustain the load conditions stated for fail-safe qualification under the current FAR 25.571(b); and

3. The establishment of inspection programs that provide a high probability of detecting fatigue damage before, residual strength falls below fail-safe or damage tolerance requirements.

In conducting the assessment, or audit, The Boeing Company has developed continuing structural integrity programs for its transport airplanes. The program developed for the Boeing Models 707/720 [Boeing Document No. D6-44860, entitled "Supplemental Structural Inspection Document (SSID) for High Time Model 707-720 Aircraft"] ensures continuing structural airworthiness of the Boeing 707/720 by specifying details to be inspected, inspection intensities, and associated intervals based on the structural audit.

Inspection is essential in maintaining the damage tolerance or fail-safe characteristics of structure. The inspection items contained in the Boeing document have been determined to be structurally significant by test, analysis, or service experience. These inspections, when used to supplement an existing approved maintenance program, will ensure the damage tolerance of the structure of these aircraft in the presence of aging effects such as fatigue and corrosion to the limit of the aircraft's economic usefulness. The following premises were used in the development of the Model 707/720 SSID:

1. This document is based on the premise that an approved continuous

structural inspection program is being conducted for identification of cracks, corrosion and other damages for in-service Model 707/720 aircraft.

2. This document cannot be used as a substitute for an existing approved structural program.

3. This document is intended to identify significant details within existing inspection areas having damage or fatigue characteristics warranting special attention.

4. MPD references have been included only for purposes of indexing the SSD's to general structural areas. As previously stated, the MPD is only directly applicable to new production aircraft as purchased from the manufacturer.

### Significant Structural Details

Significant Structural Details (SSD) included in the SSID are those designated structural items which contribute significantly to carrying flight, ground, or pressure loads whose fracture could affect the structural integrity of the aircraft. These details require specific detailed inspections to maintain damage tolerance. Significant Structural Details are divided into two categories: those which are not covered by service bulletins and those which are covered.

In establishing the total list of SSD's, Boeing used advanced analysis techniques not available during the original design of the Model 707. This analysis revealed that certain details now require increased emphasis in the maintenance program. The specific inspection requirements designated are based on analysis of minimum detectable size and growth characteristics of cracks and residual strength of the damaged structure. Some details were found to require the application of special inspection techniques to ensure the damage tolerance of the design.

After compiling the SSD's, Boeing reviewed all structural service bulletins to determine if they were in the structural area identified as an SSD. Those service bulletins so identified are listed on the SSD and have been included to emphasize their significant contribution to continued aircraft integrity. These SSD's are clearly identified and grouped together within each section.

The initial inspection periods for these items have been established by actual service experience. It is very important that an operator carefully review the supplementary inspection instructions contained on each SSD referencing a service bulletin, even though the service

bulletin has been accomplished. In some cases, the service bulletin is a terminating action and no further supplemental inspection is required. Other items specify the incorporation of the service bulletin as the point for starting the count to identify when the initial inspection period should commence. Still others recommend the inspection of selected adjacent structure based upon analysis and experience gained from accomplishment of the service bulletin. There are combinations of these situations and also minor additional variations to the stated situations which are covered in detail, as required, on the SSD referencing service bulletins.

#### *Special Inspection Notes*

Inspection notes of a general nature preface each model's SSD section. These notes address in some detail sound corrosion control practices, fundamental symptoms of structural distress, and the attention to detail, all of which are necessary requirements of an aggressive inspection program. The effects of corrosion have not been used in the calculation of the initial and repeat inspection periods for the significant structural detail items in this document. It is impossible to forecast the onset or the degree of severity of corrosion in aircraft structure. These variables depend on the operating environment, the operator's corrosion control program and its maintenance program in general.

#### *Previous NPRM*

A proposal to amend Part 39 of the Federal Aviation Regulations to include and AD requiring the inspection and repair, as necessary, of some structural items from the Boeing Model 707/720 SSID on certain high time Boeing Model 707/720 airplanes was previously published in the Federal Register on January 11, 1982 (47 FR 1142), Docket No. 81-NW-17-AD. That proposal was revised and republished on October 21, 1982 (47 FR 46858). Following the close of the comment period on November 22, 1982, final action was proposed for several reasons, including the following:

1. It was considered that the data package being developed for the later-generation Boeing airplanes may result in the manufacturer reassessing the Model 707/720 SSID for possible format changes and/or reduction in the number of structural significant details.

2. There was on-going consultation with the FAA to include inspection of certain SSD's in the maintenance manuals of operators. It appeared advisable to delay final action on the NPRM since the results of the consultations could have a direct

bearing on the methods of inspections, inspection intervals, number of SSD's, and the initial inspection thresholds that would be otherwise included in the final rulemaking action.

3. It has now become apparent that SSID implementation through means other than rulemaking, such as airline inspection programs, has either not occurred in a timely fashion or, some cases, not at all. One operator has even applied to revise its operations specifications which now include the SSID, to delete all SSD's except the seven previously proposed.

The only means to assure that an adequate level of safety will be achieved is to mandate the inspection of all SSD's contained in the SSID which, if not adequately inspected, could result in catastrophic consequences.

As indicated earlier, previous actions proposed inspection of seven critical items from a total of approximately ninety-eight in the SSID document. Subsequent assessments by the FAA now indicate that all SSD's are critical and must be inspected. This proposal, therefore, exempts only those SSD's which are covered by previous AD action. This results in approximately sixty-two SSD's requiring inspections.

This proposal effectively supersedes the NPRM previously issued and for this and the other reasons given, the FAA has determined that the earlier NPRM should be withdrawn.

Information collection requirements contained in this proposed AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2120-0056.

#### *Economic Impact*

Approximately 176 airplanes of U.S. registry and 44 U.S. operators would initially be affected by the proposed AD. It is estimated that the implementation of the SSID program for a typical operator would take approximately 1000 manhours. It is also estimated that the average labor cost would be \$40 per manhour. Based on these figures, the cost to implement the SSID program is estimated at \$1,760,000.

The recurring inspection impact on the affected operators is estimated to be 500 manhours per airplane at an average labor cost of \$40 per manhour. Based on these figures, the annual recurring cost of this AD is estimated at \$3,520,000.

Based on the above figures, the total cost impact of this AD would be \$1,760,000 for the first year, and \$3,520,000 for each year thereafter. The total economic impact may be

significantly reduced by the removal of airplanes from service as a result of the 1985 noise rule.

For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291, or a significant rule under DOT Regulatory Policies and Procedures. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

#### *List of Subjects in 14 CFR Part 39*

Aviation safety, Aircraft.

#### *The Withdrawal*

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, the proposed airworthiness directive published in the Federal Register on January 11, 1982 (47 FR 1142), as revised and republished on October 21, 1982 (47 FR 46858), is hereby withdrawn.

#### *The Proposed Amendment*

Further, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

**Boeing: Applies to Model 707/720 series airplanes, certificated in all categories. Compliance is required as indicated in the body of the AD.**

To ensure continuing structural integrity, accomplish the following, unless already accomplished:

A. Within one year after the effective date of the AD, incorporate a revision into the FAA approved maintenance inspection program which requires accomplishment of the inspection and repairs, as necessary, of each Structural Significant Detail (SSD) as listed in Boeing Document D6-44860, Supplemental Structural Inspection Document (SSID), Revision L, or later FAA approved revision. The revision to the maintenance program shall include procedures to notify the manufacturer when SSD's are found cracked. The inspection thresholds, repetitive intervals, inspection techniques, repair methods, terminating action, and applicable airplanes for each SSD are listed in the SSID.

B. The increase of inspection intervals in accordance with Section 1.70 of Boeing Document D6-44860, is not permitted, except as provided in paragraph E., below.

C. If cracks are found, prior to further flight (1) Replace with a serviceable approved part of the same part number, (2) repair in accordance with the information contained in Boeing Document D6-44860, or (3) repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

E. Alternate means of compliance which provide an equivalent level of safety may be

used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Operators who have acceptably incorporated the requirements of paragraph A., above, into their approved maintenance program, including the limitations listed in paragraphs B. and C., above, are exempt from the provisions of this AD.

G. Structurally Significant Details (SSD) which are the subject of separate AD action are exempted from the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined by the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

The FAA has requested Federal Register approval to incorporate by reference the manufacturer's Supplemental Structural Inspection Document identified and described in this proposal.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85).

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 28, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since few, if any, Boeing Model 707/720 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on November 5, 1984.

Thomas J. Howard,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-29753 Filed 11-13-84; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Parts 71 and 73

[Airspace Docket No. 83-AWP-3]

### Proposed Expansion of Restricted Area R-4806

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Reopening of Comment Period on Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** The NPRM which proposed to enlarge and subdivide Restricted

Area R-4806 was published in the Federal Register on November 22, 1983 (48 FR 52749). Because of the desire to receive additional comments regarding the proposal and because of the complexity of the action the FAA is reopening the comment period on the NPRM for an additional 60 days. To accommodate interested parties, the proposal is repeated herein.

**DATES:** Comments must be received on or before January 14, 1985.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWP-3, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, D.C.

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

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

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AWP-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the

specified closing date for comments will be considered before taking action on the proposed rule. The proposal may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of the document. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

#### The Proposal

The NPRM which proposed to enlarge and subdivide Restricted Area R-4806 was published in the Federal Register on November 22, 1983 (48 FR 52749). Because of the desire to receive additional comments regarding the proposal and because of the complexity of the action the FAA is reopening the comment period on the NPRM for an additional 60 days.

The FAA is considering amendments to § 71.151 and § 73.48 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to enlarge Restricted Area R-4806 and subdivide it as R-4806 East and R-4806 West by incorporating part of the Desert MOA and associated air traffic control assigned airspace and including it in the Continental Control Area. By establishing the boundaries along the mountain ridge the restricted area will be easily discernible by nonparticipating aircraft that transit the area and will help insure that participating aircraft do not inadvertently spill out of the restricted area. In addition, special and unique test flights are conducted in the area which require full attention by the pilot to aircraft performance and systems. This distracts pilots from paying full attention to the see-and-avoid procedures. Section 71.151 and 73.48 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 3, 1984.

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

#### List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Restricted areas.

#### The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.151 and § 73.48 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as follows:

##### Section 71.151

R-4806 Las Vegas, NV [Revoked]  
R-4806W Las Vegas, NV [New]  
R-4806E Las Vegas, NV [New]

##### Section 73.48

R-4806 Las Vegas, NV [Revoked]

R-4806W Las Vegas, NV [New]

Boundaries. Beginning at lat. 37°17'00"N., long. 115°18'00"W., to lat. 36°26'00"N., long. 115°18'00"W., to lat. 36°26'00"N., long. 115°23'00"W., to lat. 36°35'00"N., long. 115°37'00"W.; to lat. 36°35'00"N., long. 115°53'00"W., to lat. 36°36'00"N., long. 115°56'00"W., to lat. 37°06'00"N., long. 115°56'00"W.; to lat. 37°06'00"N., long. 115°35'00"W., to lat. 37°17'00"N., long. 115°35'00"W., to the point of beginning.

Designated altitudes. Unlimited.  
Times of designation. Continuous.  
Controlling agency. FAA, Los Angeles ARTCC.

Using agency. Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.  
R-4806E Las Vegas, NV [New].

Boundaries. Beginning at lat. 37°17'00"N., long. 115°18'00"W., to lat. 36°28'00"N., long. 115°18'00"W., to lat. 36°35'00"N., long. 115°15'30"W., to lat. 36°48'00"N., long. 115°07'00"W., to lat. 37°17'00"N., long. 115°07'00"W., to the point of beginning.

Designated altitudes. 100 feet AGL to unlimited.

Time of designation. Continuous.  
Controlling agency. FAA, Los Angeles ARTCC.

Using agency. Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.

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

Issued in Washington, D.C. on October 19, 1984.

Harold W. Becker,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-23745 Filed 11-13-84; 8:45 am]

BILLING CODE 4910-13-M

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Parts 140 and 144

#### Procedures Regarding the Disclosure of Information and the Testimony of Present or Former Commission Members and Employees in Response to Subpoenas or Other Demands of a Court or Other Authority

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** These proposed regulations establish Commission procedure regarding the disclosure of information and the testimony of present or former Commission members and employees in response to subpoenas duces tecum and subpoenas ad testificandum or other demands of a court or other authority in federal and state proceedings. Interested persons are invited to submit written comments to the Office of the Secretariat.

**DATE:** Written comments must be received no later than December 14, 1984.

**ADDRESS:** Send comments to: Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

**FOR FURTHER INFORMATION CONTACT:** Whitney Adams, Deputy General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-9880.

**SUPPLEMENTARY INFORMATION:** At the present time, the Commission has no formal procedures governing the manner in which subpoenas seeking information from the Commission's files may be served or governing requests for Commission authorization for employees, including former members and employees of the Commission, to testify in litigation particularly where the Commission is not a party and thus is not represented by counsel. The absence of such formal procedures has resulted in administrative problems in

responding to subpoenas and when appropriate in making objections to the disclosure of confidential or otherwise privileged information. The absence of formal procedures has also created a danger that present or former members and employees of the Commission who have received subpoenas may be called upon to disclose confidential or privileged information without prior authorization by the Commission. Because the Commission finds that formal procedures are necessary to avoid these problems and to ensure efficient internal administration, the Commission has determined to amend its regulations by adding a new Part 144.

#### Section 144.0 Purpose and scope.

This section sets forth the purpose and scope of the regulations in Part 144. Subsection (a) states that the procedures set forth in Part 144 apply to the disclosure of any information in response to a subpoena or other demand of a court or other authority which relates to material in the files of the Commission or to any information acquired by any person as part of the performance of that person's duties or by virtue of that person's official status. The procedures in this part do not apply, however, to requests for the production of documents in compliance with Fed. R. Civ. P. 34.

Subsection (b) makes clear that the regulations in Part 144 do not affect disclosure of information under the Freedom of Information Act, 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, the Sunshine Act, 5 U.S.C. 552b, or the Commission's implementing regulations in Part 145, 17 CFR 145.0 *et seq.* Subsection (b) further makes clear that the provisions of Part 144 do not affect the disclosure of information pursuant to Congressional subpoena or pursuant to other Commission regulation. *E.g.*, disclosure to law enforcement or regulatory agencies under Commission Regulation 140.73, 17 CFR 140.73.

Both subsection (b) and subsection (c) also make clear that the provisions of Part 144 do not create any additional right to disclosure of information other than that provided by statute, court rule or other established authority. Rather, the regulations under Part 144 are intended to provide guidance for the Commission, its staff, and the general public concerning the procedures governing the disclosure of information and documents in response to a subpoena or other demand by a court or other authority.

**Section 144.1 Service Upon the Commission.**

This section sets forth the manner in which any demands for documents contained in Commission files, e.g. by subpoena *duces tecum*, may be served. This section does not apply to demands solely for testimony. Subsections (a), (b), and (c) make clear that the Secretary of the Commission is the only person who is authorized by the Commission to accept service on its behalf of demands for documents. Accordingly, anyone wishing to serve the Commission with a demand for documents must address that demand to the Secretary at the Commission's offices in Washington, D.C., at the address set forth in subsection (b). If service of such a demand is attempted upon any other member or employee of the Commission, subsection (c) provides that, unless the General Counsel otherwise directs, the person upon whom service has been attempted must decline to accept service on the ground that the person is without authority to do so.

Subsection (d) provides that when service has been made in accordance with these regulations, the Secretary of the Commission shall promptly notify the General Counsel who in turn is to advise the Commission concerning the matter.

**Section 144.2 Service upon an employee or former employee of the Commission.**

This section sets forth the general procedure to be followed when an employee or former employee of the Commission is served (or attempted to be served not in accordance with Commission regulation 144.1) with a demand seeking information or documents relating to the business of the Commission. Under subsections (a) and (b), any person, regardless of whether that person is a present or former member or employee of the Commission, who is served with such a demand must promptly advise the General Counsel that the demand has been served or attempted to be served and must also apprise the General Counsel of the nature of the information or documents sought by the demand. Where known, the individual served should also apprise the General Counsel of any circumstances which would bear favorably or unfavorably on the decision whether the public interest would best be served by disclosure of the information or production of the documents in response to the demand.

Following notification that a demand has been served, the General Counsel or a member of the staff designated by the

General Counsel shall conduct such further inquiry concerning the nature and scope of the demand as is appropriate and necessary to permit the General Counsel to properly advise the Commission concerning the demand. In this regard, § 144.5(a) of the regulations requires that when oral testimony of a Commission employee or former employee is sought concerning the Commission's business, an affidavit or signed statement must be submitted to the General Counsel by the party seeking the testimony or that party's attorney, which sets forth with particularity the nature and scope of the testimony sought and its relevance to the issues in the proceeding.

Subsection (c) provides that upon review of the documentation and applicable authority, the General Counsel shall advise the Commission concerning the demand and shall recommend an appropriate course of action in response to the demand.

**Section 144.3 Testimony by present or former Commission employees.**

This section governs demands for oral testimony of present or former members and employees of the Commission. In proceedings to which the Commission is not a party, testimony by current Commission employees concerning matters related to the business of the Commission is prohibited under subsection (a) in the absence of prior Commission authorization.

Subsection (b) provides that a present or former member or employee of the Commission may not testify in any proceeding, regardless of whether the Commission is a party, concerning non-public matters related to the business of the Commission in the absence of prior Commission authorization.

Former employees would not be prohibited from testifying regarding public matters relating to the Commission's business without Commission authorization. However, as is discussed above, under § 144.2(b) a former employee would be required to notify the Commission's General Counsel of any demand for his or her testimony so that the Commission's General Counsel can make the determination whether the demand calls for information that the Commission might deem confidential.

**Section 144.4 Production or disclosure of records by present or former employees.**

Subsection (a), which applies to present members and employees of the Commission, provides that no material in the files of the Commission may be provided or information relating to

materials contained in the files of the Commission may be disclosed without prior authorization by the Commission. However, Commission authorization will not be required to comply with a demand solely for Commission documents that are generally available to the public.

Subsection (b), which applies to former employees, provides that no Commission documents acquired as part of the former employee's performance of official duties may be provided without prior authorization from the Commission.

**Section 144.5 Procedure when production or disclosure of Commission records or information relating to Commission business is sought.**

This section sets forth certain procedures to be followed when Commission records or information relating to the business of the Commission is sought.

Under subsection (a), in any proceeding in which oral testimony is sought, the party seeking that testimony or the party's attorney must submit an affidavit, or a signed statement if an affidavit is not feasible, which sets forth with particularity the testimony sought and its relevance to the issues in the proceeding. This affidavit or statement must be submitted to the General Counsel and should be provided contemporaneously with service of the demand for the testimony. This affidavit or statement will be used by the General Counsel in formulating the recommendation to the Commission whether authorization for the testimony should be given and will be incorporated into that recommendation. In those instances when Commission authorization is required, that authorization will be limited to the scope of the demand as set forth in the affidavit or statement.

Under Subsection (b), in the event that a response to a demand for material or information is required before the Commission has acted, and Commission authorization is required, an attorney designated by the General Counsel is to inform the court or other authority making the demand that the matter has been referred to the Commission for prompt consideration and that a stay of the demand is requested pending receipt of instructions from the Commission by the General Counsel.

If a stay of the demand is denied or if compliance with the demand is required irrespective of the lack of any required Commission authorization or instructions not to produce the material or disclose the information, subsection

(c) requires that the person upon whom the demand has been made must respectfully decline to comply with the demand. In the event that proceedings are instituted to compel compliance or to sanction noncompliance, e.g. for contempt of court, it is contemplated that any such proceeding will be directed against the Commission rather than the individual upon whom the demand has been made as the individual is without discretion or authority to comply with the demand in the absence of Commission authorization.

#### Section 144.6 Fees.

This section incorporates the provisions of § 145.8 of the regulations concerning fees for production of documents in response to requests under the Freedom of Information Act.

#### Regulatory Flexibility Act

The Commission has determined under 5 U.S.C. 605(b) that the proposed regulations will not have a significant economic impact on a substantial number of small entities. The regulations are designed to clarify that the Commission reserves the authority for determining when its records and information may be disclosed and to recover only the Commission's actual costs, consistent with its statutory authority, in locating and copying documents in response to subpoenas or other demands of a court or other authority. This minimal cost should not have a significant economic impact on any party on whose behalf a subpoena or other demand is issued.

#### List of Subjects

##### 17 CFR Part 140

Authority delegations (Government agencies), Conflict of interests, Organization and functions (Government agencies).

##### 17 CFR Part 144

Commission records and information, Fees, Subpoenas, Testimony by employees and former employees, Courts, Government employees.

Accordingly, pursuant to its authority under 5 U.S.C. 301; 7 U.S.C. 4a(j) and 12a(5); and 31 U.S.C. 9701 the Commission hereby proposes regulations and amendments to Commission Regulation as follows:

1. Chapter I of 17 CFR is amended by adding a new Part 144 to read as follows:

### PART 144—PROCEDURES REGARDING THE DISCLOSURE OF INFORMATION AND THE TESTIMONY OF PRESENT OR FORMER OFFICERS AND EMPLOYEES IN RESPONSE TO SUBPOENAS OR OTHER DEMANDS OF A COURT

#### Sec.

144.0 Purpose and scope.

144.1 Service upon the Commission.

144.2 Service upon an employee or former employee of the Commission.

144.3 Testimony by present or former Commission employees.

144.4 Production or disclosure of records by present or former employees.

144.5 Procedures when production or disclosure of Commission records or information relating to Commission business is sought.

144.6 Fees.

Authority: 5 U.S.C. 301; 7 U.S.C. 4a(j) and 12a (5); 31 U.S.C. 9701

#### § 144.0 Purpose and scope.

(a) The regulations in this part set forth procedures to be followed with respect to the disclosure, in response to a subpoena, order or other demand (collectively "demand") of a court or other authority of any material contained in the files of the Commission, of any information relating to material contained in the files of the Commission or any information acquired by any person while such person is or was an employee of the Commission as part of the performance of that person's official duties or by virtue that person's official status. Employee as used in this part includes both members and employees of the Commission. Demand as used in this part does not include requests for the production of documents in compliance with Fed. R. Civ. P. 34.

(b) Nothing in this Part affects disclosure of information under the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, the Sunshine Act, 552b, or the Commission's implementing regulations in Part 145, 17 CFR 145.0, *et seq.*, or pursuant to Congressional subpoena or pursuant to other Commission regulation. Nothing in this Part otherwise permits disclosure of information by the Commission except as is provided by statute or other applicable law.

(c) This part is intended to provide guidance for the internal operations of the Commission and is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law against the Commission.

#### § 144.1 Service upon the Commission.

(a) The Secretary of the Commission is the only person authorized to accept

service of a demand directed to the Commission or to an employee of the Commission for documentary information contained in or relating to information contained in the files of the Commission.

(b) Any such demand must be addressed to the Secretary of the Commission, 2033 K Street, NW., Washington, D.C. 20581.

(c) In the event that any such demand is attempted to be served upon an employee of the Commission other than the Secretary of the Commission, unless otherwise directed by the Commission's General Counsel, that employee shall respectfully decline to accept service on the ground that the employee is without authority to do so.

(d) The Secretary shall promptly advise the General Counsel of any service of any demand, and the General Counsel shall thereafter advise the Commission regarding the matter.

#### § 144.2 Service upon an employee or former employee of the Commission.

(a) Any employee of the Commission who is served or is attempted to be served with a demand of a court or other authority seeking information or documents relating to the business of the Commission shall promptly advise the General Counsel of the service or attempted service of such demand, the nature of the information or documents sought by the demand and any circumstances that may bear upon the desirability in the public interest of disclosure of the information or the production of documents.

(b) Any former employee of the Commission who is served or is attempted to be served with a demand of a court or other authority seeking information or documents relating to the business of the Commission shall promptly advise the General Counsel of the service or the attempted service of such demand, the nature of the information or documents sought by the demand and any circumstances that might bear upon the desirability in the public interest of the disclosure of the information or the production of documents.

(c) After such further inquiry as appropriate, the General Counsel shall advise the Commission concerning the matter.

#### § 144.3 Testimony by present or former Commission employees.

(a) In any proceeding to which the Commission is not a party, an employee of the Commission shall not testify concerning matters related to the business of the Commission unless

authorized to do so by the Commission upon the advice of the General Counsel.

(b) In any proceeding, an employee or former employee of the Commission shall not testify concerning non-public matters related to the business of the Commission unless authorized to do so by the Commission upon the advice of the General Counsel. See § 140.735-9 of these regulations.

**§ 144.4 Production or disclosure of records by present or former employees.**

(a) No employee of the Commission shall, in response to a demand by a court or other authority or otherwise in any proceeding in which the Commission is not party, produce any material contained in the files of the Commission or disclose any information relating to material contained in the files of the Commission or disclose any information or produce any material acquired as part of the performance of the employee's official duties or by virtue of the employee's official status unless authorized to do so by the Commission, provided that Commission authorization shall not be required to comply with a demand solely for Commission documents generally available to the public. In litigation in which the Commission is a party no employee may produce any confidential Commission material without Commission authorization.

(b) No former employee of the Commission shall, in response to a demand by a court or other authority or otherwise in any proceeding in which the Commission is not a party, produce without Commission authorization any material contained in or from the files of the Commission acquired as part of the performance of the former employee's official duties while employed by the Commission. No former employee may in any litigation produce confidential material acquired as part of the performance of the former employee's official duties while employed by the Commission unless authorized to do so by the Commission.

**§ 144.5 Procedures when production or disclosure of Commission records or information relating to Commission business is sought:**

(a) If in any proceeding oral testimony of an employee or former employee of the Commission is sought concerning matters related to the business of the Commission, an affidavit or, if that is not feasible, a signed statement by the party seeking the testimony or by his attorney, setting forth with particularity a summary of the testimony sought and its relevance to the proceeding, must be furnished to the Commission's General

Counsel at the Commission's office in Washington, D.C. When authorization by the Commission is required, and authorization shall be limited to the scope of the demand as summarized in such statement.

(b) If a response to a demand by a court or other authority is required before instructions from the Commission are received, and Commission authorization is required, a Commission attorney shall be designated by the General Counsel to appear and to inform the court or other authority of these regulations and that the subpoena or demand has been referred for prompt consideration by the Commission. The Commission attorney shall request a stay of the demand pending receipt of instructions.

(c) In the event that the court or other authority declines to stay the effect of the demand pending receipt of instructions or in the event that the court rules that there must be compliance with the demand irrespective of instructions not to produce the material or disclose the information sought, the Commission employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand.

**§ 144.6 Fees.**

The provisions of § 145.8 of these regulations with respect to fees for production of documents pursuant to the FOIA are applicable to this part.

**PART 140—[AMENDED]**

2. The authority for § 140.735-9 of Part 140 continues to read:

(Secs. 2 (a)(11) and 8a (5) of the Community Exchange Act, 7 U.S.C. 4a(j) and 12a (5), EO 11222, 3 CFR, 1964-1965 Comp., as amended, 5 CFR 735.104 and 18 U.S.C. 207(j))

3. Section 140.735-9 of Part 140 is revised to read as follows:

**§ 140.735-9 Disclosure of Information.**

A Commission employee or former employee shall not divulge, or cause or allow to be divulged, confidential or nonpublic commercial, economic or official information to any unauthorized person, or release such information in advance of authorization for its release. Except as directed by the Commission or its General Counsel as provided in these regulations, no Commission employee or former employee is authorized to accept service of any subpoena for documentary information contained in or relating to the files of the Commission. Any employee or former employee who is served with a subpoena requiring testimony regarding

nonpublic information or documents shall, unless the Commission authorizes the disclosure of such information, respectfully decline to disclose the information or produce the documents called for, basing his refusal on these regulations. Any employee or former employee who is served with a subpoena calling for information regarding the Commission's business shall promptly advise the General Counsel of the service of such subpoena, the nature of the information or documents sought, and any circumstances which may bear upon the desirability of making such information or document available in the public interest. In any proceeding in which the Commission is not a party, no employee of the Commission shall testify concerning matters related to the business of the Commission unless authorized to do so by the Commission.

Issued in Washington, D.C., on November 6, 1984, by the Commission.

Jean A. Webb,

*Acting Secretary to the Commission.*

[FR Doc. 84-29549 Filed 11-13-84; 8:45 am]

BILLING CODE 6351-01-M

**DEPARTMENT OF THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 4**

[Notice No. 547]

**Registry Numbers of Bottlers of Wine and Extension of Mandatory Compliance Date**

*Correction*

In FR Doc. 84-27841 beginning on page 42577 in the issue of Tuesday, October 23, 1984, make the following correction: In the third column, sixth line, "January 21, 1985" should read "January 22, 1985".

BILLING CODE 1505-01-M

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Parts 2640 and 2648**

**Redetermination of Withdrawal Liability Upon Mass Withdrawal**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed regulation provides rules for redetermining an employer's withdrawal liability and for fully allocating the total unfunded

vested benefits of a multiemployer plan upon either the termination of the plan through the withdrawal of every employer, or the withdrawal of substantially all the employers. The Pension Benefit Guaranty Corporation is required to issue these rules under the Employee Retirement Income Security Act, as amended. This regulation is needed to protect the multiemployer insurance program and plans required to pay premiums under it against potential claims for large unallocated unfunded benefits by requiring that all unfunded vested benefits be allocated to withdrawing employers. In addition, in the case of a plan from which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw, the full allocation of unfunded vested benefits to withdrawing employers is intended to reduce the burden on employers that remain in the plan, thus encouraging continuation of the plan. The effect of this regulation if adopted would be to prescribe a method for redetermining withdrawal liability and allocating a plan's total unfunded vested benefits upon a mass withdrawal.

**DATE:** Comments must be received on or before January 14, 1985.

**ADDRESSES:** Comments should be addressed to the Director of the Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** J. Ronald Goldstein, Attorney, Corporate Planning and Program Development Department (140), 2020 K Street, NW., Washington, D.C. 20006; 202-254-4862.

**SUPPLEMENTARY INFORMATION:**

**The Statute**

Under the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("ERISA" or "the Act"), an employer that completely withdraws from a multiemployer plan covered under Title IV is liable to the plan for a share of the plan's unfunded vested benefits. The withdrawal liability rules generally apply to withdrawals after April 28, 1980 (May 2, 1979 for certain employers in the seagoing industry).

The amount of an employer's withdrawal liability is computed by first determining the employer's allocable share of the plan's unfunded vested benefits in accordance with section

4211. In the case of a complete withdrawal, this amount may then be adjusted, in order, by three statutory rules reducing or eliminating withdrawal liability: the *de minimis* rule in section 4209, the limitation on annual payments under section 4219(c)(1)(B) and the limitation on withdrawal liability under section 4225.

Under the *de minimis* rule, allocated amounts of unfunded vested benefits up to and including \$100,000 are reduced by the lesser of (a) \$50,000, or (b) .75 percent of the plan's unfunded vested benefits determined as of the close of the plan year immediate preceding the withdrawal. If an employer's share of unfunded vested benefits exceeds \$100,000, the *de minimis* reduction is itself reduced dollar-for-dollar by the amount by which the employer's allocable share of unfunded vested benefits exceeds \$100,000. Plans may by amendment increase the statutory *de minimis* amounts in accordance with section 4209(b).

Section 4219 of the Act requires an employer to pay its withdrawal liability to the plan under a payment schedule which is based on the employer's contribution obligation preceding the withdrawal. If the payment schedule exceeds 20 years, the employer's liability is limited by section 4219(c)(1)(B) to the first 20 annual payments of the schedule (the "20-year limitation").

Section 4225 of the Act provides limitations on withdrawal liability in the case of certain sales of all or substantially all of an employer's assets (section 4225(a)) and in the case of an insolvent employer that is undergoing liquidation or dissolution (section 4225(b)). The limitations under section 4225(a) and (b) are applied to the amount of unfunded vested benefits allocable to the employer after that amount is reduced first by the *de minimis* rule and then by the 20-year limitation, to the extent those reductions are applicable. Section 4225(e) provides rules for applying the section 4225 limitations in the case of multiple withdrawals attributable to the same sale, liquidation or dissolution. Section 4225(c) limits the collection of liability in the case of an employer that is obligated to contribute to or under a plan as an individual, whether as a sole proprietor or as a partner.

The Act limits the applicability of the *de minimis* reduction and the 20-year limitation under certain circumstances. The *de minimis* reduction rules do not apply to an employer that withdraws in a plan year in which substantially all employers withdraw from the plan, regardless of whether the employer's

withdrawal is or was pursuant to an agreement or arrangement to withdraw (section 4209(c)(1)). The *de minimis* reduction also does not apply, in the case of the withdrawal of substantially all employers during a period of one or more plan years pursuant to an agreement or arrangement to withdraw, to an employer that withdraws pursuant to such agreement or arrangement to withdraw (section 4209(c)(2)). In the event of a termination by the withdrawal of every employer or the withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw, the 20-year limitation ceases to apply (section 4219(c)(1)(D)(i)). An employer that withdraws during a period of three consecutive plan years during which substantially all employers withdraw is presumed to have withdrawn pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence (sections 4209(d) and 4219(c)(1)(D)(ii)).

In the case of a plan that terminates by the withdrawal of every employer (a "mass-withdrawal termination") or experiences the withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw, section 4219(c)(1)(D) requires that the total unfunded vested benefits of the plan be fully allocated among all such employers. The method of allocation must be consistent with regulations issued by PBGC.

**The Regulation**

This regulation implements sections 4219(c)(1)(D) and 4209 (c) and (d) of the Act. It provides rules for redetermining an employer's withdrawal liability and fully allocating the total unfunded vested benefits of a multiemployer plan upon a mass withdrawal. The redetermination and reallocation are intended to protect plan participants and the insurance system when a substantial number of contributors withdraw from the plan. In an ongoing plan, the redetermination and reallocation process also are intended to encourage plan continuation by reducing the potential liability of remaining employers.

This regulation applies to multiemployer plans which experience a mass withdrawal, which is defined as the termination of the plan by the withdrawal of every employer or the withdrawal of substantially all employers from the plan pursuant to an agreement or arrangement to withdraw. The regulation applies to employers that withdraw from such multiemployer plans after September 25, 1980.

(September 25, 1980, is used in this regulation instead of April 28, 1980, because the Deficit Reduction Act of 1984 changed the effective date of MPPAA.) This regulation ceases to apply to a terminated plan after plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan. PBGC has determined that distribution of plan assets in full satisfaction of all nonforfeitable benefits establishes sufficiency of a plan for purposes of section 4219(c)(8) of the Act. When sufficiency is established, section 4219(c)(8) of the Act provides that employers cease to have an obligation to make withdrawal liability payments, and § 2648.1(b) of the regulation provides that the plan sponsor ceases to be obligated to determine and impose liability in accordance with the regulation.

The proposed regulation also applies to and prescribes rules for redetermining withdrawal liability without regard to section 4209(a) and (b) of the Act (the *de minimis* rule) when substantially all employers withdraw in a single plan year. A withdrawal of substantially all employers in a single plan year may occur concurrently with a mass withdrawal, if all such employers withdrew pursuant to an agreement or arrangement to withdraw. A withdrawal of substantially all employers in a single plan year also may occur without mass withdrawal, if substantially all employers withdraw in a single plan year but it is determined that the withdrawal were not pursuant to an agreement or arrangement to withdraw.

#### Definitions.

A "mass withdrawal" is defined in proposed § 2640.5 as the termination of a multiemployer plan by the withdrawal of every employer or the withdrawal of substantially all employers from a multiemployer plan pursuant to an agreement or arrangement to withdraw.

"Initial withdrawal liability" is defined in proposed § 2640.5 as the amount of withdrawal liability that would be determined in accordance with sections 4201-4225 of the Act without regard to the occurrence of a mass withdrawal. This amount is the employer's allocable share of unfunded vested benefits of the plan, determined in accordance with section 4211 of the Act, adjusted pursuant to section 4201 of the Act.

"Redetermination liability" is defined to mean the sum of an employer's liability for *de minimis* amounts and the employer's liability for 20-year-limitation amounts. "Reallocation liability" is the amount of unfunded vested benefits allocated to an employer

under § 2648.6 of the proposed regulation. This liability is the result of the allocation of unfunded vested benefits which remain after initial withdrawal liability and redetermination liability have been assessed. Redetermination liability and reallocation liability are limited by section 4225 of the Act to the extent that section would have been limiting at the time an employer's initial withdrawal liability was determined. "Mass withdrawal liability" is the sum of an employer's redetermination liability and its reallocation liability.

"Mass withdrawal valuation date" is defined for a terminated plan as the last day of the plan year in which the plan terminated. Pursuant to ERISA section 4041A(b)(2), the date of plan termination is the earlier of (1) the date on which the last employer withdraws, or (2) the first day of the first plan year for which no employer contributions are required under the plan. For non-terminated plans, the mass withdrawal valuation date is defined as the last day of the plan year as of which substantially all employers have withdrawn. The mass withdrawal valuation date is the date as of which the plan sponsor will determine the value of plan benefits and assets (other than the plan's claims for unpaid withdrawal liability) for use in computing the amount of the plan's unfunded vested benefits to be reallocated among liable employers.

"Reallocation record date" is the date as of which the plan sponsor will determine whether an employer is liable for reallocation liability under § 2648.3. It is defined as a date which is chosen by the plan sponsor, and which must be on or after the date of the plan's actuarial report for the year of the mass withdrawal and not later than one year after the mass withdrawal valuation date.

"Unfunded vested benefits" is defined as the amount by which the present value of the plan's vested benefits exceeds the value of its assets, determined in accordance with section 4281 of the Act and PBGC's regulations thereunder. PBGC expects to issue a proposed regulation on valuation of assets and benefits of multiemployer plans in the near future. In determining unfunded vested benefits under that proposed regulation, plan assets will include the plan's claim for unpaid withdrawal liability (initial and redetermination liability) owed to the plan.

#### Mass Withdrawal Liability

Section 2648.2 of the proposed regulation provides an overview of the actions that a plan sponsor is required

to take when a multiemployer plan experiences a mass withdrawal. Under § 2648.2(a), the plan sponsor is required to determine initial withdrawal liability in accordance with section 4201 of the Act for every employer that has completely or partially withdrawn from the plan, and to notify such employers of their liability and collect that liability in accordance with section 4202 of the Act. The plan sponsor's obligation to determine and assess initial withdrawal liability is established by the Act and is not altered by the occurrence of a mass withdrawal. Initial withdrawal liability must be determined before the plan sponsor can calculate redetermination liability and reallocation liability, because redetermination liability is a derivative of initial withdrawal liability and computation of reallocation liability requires that the amount of the plan's claims for initial withdrawal liability and for redetermination liability be known.

Proposed § 2648.2(b) describes the actions which the plan sponsor is required to take in order to determine mass withdrawal liability. When a mass withdrawal occurs, § 2648.2(b)(1) requires the plan sponsor to notify withdrawing and withdrawn employers, in accordance with proposed § 2648.7(a), that may be liable for mass withdrawal liability of the occurrence of a mass withdrawal. This notice is an informational notice, which is intended to alert employers to the possibility that they may be liable to the plan as a result of the mass withdrawal. The notice must be in writing and must be provided within 30 days after the mass withdrawal valuation date. Proposed § 2648.2(b)(2) and (b)(3) require the plan sponsor to determine liable employers' redetermination and reallocation liabilities in accordance with §§ 2648.4 (liability for *de minimis* amounts), 2648.5 (liability for 20-year-limitation amounts) and 2648.6 (reallocation liability). Redetermination liability must be determined within 150 days after the mass withdrawal valuation date, and reallocation liability must be determined within 90 days after the reallocation record date.

Under proposed § 2648.2(b)(4), the plan sponsor is required to notify liable employers of the amounts of their liabilities in accordance with § 2648.7 and demand and collect those amounts. Under proposed § 2648.2(b)(5), the plan sponsor also must notify PBGC that a mass withdrawal has occurred and certify to PBGC that the determinations required by this regulation have been made in accordance with the regulation.

### Employers Liable

Proposed § 2648.3 identifies employers that are subject to the components of mass withdrawal liability. Proposed § 2648.3(a) and (b) set forth the conditions under which an employer is liable for either of the two types of redetermination liability (*viz.*, liability for *de minimis* amounts and liability for 20-year-limitation amounts.) Because redetermination liability is essentially liability for amounts by which an employer's initial withdrawal liability was reduced pursuant to sections 4209(a) or (b) or 4219(c)(1)(B) of the Act, an employer will have no liability for such amounts if it was not afforded relief by those provisions of the Act in the determination of its initial withdrawal liability. Accordingly, under § 2648.3(a) and (b), an employer that did not have its allocable share of unfunded vested benefits for its initial withdrawal liability reduced as a result of application of the *de minimis* reduction or the 20-year limitation on annual payments is not liable for redetermination liability for *de minimis* amounts or for 20-year-limitation amounts. These exclusions relieve the plan sponsor of the administrative burden of making and communicating liability determinations for employers that are, by definition of the liability, not liable for redetermination liability.

Proposed § 2648.3(a) and (b) provide that an employer that was afforded relief by the *de minimis* rule or the 20-year limitation will be liable for redetermination liability for such amounts if the employer withdrew pursuant to an agreement or arrangement to withdraw from a multiemployer plan from which substantially all employers withdrew pursuant to such agreement or arrangement to withdraw. (If a mass withdrawal and a withdrawal of substantially all employers in a single plan year occur concurrently, an employer that withdraws in the year of the withdrawal of substantially all employers will be liable for *de minimis* amounts both because of the mass withdrawal and because of the single-plan-year withdrawal.)

The conditions under which an employer is liable for *de minimis* amounts and for 20-year-limitation amounts as a result of a mass-withdrawal termination (where there is no agreement or arrangement to withdraw) are different. An employer is liable for *de minimis* amounts only if the employer withdrew from a mass-withdrawal-terminated plan in the plan year in which the plan terminated (§ 2648.3(a)(1)). Because the year of

termination is, by definition, a plan year in which substantially all employers withdraw from a plan, an employer withdrew in that year becomes liable for *de minimis* amounts under section 4209(c)(1) of the Act. Section § 2648.3(b)(1) provides that every employer that withdraws from a plan that terminates by mass withdrawal is liable for 20-year-limitation amounts. The broader scope of this component of redetermination liability is based on section 4219(c)(1)(D)(i) of the Act, which eliminates the 20-year limitation for each such withdrawn employer.

Under section 4219(c)(1)(D)(ii) of the Act, the allocation of unfunded vested benefits upon a termination by the withdrawal of every employer is to be made to all such employers, consistent with PBGC regulations. PBGC is proposing to limit the reallocation to employers that withdraw after the beginning of the third plan year preceding the year in which the plan terminated. There are two reasons for this proposed limitation. First, PBGC believes that extending reallocation liability to all employers that withdraw from a plan after the effective date of the withdrawal liability provisions will, in time, become unreasonable. Absent a limitation on the period of time for which an employer (whose withdrawal is not pursuant to an agreement to withdraw) may be liable, the employer will have a contingent liability as long as it exists. The plan sponsor also will be responsible, in order to impose reallocation liability in the event of a mass-withdrawal termination, for maintaining records on and locating every employer that withdrew after the effective date of the withdrawal liability provisions of the Act. To avoid burdensome recordkeeping and continuing contingent liability, PBGC believes that it should limit the period for which a withdrawing employer would be liable in the event the plan subsequently experiences a termination by mass withdrawal.

The second reason for limiting the period of liability for reallocation of unfunded vested benefits is that PBGC believes the purpose of section 4219(c)(1)(D)(ii), in the case of a mass-withdrawal-terminated plan, is to protect plan participants and beneficiaries and PBGC's insurance program. This is done by allocating all unfunded vested benefits of the plan upon termination to employers that have caused the termination by their withdrawals. To extend liability for this reallocation to every employer that ever withdrew from the plan is not consistent with causality as the basis for liability.

PBGC is proposing a period starting three full plan years before the termination for including employers in the reallocation of unfunded vested benefits. Congress established a similar period as the one during which an employer is presumed, under sections 4209(d) and 4219(c)(1)(D)(ii), to have withdrawn pursuant to an agreement or arrangement of substantially all employers to withdraw from a plan. PBGC proposes to use a similar period because it believes that two situations—withdrawal by substantially all employers pursuant to agreement or arrangement and termination by withdrawal of every employer—are similar. In addition, the duration of the period is short enough to provide a reasonable limitation on the time an employer is contingently liable, yet long enough to impose reallocation liability for withdrawals that reasonably may be considered to have precipitated the termination. Thus, PBGC is proposing in § 2648.3(c) that, in the case of a plan that terminates by the withdrawal of every employer, an employer be liable for reallocation liability only if it withdrew after the beginning of the third full plan year preceding the date of plan termination.

Proposed § 2648.3(c) excludes an employer from reallocation liability if, as of the reallocation record date, the employer has been completely dissolved or liquidated, or is the subject of a petition under Title 11 of the United States Code or a proceeding under similar state insolvency laws, unless the plan sponsor reasonably expects that such an employer will be able to pay its entire existing liability. An employer also is excluded from reallocation liability if, as of the reallocation record date, the plan sponsor has determined that the employer's initial withdrawal liability or its redetermination liability or its redetermination liability is limited by section 4225 of the Act.

The exclusions are based on the Act's requirement that upon a mass withdrawal there be a complete allocation of the total unfunded vested benefits of the plan. Allocation of unfunded vested benefits to employers from which the amounts will be uncollectible would effectively result in an under-allocation of unfunded vested benefits, frustrating the purpose of the statutory requirement for full allocation. To the extent that amounts reallocated as a result of the mass withdrawal are uncollectible, they are likely to shift to become the liability of another party. In an ongoing plan which experiences a mass withdrawal, unallocated amounts will be shifted to those employers that

continue in the plan after the mass withdrawal. In a mass-withdrawal-terminated plan, participants may bear the liability through benefit reductions pursuant to section 4281(c)(1) of the Act and unallocated amounts also may create a liability for the insurance system. The exclusions in § 2648.3(c) are thus intended to avoid the imposition of reallocation liability which will be uncollectible, or largely so.

Proposed § 2648.3(d) establishes a general exclusion based on liability for a previous mass withdrawal. Under this paragraph, an employer that has been determined to be liable for any component of mass withdrawal liability is not liable for that component mass withdrawal liability as a result of the same withdrawal in the event of a subsequent mass withdrawal. If, for example, a plan experienced a withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw in 1983 and then terminated by mass withdrawal in 1985, an employer that was liable for reallocation liability because it withdrew in 1983 pursuant to the agreement or arrangement underlying the first mass withdrawal would not be liable for a (second) reallocation even though the employer withdrew within the three-year period preceding termination.

Under section 4210 of the Act, plans may adopt rules under which employers will not be liable to the plan for withdrawals if certain conditions are met. Proposed § 2648.3(e) provides that an employer that was not assessed initial withdrawal liability pursuant to a plan amendment adopting this statutory "free-look" rule is not liable for *de minimis* amounts or for 20-year-limitation amounts. Because an employer is relieved of the obligation to pay withdrawal liability pursuant to section 4210 of the Act, the *de minimis* rule and the 20-year limitation are not applied to the employer's initial withdrawal liability and thus cannot be eliminated because of the occurrence of a mass withdrawal. However, § 2648.3(e) provides that an employer without initial withdrawal liability due to a free-look rule is liable for reallocation liability. This liability is based on section 4219(c)(1)(D)(ii), which overrides the free-look rule because it provides that, "notwithstanding any other provision of this part," a plan's unfunded vested benefits shall be reallocated in the event of a mass withdrawal.

Proposed § 2648.3(f) provides that completion of a payment schedule for initial withdrawal liability, whether by

prepayment or otherwise, does not exclude the employer from mass withdrawal liability or limit the amount of the employer's liability for the mass withdrawal. Section 4219(c)(4) of the Act specifically provides that prepayment pursuant to a withdrawal which is later determined to be part of a mass withdrawal does not limit the employer's liability to the amount of the prepayment. PBGC believes that the same principle should apply to employers that have completed their payment schedules without prepayment at the time mass withdrawal liability determinations are made. The intent of the statutory redetermination and reallocation process is to make employers that withdraw in connection with a mass withdrawal responsible for funding the plan's unfunded vested benefits. The proposed regulation, therefore, treats an employer whose initial withdrawal liability was small enough to have been completely paid in the same manner as an employer that prepaid its full liability: both employers are subject to mass withdrawal liability.

Proposed § 2648.3(g) provides that an employer that withdraws within a period of three consecutive plan years during which substantially all employers withdraw will be presumed to have withdrawn pursuant to an agreement or arrangement to withdraw. This provision parallels sections 4209(c)(2) and 4219(c)(1)(D) of the Act. It is included in the regulation because, under § 2648.3(a)-(c), an employer is liable for certain components of mass withdrawal liability only if the employer withdraws pursuant to an agreement or arrangement to withdraw.

#### Redetermination Liability

An employer's redetermination liability under this regulation is defined as the sum of any liability for *de minimis* amounts and any liability for 20-year-limitation amounts. Each of these components is limited by section 4225 of the Act to the extent the initial liability would have been limited by section 4225 had not the *de minimis* or 20-year limitations applied.

An employer's liability for *de minimis* amounts is determined in accordance with § 2648.4 of the proposed regulation and is the amount by which the employer's initial withdrawal liability was reduced pursuant to section 4209(a) or (b) of the Act. For example, if an employer withdrew from a plan which had \$8 million in unfunded vested obligations and was allocated \$40,000 under section 4211 of the Act, the employer's withdrawal liability would have been zero under section 4209(a). If the plan thereafter experienced a mass

withdrawal and the employer was a liable employer under § 2648.3, the employer would be liable for \$40,000 as its liability for *de minimis* amounts. If a second employer that withdrew at the same time had been allocated \$120,000, and the plan had not adopted rules pursuant to section 4209(b) of the Act, its withdrawal liability would have been reduced by \$30,000 (\$50,000 less the amount by which the employer's allocable share exceeds \$100,000, or \$20,000). Upon the mass withdrawal, the employer's liability for *de minimis* amounts would be the amount of the reduction, \$30,000.

The limitations in section 4225 of the Act apply to any amount of liability for *de minimis* amounts determined under § 2648.4 to the extent that limitation would have been applicable had the employer's initial withdrawal liability been determined without regard to the *de minimis* rule. Because section 4201 of the Act specifies that the adjustments provided for in sections 4209, 4219(c)(1)(B) and 4225 are to be applied in that order, it is possible that a "reinstatement" of amounts when either section 4209 or 4219(c)(1)(B) ceases to apply may create withdrawal liability which would have been limited by section 4225(a) or (b). Thus the limitations in section 4225 must be applied to liability determined under § 2648.4.

Proposed § 2648.5 provides that an employer's liability for 20-year-limitation amounts is equal to the present value, as of the end of the plan year preceding the one in which the employer withdrew, of all initial liability payments which were not payable by the employer because of the application of the 20-year-limitation in section 4219(c)(1)(B) of the Act. This present value is determined by using the interest assumption that was used to determine the employer's payment schedule for the initial withdrawal liability. This interest assumption is used because the schedule of annual payments to which the 20-year-limitation is applied is an amortization schedule which was developed by using the plan's interest assumption for the then-most-recent actuarial valuation of the plan. In order to determine the amount of withdrawal liability which was not assessed to the employer in the initial determination of liability because of the statutory 20-year limitation, the payments scheduled to have been made after the twentieth year must be discounted to the end of the plan year preceding the one in which the employer withdrew (the date as of which the amount of the employer's liability originally was determined)

using the interest assumption underlying the schedule.

For example, an employer whose initial amortization schedule provided for 22 years of payments of \$25,000 each (payable in equal quarterly installments of \$6,250) would not have been liable for the annual payments in years 21 and 22 of \$25,000. Assuming an interest rate of 7%, compounded annually, the present value of the four quarterly installments of \$6,250 at the beginning of the year in which they are payable is \$24,378. These values are discounted to the end of the plan year preceding the year in which the employer withdrew: \$24,378 for 21 years, and \$24,378 for 22 years. The present values of these payments are \$5,888 and \$5,502, respectively. If the employer becomes liable for 20-year-limitation amounts as the result of a mass withdrawal, the employer's liability would be the sum of the two present values, or \$11,390. The limitations established in section 4225 of the Act also must be applied to this liability.

#### Reallocation Liability

Proposed § 2648.6 provides rules for determining the reallocation liability of employers that are liable for this component of mass withdrawal liability. The general rule, stated in § 2648.6(a), requires the plan sponsor to allocate fully all unfunded vested benefits of the plan. The amount of unfunded vested benefits to be reallocated is the unfunded vested benefits determined as of the mass withdrawal valuation date, adjusted to exclude from plan assets the value of withdrawal liability deemed uncollectible by operation of § 2648.3 (c)(1) or (c)(2) of the proposed regulation (*i.e.*, the liability of employers excluded from reallocation liability because of liquidation/dissolution or because of a proceeding under Federal or state bankruptcy laws.)

The amount of unfunded vested benefits used as the basis for determining the amount of liability to be reallocated is determined as of the mass withdrawal valuation date. This valuation date was adopted so that an employer will not be liable for unfunded vested benefits resulting from changes in benefit values or asset values (other than withdrawal liability owed the plan) which occur after the year in which the mass withdrawal occurred. The amount of unfunded vested benefits described above reflects the inclusion of the value of the plan's claim for unpaid withdrawal liability as a plan asset. Under proposed § 2648.6(b), this amount is adjusted to exclude the value of initial withdrawal liability and redetermination liability owed the plan

by employers that are not liable for reallocation liability based on the likelihood of their ability to pay existing liability. This adjustment, in effect, increases the amount of unfunded vested benefits to be reallocated by the value of withdrawal liability claims which have become uncollectible in the period between the mass withdrawal valuation date and the reallocation record date. To include the plan's claim for the unpaid withdrawal liability of such employers would overstate plan assets and thus understate the amount of unfunded vested benefits to be reallocated.

Proposed § 2648.6(c) provides that the reallocation liability of each employer consists of the employer's initial allocable share of the unfunded vested benefits to be reallocated, determined under § 2648.6(c)(1), plus the employer's share of any amounts that have been reallocated but are unassessable due to the application of section 4225 of the Act, as computed under § 2648.6(c)(2). If the plan has no unfunded vested benefits to be reallocated, proposed § 2648.6(c) provides that liable employers will have no mass withdrawal reallocation liability.

Under proposed § 2648.6(c)(1) each liable employer's initial allocable share of unfunded vested benefits is determined by multiplying the total unfunded vested benefits to be reallocated by a fraction, the numerator of which is an employer's initial withdrawal liability plus its redetermination liability and the denominator of which is the total of all liable employers' initial withdrawal liabilities plus their redetermination liabilities. The effect of this formula is to allocate to each liable employer a share of the unfunded vested benefits which is proportional to the employer's share of the withdrawal liability (determined without regard to the *de minimis* rule or the 20-year limitation but limited in accordance with section 4225 of the Act) of all employers that are liable in the reallocation process.

Proposed § 2648.6(c)(1) contains a special rule for use by plans that have adopted free-look rules. An employer that is liable for reallocation liability but has no obligation to pay initial withdrawal liability because of a free-look rule will have its initial allocable share of unfunded vested benefits and any additional share of unassessable amounts computed by substituting for its initial withdrawal liability the employer's allocable share of unfunded vested benefits determined under section 4211 of the Act as of the time the

employer withdrew (limited by section 4225, as appropriate).

PBGC considered basing the reallocation on the outstanding balance of withdrawal liability owed the plan by each liable employer. This approach was not adopted in the proposed regulation because it would tend to favor employers that had paid or prepaid all or part of their initial withdrawal liability. PBGC believes that all viable employers that were part of the mass withdrawal should share in the reallocation, regardless of when each withdrew from the plan or how much of its initial liability had been paid prior to the reallocation.

The allocation formula in § 2648.6(c)(1) is based on the amount of unfunded vested benefits which would have been allocated to the withdrawn employer (disregarding the *de minimis* and 20-year rules) at the time the employer's original withdrawal liability was determined. PBGC considered and rejected requiring the plan sponsor to revalue the withdrawal liability of each employer as of a common date (*e.g.*, the mass withdrawal valuation date). This approach was rejected because the period over which liable employers will have withdrawn from the plan generally will be a limited one and the cost of the additional computations would not be justified by the additional precision obtained by this adjustment.

It is possible that the addition of an employer's initial allocable share of unfunded vested benefits will increase the employer's total withdrawal liability to an amount which would be limited by section 4225 of the Act. In the event that the plan sponsor is able, at the time reallocation liability is computed, to determine that any portion of a liable employer's initial allocable share is unassessable on account of section 4225, the unassessable amount must be reallocated among all other liable employers. This additional allocation is described in § 2648.6(c)(2). If, after notifying employers of the amounts of their reallocation liabilities, the plan sponsor determines that additional amounts are unassessable because of the section 4225 limitations, no additional reallocation may be done.

Proposed § 2648.6(d) provides that plans may adopt rules for the reallocation of unfunded vested benefits using a formula other than the one provided in § 2648.6(c)(1). Any rules adopted under this paragraph must allocate the plan's unfunded vested benefits, as defined in § 2648.6(b), among liable employers to at least the same extent the prescribed rules would, and must be reasonable and operate and

be applied uniformly with respect to each employer. In addition, plan rules adopted under this paragraph may not be made effective until three full plan years after they are adopted. This effective-date provision parallels section 4214(a) of the Act, which provides, in pertinent part, that no plan rule or amendment under section 4211(c) of the Act, (*i.e.*, adjustments to the statutory methods for allocating unfunded vested benefits) may be applied with respect to a withdrawal which occurred before the adoption of the rule or amendment, unless the employer consents to its application. When a mass withdrawal occurs, reallocation liability generally will not be imposed on an employer that withdrew more than three plan years before the date of the mass withdrawal. (In the case of a terminated plan, reallocation liability is imposed only on employers that withdrew in the three plan years preceding the termination; in the case of a withdrawal of substantially all employers, the three-year period of presumption in § 2648.2(b)(1) will generally limit the time period over which employers will be determined to have withdrawn pursuant to an agreement or arrangement to withdraw.) If a plan adopts such rules, the plan sponsor is required by § 2648.6(d) to give notice to each contributing employer and each employee organization representing employees covered under the plan.

#### Imposition of Liability

Proposed § 2648.7 prescribes notices to employers, procedures for determining payment schedules, rules governing review of mass withdrawal liability determinations, and procedures to be followed if the plan sponsor determines that a mass withdrawal has not occurred after it has imposed mass withdrawal liability.

Notice requirements are described in § 2648.7(a)-(e). Under § 2648.7(a), a notice of mass withdrawal must be sent within 30 days after the mass withdrawal valuation date (*i.e.*, the last day of the plan year in which the mass withdrawal occurs.) The notice must be sent to all employers that the plan sponsor reasonably expects may be liable under § 2648.3. The notice must include the mass withdrawal valuation date and a description of the consequences of a mass withdrawal under this regulation. In addition, the notice must advise employers that each employer making withdrawal liability payments is obligated to continue to make payments in accordance with its schedule, pending the plan sponsor's demand for payment of the employer's withdrawal liability under this part. This

notice is intended to be purely informational: it alerts an employer that may be liable to the occurrence of a mass withdrawal and the possibility that it may incur liability as a result of the mass withdrawal. However, failure of a plan sponsor to provide this notice to a liable employer does not affect the employer's liability or the plan's claim for it.

Proposed § 2648.7(b) requires the plan sponsor to issue a notice of redetermination liability to each employer that is liable for that component of mass withdrawal liability. The notice must be in writing and be issued within 180 days after the mass withdrawal valuation date. The notice must specify the amount of the employer's liability for *de minimis* amounts and for 20-year-limitation amounts, include a schedule for payment of the liability and demand payment of the liability. In addition, the plan sponsor is required to include a statement of when it expects to issue notices of reallocation liability to liable employers.

The plan sponsor is required by § 2648.7(c) of the proposed regulation to issue notices of reallocation liability to liable employers within 120 days after the reallocation record date. The notice of reallocation liability must be in writing and must include the amount of the liability, a schedule for payment and a demand for payment of the liability.

Under proposed § 2648.7(d), the plan sponsor is required to notify an employer that receives the informational notice of the occurrence of a mass withdrawal and subsequently is determined not to be liable for mass withdrawal liability or any component thereof. The notice required by this paragraph must be provided to the employer in writing and must specify the liability component(s) from which the employer is excluded. These notices are to be issued not later than the notices of reallocation liability required by § 2648.7(c). If an employer that received the informational notice of the occurrence of a mass withdrawal subsequently is determined not to be liable for any component of mass withdrawal liability, and therefore will not receive either of the notices of mass withdrawal liability under this section, the notice required by this paragraph also must state, if applicable, that the employer is obligated to continue making initial withdrawal liability payments under the existing payment schedule.

PBGC anticipates that some plan sponsors will determine the initial withdrawal liability of employers that

withdraw late in the period over which a mass withdrawal occurs at about the same time that redetermination liability is determined. Proposed § 2648.7(e) allows the plan sponsor to combine a notice of and demand for payment of redetermination liability with a notice of initial withdrawal liability issued pursuant to section 4219(b) of the Act.

Proposed § 2648.7(e) also allows a plan sponsor to combine notices when an employer's withdrawal is part of a mass withdrawal and occurs during a single plan year in which substantially all employers withdraw. In such cases, the plan sponsor may use a single notice to notify employers, pursuant to proposed § 2648.7(a), that a mass withdrawal has occurred and, pursuant to § 2648.9(d), that substantially all employers have withdrawn in a single plan year. If the plan sponsor subsequently determines that an employer is liable for *de minimis* amounts on account of both the occurrence of a mass withdrawal and the withdrawal of substantially all employers in a single plan year, the plan sponsor may combine the notices of liability required under §§ 2648.7(b) and 2648.9(e).

The plan sponsor must use the rules in § 2648.6(f) to establish a schedule for payment of each component of an employer's mass withdrawal liability as required by section 4219 of the Act. Under section 4219, payment of withdrawal liability is to begin no later than 60 days after the date on which a demand for payment is made by the plan sponsor. The amount of each annual payment is developed by computing the product of: (1) the average annual number of contribution base units for the period of 3 consecutive plan years, during the period of 10 consecutive plan years ending before the plan year in which the withdrawal occurs, in which the number of contribution base units for which the employer had an obligation to contribute under the plan is the highest; and (2) the highest contribution rate at which the employer had an obligation to contribute under the plan during the 10 plan years ending with the plan year in which the withdrawal occurs. A payment schedule is developed by determining the number of years necessary to amortize the employer's liability in level annual payments at the employer's payment rate.

Proposed § 2648.7(f) provides rules which take into account situations in which an employer has an existing schedule of payments for its initial withdrawal liability and/or its redetermination liability. The amount of

the employer's annual payment is determined under section 4219(c)(1)(A)(i) of the Act and will not change when additional liability is imposed. In order to develop schedules for payment of additional liability (redetermination liability and reallocation liability) subsequent to a mass withdrawal, the plan sponsor must merely determine the period of time for which the employer's existing schedule of payments must be extended in order for the incremental liability to be paid. Therefore, proposed § 2648.7(f)(1) prescribes rules for amending the initial withdrawal liability payment schedule in order to amortize the additional liabilities.

Under § 2648.7(f)(1) in order to determine the amended payment schedule for redetermination liability, the plan sponsor shall add the amount of that liability to the employer's total initial withdrawal liability, and then determine a payment schedule in accordance with section 4219(c)(1) of the Act. (Of course, section 4219(c)(1)(B), the 20-year limitation, is not applied.) The interest assumptions used to determine the schedule are those that were used in the determination of the initial withdrawal liability payment schedule. The effect of this rule is to give the employer the same payment schedule it would have had initially had not the *de minimis* rule and 20-year limitation been applied at the time of its withdrawal. PBGC believes this result is consistent with the mandate of sections 4209(c) and 4219(c)(1)(D)(i) to remove these relief provisions in the event of a mass withdrawal.

The payment schedule must be amended a second time to reflect the reallocation liability. This is done by adding that liability to the present value, as of the date following the mass withdrawal valuation date, of the unpaid portion of the employer's amended payment schedule, and then determining a new schedule in accordance with section 4219(c)(1), (excluding section 4219(c)(1)(B)). The interest assumptions used here are those that were used to determine the amount of unfunded vested benefits to be reallocated. This payment schedule is determined as of the date following the mass withdrawal valuation date because the reallocation liability did not arise until the occurrence of the mass withdrawal.

Section 2648.7(f)(2) deals with those cases where there is no existing schedule of payments for initial withdrawal liability; *i.e.*, situations where the employer had no initial withdrawal liability or had fully paid

that liability by the mass withdrawal valuation date. The principles here are exactly the same as those used in paragraph (f)(1). Since there is no (or no remaining) initial withdrawal liability, a schedule is determined for the redetermination liability by itself. The schedule is determined in the same manner that the schedule for initial withdrawal liability was (or would have been) determined, using the same interest assumptions. This schedule is thereafter amended to include the reallocation liability, following the procedure prescribed in paragraph (f)(1).

Section 4219(b)(2) of the Act establishes rules under which employers may request the plan sponsor to review matters relating to withdrawal liability determinations. Disputes between employers and plan sponsors concerning withdrawal liability determinations are to be resolved through arbitration pursuant to section 4221. Under § 2648.7(g) of the proposed regulation, determinations of mass withdrawal liability made under this regulation are subject to the plan's review procedures under section 4219(b)(2) and to arbitration under section 4221, within the times prescribed by those sections. However, this paragraph allows an employer to request review or arbitration only of matters relating to mass withdrawal liability; it does not permit an employer to raise issues which were pertinent only to the initial withdrawal liability of the employer and were either raised unsuccessfully or not raised within the time limits prescribed by the statute. An employer whose initial withdrawal liability is determined at or about the same time as all or part of its mass withdrawal liability is determined is not precluded by § 2648.7(g) from seeking review or arbitration of a matter relating to initial withdrawal liability simultaneously with review or arbitration of its mass withdrawal liability, if the time limit for requesting review or arbitration of the former has not passed.

Under section 4219(c)(8) of the Act, an employer's obligation to make withdrawal liability payments under a terminated plan ceases at the end of the plan year in which the assets of the plan (exclusive of withdrawal liability claims) are sufficient to meet all vested obligations of the plan, as determined by PBGC. PBGC has determined that, for purposes of section 4219(c)(8), a distribution of plan assets in full satisfaction of all nonforfeitable benefits under the plan establishes that plan assets on hand (exclusive of withdrawal liability claims) are sufficient to meet all obligations of the plan. Accordingly,

§ 2648.7(h) of the proposed regulation provides that if the plan sponsor of a terminated plan distributes plan assets in full satisfaction of all nonforfeitable benefits under the plan, the plan sponsor's obligation to impose and each employer's obligation to pay mass withdrawal liability ceases on the date of distribution.

If a plan sponsor determines, on the basis of the presumption of agreement (§ 2648.3(g)), that substantially all employers have withdrawn from the plan pursuant to an agreement or arrangement to withdraw, individual employers may prove otherwise by a preponderance of the evidence. If enough employers so prove, the plan sponsor may determine that, in fact, substantially all employers have not withdrawn pursuant to an agreement or arrangement and therefore a mass withdrawal has not occurred. Because the determination that a mass withdrawal has not occurred may be made after mass withdrawal liability payments have been made to the plan, § 2648.7(i) addresses refunds of those payments. Under this paragraph, interest accrues at the rate prescribed for refunds of overpayments of withdrawal liability in Part 2644 of PBGC's regulations from the date the plan received the payment until the date of the refund. Of course, if an employer is liable for *de minimis* amounts under § 2648.9 (because its withdrawal was part of a single-plan-year withdrawal), the employer continues to be liable for *de minimis* amounts. Thus, any payments of liability for such amounts will not be refunded in the event the plan sponsor determines that a mass withdrawal has not occurred.

#### Filings with PBGC

Section 2648.8(a) of the proposed regulation provides that the plan sponsor must file with PBGC a notice indicating that a mass withdrawal has occurred. As the determinations of redetermination liability and reallocation liability required by the regulation are completed, the plan sponsor also is required to file with PBGC certifications that those determinations have been made and that notices have been provided to employers as required by the regulation. The occurrence of a mass withdrawal may indicate that the plan is or will be experiencing financial difficulties. Because such a withdrawal may prove adverse to the interests of both plan participants and the multiemployer insurance system, PBGC has determined that this reporting requirement is necessary.

The plan sponsor must file the notice of mass withdrawal with PBGC no later than thirty days after the mass withdrawal valuation date (§ 2648.8(c)). Rules for filing documents are provided in § 2648.8 (d) and (e). Proposed § 2648.8(f) describes the content of the notice of mass withdrawal to be filed with PBGC. For a plan which terminates by the withdrawal of every employer, the notice of termination which is required to be filed under Part 2673 of PBGC's regulations will serve as the notice of mass withdrawal. For a plan from which substantially all employers have withdrawn pursuant to an agreement or arrangement to withdraw, the notice must include basic identifying information concerning the plan and a description of the facts on which the plan sponsor has based its determination that a mass withdrawal has occurred, including the number of employers withdrawn and remaining and a description of the effects of the mass withdrawal on the plan's contribution base.

Within 30 days after the plan sponsor completes the determinations of redetermination liability and reallocation liability, it is required by § 2648.8(c) to file with PBGC certifications that those determinations have been completed in accordance with this regulation. Proposed § 2648.8(g) describes the content of such certifications. Each certification must include plan identifying information and a certification in writing by the plan sponsor or a duly authorized representative that the determinations have been made and notices have been given in accordance with this regulation. For certifications relating to reallocation liability, a certification signed by the plan's actuary that the plan valuation has been done in accordance with PBGC's valuation regulation also must be included. If a plan has adopted rules for allocation of the plan's unfunded vested benefits pursuant to § 2648.6(d), the plan sponsor is required to submit a copy of those rules.

PBGC may in any case require the submission of additional information (e.g., a schedule of amounts allocated or an actuarial report) in order to monitor compliance with this regulation (§ 2648.7(h)).

#### Withdrawal by Substantially All Employers in a Plan Year

Proposed § 2648.9 establishes procedures for determination and imposition of liability for *de minimis* amounts in the event that substantially all employers withdraw from a plan in a single plan year. Rules relating to the withdrawal of substantially all

employers in a plan year have been addressed in a separate section of the proposed regulation because, for an ongoing plan, this type of withdrawal gives rise to liability for *de minimis* amounts independently of a mass withdrawal.

The procedures and rules in § 2648.9 follow closely the procedures applicable to the determination of *de minimis* amounts in a plan which experiences a mass withdrawal. Section § 2648.9(a) establishes that employers that withdraw in such a plan year are liable for *de minimis* amounts if their initial withdrawal liability was reduced pursuant to section 4209 (a) or (b) of the Act; the amount of this liability is calculated under the rules in § 2648.4 of this regulation for determining liability for *de minimis* amounts (§ 2648.9(b)).

Section 2648.9(c) of the proposed rule establishes that the plan sponsor of a plan which experiences a withdrawal covered by this section is required to determine each employer's initial withdrawal liability; provide employers that may be liable with a notice of withdrawal; determine and notify liable employers of the amount of their liability for *de minimis* amounts and demand payment of those amounts; and certify the completion of the required determinations to PBGC. These rules parallel the rules established in §§ 2648.7 and 2648.8 for determining and imposing liability for *de minimis* amounts when a plan experiences a mass withdrawal.

#### E.O. 12291 and Regulatory Flexibility Act

The Pension Benefit Guaranty Corporation has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of \$100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Moreover, ERISA requires the reallocation of a multiemployer plan's total unfunded vested benefits upon a mass withdrawal. This regulation implements that requirement. While the method of reallocation prescribed by the regulation will shift the burden for these liabilities among employers, it does not create new liabilities.

Under section 605(b) of the Regulatory Flexibility Act, the Pension Benefit Guaranty Corporation certifies that this

rule will not have a significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The proposed regulation affects only multiemployer plans covered by PBGC. Defining "small plans" as those with under 100 participants, such plans represent less than 14% of all multiemployer plans covered by PBGC (346 out of 2,485). Further, small multiemployer plans represent only .4% of all small plans covered by the PBGC (346 out of 84,200). Approximately 500,000 employers contribute to multiemployer plans; most of these employers are small employers (under 100 employees). PBGC estimates that only 5% of such employers will be required to pay withdrawal liability in any year. This regulation will affect only those plans that experience a mass withdrawal or the withdrawal of substantially all employers in a single plan year. Based on PBGC's experience to date, it is estimated that no more than 10 multiemployer plans will be terminated by mass withdrawal in any given year, and even fewer plans will experience a withdrawal of substantially all the employers pursuant to an agreement or arrangement to withdraw. Thus, PBGC expects there to be few plans that may need to determine or redetermine withdrawal liability under these rules. The regulation will affect only employers that have withdrawn from such plans and that are liable under the regulation. Therefore, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

#### Public Comments

Interested parties are invited to submit comments on this proposed regulation. Comments should be addressed to: Director, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006. Written comments will be available for public inspection at the above address, Suite 7100, between the hours of 9 a.m. and 4 p.m. Each person submitting comments should include his or her name and address, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

#### Subjects in 29 CFR Part 2640

Employee Benefit Plans, Pensions, and Reporting and Recordkeeping Requirements.

**PART 2640—DEFINITIONS**

In consideration of the foregoing, it is proposed to amend Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations, as follows:

1. The authority citation for Part 2648 reads as follows:

Authority: Section 4002(b)(3), Pub. L. 93-406, as amended by Section 403(1), Pub. L. 96-364, 94 Stat. 1208, 1302 (1980) (29 U.S.C. 1302).

2. New § 2640.7 is added to read as follows:

§ 2640.7 Definitions for withdrawal liability upon a mass withdrawal.

For purposes of Part 2648—  
“Initial withdrawal liability” means the amount of withdrawal liability determined in accordance with sections 4201-4225 of Title IV without regard to the occurrence of a mass withdrawal.

“Mass withdrawal” means the withdrawal of every employer from the plan, or the withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw.

“Mass withdrawal liability” means the sum of an employer's liability for *de minimis* amounts, liability for 20-year-limitation amounts, and reallocation liability.

“Mass withdrawal valuation date” means (a) in the case of a termination by mass withdrawal, the last day of the plan year in which the plan terminates; or (b) in the case of a withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw, the last day of the plan year as of which substantially all employers have withdrawn.

“Reallocation liability” means the amount of unfunded vested benefits allocated to an employer in the event of a mass withdrawal, adjusted in accordance with section 4225 of the Act.

“Reallocation record date” means a date selected by the plan sponsor, which shall be not earlier than the date of the plan's actuarial report for the year of the mass withdrawal and not later than one year after the mass withdrawal valuation date.

“Redetermination liability” means the sum of an employer's liability for *de minimis* amounts and the employer's liability for 20-year-limitation amounts, each adjusted in accordance with section 4225 of the Act.

“Unfunded vested benefits” means the amount by which the present value of a plan's vested benefits exceeds the value of plan assets (including claims of the plan for unpaid initial withdrawal liability and redetermination liability), determined in accordance with section 4281 of the Act and PBGC's multiemployer valuation regulation.

“Withdrawal” means a complete withdrawal as defined in section 4203 of the Act.

3. A new Part 2648 is added to read as follows:

**PART 2648—WITHDRAWAL LIABILITY UPON MASS WITHDRAWAL**

Sec.

- 2648.1 Purpose and scope.
- 2648.2 Withdrawal liability upon mass withdrawal.
- 2648.3 Employers liable upon mass withdrawal.
- 2648.4 Amount of liability for *de minimis* amounts.
- 2648.5 Amount of liability for 20-year limitation amounts.
- 2648.6 Determination of reallocation liability.
- 2648.7 Imposition of liability.
- 2648.8 Filings with PBGC.
- 2648.9 Withdrawal in a plan year in which substantially all employers withdraw.

Authority: Secs. 4002(b)(3), 4209 (c) and (d) and 4219(c)(1)(D), Pub. L. 93-406, 88 Stat. 829, 1004 (1974), as amended by sections 403(1) and 104, (respectively), Pub. L. 96-364, 94 Stat. 1302, 1226 and 1237-8 (1980) (29 U.S.C. § 1302(b)(3), 1389 (c) and (d) and 1399(c)(1)(D)).

§ 2648.1 Purpose and scope.

(a) *Purpose.* When a multiemployer plan terminates by the withdrawal of every employer from the plan, or when substantially all employers withdraw from a multiemployer plan pursuant to an agreement or arrangement to withdraw from the plan, section 4219(c)(D)(i) of the Act requires that the liability of such withdrawing employers be determined (or redetermined) without regard to the 20-year limitation on annual payments established in section 4219(c)(1)(B) of the Act. In addition, section 4219(c)(1)(D)(ii) requires that, upon the occurrence of a withdrawal described above, the total unfunded vested benefits of the plan be fully allocated among such withdrawing employers in a manner which is not inconsistent with PBGC regulations. Section 4209(c) of the Act provides that the *de minimis* reduction established in section 4209 (a) and (b) shall not apply to an employer that withdraws in a plan year in which substantially all employers withdraw from the plan, or to an employer that withdraws pursuant to an agreement to withdraw during a period of one or more plan years during which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw. The purpose of this part is to prescribe rules, pursuant to sections 4219(c)(1)(D) and 4209(c) of the Act, for redetermining an employer's withdrawal liability and fully allocating the unfunded vested

benefits of a multiemployer plan in either of two mass-withdrawal situations: The termination of a plan by the withdrawal of every employer and the withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw. This part also prescribes rules for redetermining the liability of an employer without regard to section 4209 (a) or (b) when the employer withdraws in a plan year in which substantially all employers withdraw, regardless of the occurrence of a mass withdrawal.

(b) *Scope.* This part applies to multiemployer plans covered by section 4021(a) of the Act and not excluded by section 4021(b), with respect to which there is a termination by the withdrawal of every employer or a withdrawal of substantially all employers in the plan pursuant to an agreement or arrangement to withdraw from the plan, after September 25, 1980, and to employers that withdraw from such multiemployer plans after that date. The obligations of a plan sponsor of a mass-withdrawal-terminated plan under this part shall cease to apply when the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan. This part also applies, to the extent appropriate, to multiemployer plans with respect to which there is a withdrawal of substantially all employers in a single plan year and to employers that withdraw from such plans in that plan year.

§ 2648.2 Withdrawal liability upon mass withdrawal.

(a) *Initial withdrawal liability.* The plan sponsor of a multiemployer plan that experiences a mass withdrawal shall determine initial withdrawal liability pursuant to section 4201 of the Act for every employer that has completely or partially withdrawn from the plan and for whom the liability has not previously been determined and, in accordance with section 4202 of the Act, notify each employer of the amount of the initial withdrawal liability and collect the amount of the initial withdrawal liability from the employer.

(b) *Mass withdrawal liability.* The plan sponsor of a multiemployer plan that experiences a mass withdrawal shall also:

(1) Notify withdrawing employers, in accordance with § 2648.7(a), that a mass withdrawal has occurred;

(2) Within 150 days after the mass withdrawal valuation date, determine the liability of withdrawn employers for *de minimis* amounts and for 20-year-limitation amounts in accordance with § 2648.4 and § 2648.5;

(3) Within 90 days after the reallocation record date, determine the reallocation liability of withdrawn employers in accordance with § 2648.6;

(4) Notify each withdrawing employer of the amount of mass withdrawal liability determined pursuant to this part and the schedule for payment of such liability, and demand payment of and collect that liability, in accordance with § 2648.7; and

(5) Notify PBGC of the occurrence of a mass withdrawal and certify, in accordance with § 2648.8, that determinations of mass withdrawal liability have been completed.

**§ 2648.3 Employers liable upon mass withdrawal.**

(a) *Liability for de minimis amounts.* An employer shall be liable for *de minimis* amounts if the employer's initial withdrawal liability was reduced pursuant to section 4209 (a) or (b) of the Act and the employer—

(1) Withdrew from a plan in the plan year in which the plan terminated by the withdrawal of every employer; or

(2) Withdrew pursuant to an agreement or arrangement to withdraw from a multiemployer plan from which substantially all employers withdrew pursuant to an agreement or arrangement to withdraw.

(b) *Liability for 20-year-limitation amounts.* An employer shall be liable for 20-year-limitation amounts if the employer's initial withdrawal liability was limited pursuant to section 4219(c)(1)(B) of the Act and the employer—

(1) Withdrew from a plan that terminated by the withdrawal of every employer; or

(2) Withdrew pursuant to an agreement or arrangements to withdraw from a multiemployer plan from which substantially all employers withdrew pursuant to an agreement or arrangement to withdraw.

(c) *Liability for reallocation liability.* An employer shall be liable for reallocation liability if the employer withdrew pursuant to an agreement or arrangement to withdraw from a multiemployer plan from which substantially all employers withdrew pursuant to an agreement or arrangement to withdraw, or if the employer withdrew after the beginning of the third full plan year preceding the date of plan termination from a plan that terminated by the withdrawal of every employer, and, as of the reallocation record date—

(1) The employer has not been completely liquidated or dissolved;

(2) The employer is not the subject of a case or proceeding under Title 11,

United States Code, or any case or proceeding under similar provisions of state insolvency laws, except that a plan sponsor may determine that such an employer is liable for reallocation liability if the plan sponsor determines that the employer is reasonably expected to be able to pay its initial withdrawal liability and its redetermination liability in full and on time to the plan; and

(3) The plan sponsor has not determined that the employer's initial withdrawal liability or its redetermination liability is limited by section 4225 of the Act.

(d) *General exclusion.* In the event that a plan experiences successive mass withdrawals, an employer that has been determined to be liable under this part for any component of mass withdrawal liability shall not be liable as a result of the same withdrawal for that component of mass withdrawal liability with respect to a subsequent mass withdrawal.

(e) *Free-look rule.* An employer that is not liable for initial withdrawal liability pursuant to a plan amendment adopting section 4210(a) of the Act shall not be liable for *de minimis* amounts or for 20-year-limitation amounts, but shall be liable for reallocation liability in accordance with paragraph (c) of this section.

(f) *Payment of initial withdrawal liability.* An employer's payment of its total initial withdrawal liability, whether by prepayment or otherwise, for a withdrawal which is later determined to be part of a mass withdrawal shall not exclude the employer from or otherwise limit the employer's mass withdrawal liability under this part.

(g) *Agreement presumed.* Withdrawal by an employer during a period of three consecutive plan years within which substantially all employers withdraw from plan shall be presumed to be a withdrawal pursuant to an agreement or arrangement to withdraw unless the employer proves otherwise by a preponderance of the evidence.

**§ 2648.4 Amount of liability for de minimis amounts.**

An employer that is liable for *de minimis* amounts shall be liable to the plan for the amount by which the employer's allocable share of unfunded vested benefits for the purpose of determining its initial withdrawal liability was reduced pursuant to section 4209 (a) or (b) of the Act. Any liability for *de minimis* amounts determined under this section shall be limited by section 4225 to the extent that section would have been limiting had the

employer's initial withdrawal liability been determined without regard to the *de minimis* reduction.

**§ 2648.5 Amount of liability for 20-year-limitation amounts.**

An employer that is liable for 20-year-limitation amounts shall be liable to the plan for an amount equal to the present value of all initial withdrawal liability payments for which the employer was not liable pursuant to section 4219(c)(1)(B) of the Act. The present value of such payments shall be determined as of the end of the plan year preceding the plan year in which the employer withdrew, using the assumptions that were used to determine the employer's payment schedule for initial withdrawal liability pursuant to section 4209(c)(1)(A)(ii) of the Act. Any liability for 20-year-limitation amounts determined under this section shall be limited by section 4225 to the extent that section would have been limiting had the employer's initial withdrawal liability been determined without regard to the 20-year limitation.

**§ 2648.6 Determination of reallocation liability.**

(a) *General rule.* In accordance with the rules in this section, the plan sponsor shall determine the amount of unfunded vested benefits to be reallocated and shall fully allocate those unfunded vested benefits among all employers liable for reallocation liability.

(b) *Amount of unfunded vested benefits to be reallocated.* For purposes of this section, the amount of a plan's unfunded vested benefits to be reallocated shall be the amount of the plan's unfunded vested benefits, determined as of the mass withdrawal valuation date, adjusted to exclude from plan assets the value of the plan's claims for unpaid initial withdrawal liability and unpaid redetermination liability deemed to be uncollectible under § 2648.3 (c)(1) or (c)(2).

(c) *Amount of reallocation liability.* An employer's reallocation liability shall be equal to the sum of the employer's initial allocable share of the plan's unfunded vested benefits, as determined under paragraph (c)(1) of this section, plus any unassessable amounts allocated to the employer under paragraph (c)(2), limited by section 4225 of the Act to the extent that section would have been limiting had the employer's reallocation liability been included in the employer's initial withdrawal liability. In the event that a plan is determined to have no unfunded

vested benefits to be reallocated, the reallocation liability of each liable employer shall be zero.

(1) *Initial allocable share.* Except as otherwise provided in rules adopted by the plan pursuant to paragraph (d) of this section, an employer's initial allocable share shall be equal to the product of the plan's unfunded vested benefits to be reallocated, multiplied by a fraction—

(i) The numerator of which is the sum of the employer's initial withdrawal liability and the employer's redetermination liability, if any; and

(ii) the denominator of which is the sum of all initial withdrawal liabilities and all the redetermination liabilities of all employers liable for reallocation liability.

If an employer has no initial withdrawal liability because of the application of the free-look rule in section 4210 of the Act, then in computing the fraction prescribed in this paragraph the plan sponsor shall use the employer's allocable share of unfunded vested benefits, determined under section 4211 of the Act at the time of the employer's withdrawal and adjusted in accordance with section 4225 of the Act, if applicable.

(2) *Allocation of unassessable amounts.* If after computing each employer's initial allocable share of unfunded vested benefits, the plan sponsor knows that any portion of an employer's initial allocable share is unassessable as withdrawal liability because of the limitations in section 4225 of the Act, the plan sponsor shall allocate any such unassessable amounts among all other liable employers. This allocation shall be done by prorating the unassessable amounts on the basis of each such employer's initial allocable share. No employer shall be liable for unfunded vested benefits allocated under paragraph (c)(1) or this paragraph to another employer that are determined to be unassessable or uncollectible subsequent to the plan sponsor's demand for payment of reallocation liability.

(d) *Plan rules.* Plans may adopt rules for calculating an employer's initial allocable share of the plan's unfunded vested benefits in a manner other than that prescribed in paragraph (c)(1) of this section, provided that those rules allocate the plan's unfunded vested benefits to at least the extent the prescribed rules would. Plan rules adopted under this paragraph shall operate and be applied uniformly with respect to each employer, and shall not be effective earlier than three full plan years after their adoption. The plan

sponsor shall give a written notice to each contributing employer and each employee organization that represents employees covered by the plan of the adoption of plan rules under this paragraph.

#### § 2648.7 Imposition of liability.

(a) *Notice of mass withdrawal.* Within 30 days after the mass withdrawal valuation date, the plan sponsor shall give written notice of the occurrence of a mass withdrawal to each employer that the plan sponsor reasonably expects may be a liable employer under § 2648.3. The notice shall include—

(1) The mass withdrawal valuation date;

(2) a description of the consequences of a mass withdrawal under this part; and

(3) a statement that each employer obligated to make initial withdrawal liability payments shall continue to make those payments in accordance with its schedule.

Failure of the plan sponsor to notify an employer of a mass withdrawal as required by this paragraph shall not cancel the employer's mass withdrawal liability or waive the plan's claim for such liability.

(b) *Notice of redetermination liability.* Within 180 days after the mass withdrawal valuation date, the plan sponsor shall issue a notice of redetermination liability in writing to each employer liable under § 2648.3 for *de minimis* amounts or 20-year-limitation amounts, or both. The notice shall include—

(1) The amount of the employer's liability, if any, for *de minimis* amounts determined pursuant to § 2648.4;

(2) the amount of the employer's liability, if any, for 20-year-limitation amounts determined pursuant to § 2648.5;

(3) the schedule for payment of the liability determined under paragraph (f) of this section;

(4) a demand for payment of the liability in accordance with the schedule; and

(5) a statement of when the plan sponsor expects to issue notices of reallocation liability to liable employers.

(c) *Notice of reallocation liability.* Within 120 days after the reallocation record date, the plan sponsor shall issue a notice of reallocation liability in writing to each employer liable for reallocation liability. The notice shall include—

(1) The amount of the employer's reallocation liability determined pursuant to § 2648.6;

(2) the schedule for payment of the liability determined under paragraph (f) of this section; and

(3) a demand for payment of the liability in accordance with the schedule.

(d) *Notice to employers not liable.* The plan sponsor shall notify in writing any employer that receives a notice of mass withdrawal under paragraph (a) of this section and subsequently is determined not to be liable for mass withdrawal liability or any component thereof. The notice shall specify the liability from which the employer is excluded and shall be provided to the employer not later than the date by which liable employers are provided notices of reallocation liability pursuant to paragraph (c) of this section. If the employer is not liable for mass withdrawal liability, the notice shall also include a statement, if applicable, that the employer is obligated to continue to make initial withdrawal liability payments in accordance with its existing schedule for payment of such liability.

(e) *Combined notices.* A plan sponsor may combine a notice of redetermination liability with the notice of and demand for payment of initial withdrawal liability. In the event that a mass withdrawal and a withdrawal described in § 2648.9 occur concurrently, a plan sponsor may combine—

(1) A notice of mass withdrawal with a notice of withdrawal issued pursuant to § 2648.9(d); and

(2) a notice of redetermination liability with a notice of liability issued pursuant to § 2648.9(e).

(f) *Payment schedules.* The plan sponsor shall establish payment schedules for payment of an employer's mass withdrawal liability in accordance with the rules of section 4219(c) of the Act, as modified by this paragraph. For an employer that owes initial withdrawal liability as of the mass withdrawal valuation date, the plan sponsor shall establish new payment schedules for each element of mass withdrawal liability by amending the initial withdrawal liability payment schedule in accordance with paragraph (f)(1) of this section. For all other employers, the payment schedules shall be established in accordance with paragraph (f)(2).

(1) *Employers owing initial withdrawal liability as of mass withdrawal valuation date.* For an employer that owes initial withdrawal liability as of the mass withdrawal valuation date, the plan sponsor shall amend the existing schedule of payments in order to amortize the new

amounts of liability being assessed, *i.e.*, redetermination liability and reallocation liability. With respect to redetermination liability, the plan sponsor shall add that liability to the total initial withdrawal liability and determine a new payment schedule, in accordance with section 4219(c)(1) of the Act, using the interest assumptions that were used to determine the original payment schedule. For reallocation liability, the plan sponsor shall add that liability to the present value, as of the date following the mass withdrawal valuation date, of the unpaid portion of the amended payment schedule described in the preceding sentence and determine a new payment schedule of level annual payments, calculated as if the first payment were made on the day following the mass withdrawal valuation date using the interest assumptions used for determining the amount of unfunded vested benefits to be reallocated.

(2) *Other employers.* For an employer that had no initial withdrawal liability, or had fully paid its liability prior to the mass withdrawal valuation date, the plan sponsor shall determine the payment schedule for redetermination liability, in accordance with section 4219(c)(1) of the Act, in the same manner and using the same interest assumptions as were used or would have been used in determining the payment schedule for the employer's initial withdrawal liability. With respect to reallocation liability, the plan sponsor shall follow the rules prescribed in paragraph (f)(1) of this section.

(g) *Review of mass withdrawal liability determinations.* Determinations of mass withdrawal liability made pursuant to this part shall be subject to plan review under section 4219(b)(2) of the Act and to arbitration under section 4221 of the Act within the times prescribed by those sections. Matters which relate solely to the amount of, and schedule of payments for, an employer's initial withdrawal liability are not matters relating to the employer's liability under this part and are not subject to review pursuant to this paragraph.

(h) *Cessation of withdrawal liability obligations.* If the plan sponsor of a terminated plan distributes plan assets in full satisfaction of all nonforfeitable benefits under the plan, the plan sponsor's obligation to impose and collect liability, and each employer's obligation to pay liability, in accordance with this part ceases on the date of such distribution.

(i) *Determination that a mass withdrawal has not occurred.* In the event that a plan sponsor determines,

after imposing mass withdrawal liability pursuant to this part, that a withdrawal of substantially all employers pursuant to an agreement or arrangement has not occurred, the plan sponsor shall refund to employers all payments of mass withdrawal liability with interest, except that a plan sponsor shall not refund payments of liability for *de minimis* amounts to an employer that remains liable for such amounts under § 2648.9. Interest shall be credited at the interest rate prescribed in Part 2644 of this subchapter and shall accrue from the date the payment was received by the plan until the date of the refund.

#### § 2648.8 Filings with PBGC.

(a) *Filing requirements.* The plan sponsor shall file with PBGC a notice that a mass withdrawal has occurred and separate certifications that determinations of redetermination liability and reallocation liability have been made and notices provided to employers in accordance with this part.

(b) *Who shall file.* The plan sponsor or a duly authorized representative acting on behalf of the plan sponsor shall sign and file the notice and the certifications.

(c) *When to file.* A notice of mass withdrawal for a plan from which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw shall be filed with PBGC no later than 30 days after the mass withdrawal valuation date. A notice of mass withdrawal termination shall be filed within the time prescribed for the filing of that notice in Part 2673 of this chapter. Certifications of liability determinations shall be filed with PBGC no later than 30 days after the date on which the plan sponsor is required to have provided employers with notices pursuant to § 2648.7

(d) *Where to file.* The notice and certifications may be sent by mail or submitted by hand during normal working hours to the Case Classification and Control Division (542) [hand delivered to Room 5300], Insurance Operations Department, Pension Benefit Guaranty Corporation, 2020 K Street, NW, Washington, D.C. 20006.

(e) *Filing date.* For purposes of paragraph (c)—

(1) The notice is considered filed on the date of the postmark stamped on the cover in which the notice is mailed if—

(i) The postmark was made by the United States Postal Service; and

(ii) The notice was mailed postage prepaid, properly packaged and addressed to PBGC.

(2) If both conditions described in paragraph (e)(1) are not met, the notice is considered filed on the date it is

received by PBGC, except that notices received after regular business hours are considered filed on the next regular business day.

(f) *Contents of notice of mass withdrawal.* A notice of termination filed in accordance with Part 2673 of this chapter shall satisfy the requirement for a notice of mass withdrawal for a plan that terminates by the withdrawal of every employer. For a plan from which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw, the notice of mass withdrawal shall contain the following information:

(1) The name of the plan.

(2) The name, address and telephone number of the plan sponsor and of the duly authorized representative, if any, of the plan sponsor.

(3) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, the EIN or PIN last filed with PBGC. If no EIN or PIN has been assigned, the notice should so indicate.

(4) The mass withdrawal valuation date.

(5) A description of the facts on which the plan sponsor has based its determination that a mass withdrawal has occurred, including the number of contributing employers withdrawn and the number remaining in the plan, and a description of the effect of the mass withdrawal on the plan's contribution base.

(g) *Contents of certifications.* Each certification shall contain the following information:

(1) The name of the plan.

(2) The name, address and telephone number of the plan sponsor and of the duly authorized representative, if any, of the plan sponsor.

(3) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, the EIN or PIN last filed with PBGC. If no EIN or PIN has been assigned, the notice should so indicate.

(4) Identification of the liability determination to which the certification relates.

(5) A certification, signed by the plan sponsor or a duly authorized representative, that the determinations have been made and the notices given in accordance with this part.

(6) For reallocation liability certifications—

(i) A certification, signed by the plan's actuary, that the determination of unfunded vested benefits has been done in accordance with PBGC's multiemployer valuation regulation; and  
 (ii) a copy of plan rules, if any, adopted pursuant to § 2648.6(d).

(h) *Additional information.* In addition to the information described in paragraph (g) of this section, PBGC may require the plan sponsor to submit any other information PBGC determines it needs in order to monitor compliance with this part.

§ 2648.9 *Withdrawal in a plan year in which substantially all employers withdraw.*

(a) *General rule.* An employer that withdraws in a plan year in which substantially all employers withdraw from the plan shall be liable to the plan for *de minimis* amounts if the employer's initial withdrawal liability was reduced pursuant to section 4209(a) or (b) of the Act.

(b) *Amount of liability.* An employer's liability for *de minimis* amounts under this section shall be determined pursuant to § 2648.4.

(c) *Plan sponsor's obligations.* The plan sponsor of a plan which experiences a withdrawal described in paragraph (a) shall—

(1) Determine and collect initial withdrawal liability of every employer that has completely or partially withdrawn, in accordance with sections 4201 and 4202 of the Act;

(2) notify each employer that is or may be liable under this section, in accordance with paragraph (d) of this section;

(3) within 90 days after the end of the plan year in which the withdrawal occurred, determine, in accordance with paragraph (b) of this section, the liability of each withdrawing employer that is liable under this section;

(4) notify each liable employer, in accordance with paragraph (e) of this section, of the amount of its liability under this section, demand payment of and collect that liability; and  
 (5) certify to PBGC that determinations of liability have been completed, in accordance with paragraph (g) of this section.

(d) *Notice of withdrawal.* Within 30 days after the end of a plan year in which a plan experiences a withdrawal described in paragraph (a), the plan sponsor shall notify in writing each employer that is or may be liable under this section. The notice shall specify the plan year in which substantially all employers have withdrawn, describe the consequences of such withdrawal under this section, and state that an employer obligated to make initial withdrawal

liability payments shall continue to make those payments in accordance with its schedule.

(e) *Notice of liability.* Within 30 days after the determination of liability, the plan sponsor shall issue a notice of liability in writing to each liable employer. The notice shall include—

(1) The amount of the employer's liability for *de minimis* amounts;

(2) a schedule for payment of the liability, determined under § 2648.7(f); and

(3) a demand for payment of the liability in accordance with the schedule.

(f) *Review of liability determinations.* Determinations of liability made pursuant to this section shall be subject to plan review under section 4219(b)(2) of the Act and to arbitration under section 4221 of the Act, subject to the limitations contained in § 2648.7(g).

(g) *Certification to PBGC.* No later than 30 days after the notices of liability under this section are required to be provided to liable employers, the plan sponsor shall file with PBGC a certification. The certification shall include the items described in § 2648.7(g)(1)–(g)(3) and shall also include—

(1) The plan year in which the withdrawal occurred;

(2) a description of the effect of the withdrawal, including the number of contributing employers that withdrew in the plan year in which substantially all employers withdrew, the number of employers remaining in the plan, and a description of the effect of the withdrawal on the plan's contribution base; and

(3) a certification, signed by the plan sponsor or duly authorized representative, that determinations have been made and notice given in accordance with this section. PBGC may require the plan sponsor to submit any additional information PBGC determines it needs in order to monitor compliance with this section.

Issued in Washington, DC on this 6th day of November 1984.

By delegation of Raymond Donovan,  
 Chairman, Board of Directors, Pension  
 Benefit Guaranty Corporation.

Ford B. Ford,  
 Under Secretary of Labor.

Issued on the date set forth above,  
 pursuant to a resolution of the Board of

Directors authorizing its Chairman to issue  
 this Notice of Proposed Rulemaking.

Henry Rose,  
 Secretary, Pension Benefit Guaranty  
 Corporation.

[FR Doc. 84-23348 Filed 11-13-84; 8:43 am]  
 BILLING CODE 7708-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[A-3-FRL-2716-6]

### Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Indiana

AGENCY: Environmental Protection  
 Agency (USEPA).

ACTION: Proposed rule.

**SUMMARY:** USEPA was requested by the State of Indiana to change the Total Suspended Particulates (TSP) designations for Floyd, Porter, Sullivan and Vigo Counties. Under the Clean Air Act (Act), designations can be changed if sufficient data are available to warrant such a change. USEPA proposes (1) to disapprove the State's request to redesignate Floyd County from unclassified to attainment, (2) to approve the State's request to redesignate Porter County from unclassified to attainment, (3) to approve the State's request to redesignate Sullivan County from unclassified to attainment, and (4) to disapprove the State's request to redesignate a portion of Vigo County from primary nonattainment to attainment. In the cases of Floyd and Vigo Counties, the technical information does not justify the redesignations as requested. However, based on the data before the USEPA, the notice does propose to change the designations of Floyd and Vigo Counties to secondary nonattainment, if the State so requests.

**DATE:** Comments on this revision and on the proposed USEPA action must be received by January 14, 1985.

**ADDRESSES:** Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency,  
 Region V, Air and Radiation Branch  
 (5AR-26), 230 S. Dearborn Street,  
 Chicago, Illinois 60604

Indiana Air Pollution Control Division,  
 Indiana State Board of Health, 1330  
 West Michigan Street, Indianapolis,  
 Indiana 46206.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. **FOR FURTHER INFORMATION CONTACT:** Anne E. Tenner, (312) 886-6036.

**SUPPLEMENTARY INFORMATION:** Under section 107(d) of the Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every State. See 43 FR 8962 (Mar. 3, 1978). These area designations may be revised whenever the data warrants. The primary TSP NAAQS are violated when, in a year, either: (1) The geometric mean value of TSP concentrations exceeds 75 micrograms per cubic meter of air (75  $\mu\text{g}/\text{m}^3$ ) (the annual primary standard), or (2) the maximum 24-hour concentration of TSP exceeds 260  $\mu\text{g}/\text{m}^3$  more than once (the 24-hour standard). The secondary TSP standard is violated when, in a year, the maximum 24-hour concentration exceeds 150  $\mu\text{g}/\text{m}^3$  more than once.

USEPA was requested by the State of Indiana to change the TSP designations for Floyd, Porter, Sullivan and Vigo Counties. Indiana's redesignation requests were reviewed with respect to USEPA redesignation policy, as summarized in the memoranda "Section 107 Designation Policy Summary," April 21, 1983, and "Section 107 Questions and Answers," December 23, 1983. In summary, all available information relative to the attainment status of the area should be reviewed. These data should include either (1) the most recent eight consecutive quarters of quality assured, representative ambient air quality data, plus evidence of an implemented control strategy or (2) the most recent four quarters of quality assured representative ambient air quality data and a reference modeling analysis showing the basic SIP control strategy is sound and that actual, enforceable emission reductions are responsible for the recent air quality improvement. Supplementary information, including the available air quality modeling, emission data, and other relevant information, should be used to determine if the monitoring data accurately characterize the worst case air quality in the area. Information submitted to support attainment redesignations must adequately and accurately reflect long-term operating rates and the effect of applicable economic conditions on emissions.

### Floyd County

Floyd County was designated as "unclassifiable" for TSP in the March 3, 1978 (43 FR 8992), Federal Register. In the October 5, 1978 (43 FR 45995), Federal Register USEPA explained that this designation was based on the fact that there was insufficient TSP monitoring data from the County to determine the actual status of the County.

On March 16, 1984, the State of Indiana requested USEPA to revise the TSP designation of Floyd County, Indiana from unclassified to attainment for the TSP NAAQS. The State supported its request with data collected at the only monitor in the County, which show no violations since 1978, and modeling analysis that depicts the representativeness of this monitored data. USEPA analyzed this technical information and determined (through calculations based on the State's modeling results) that a small portion of Floyd County may be in violation of the 24-hour Secondary NAAQS. This analysis also showed that the single monitor is not located within this predicted secondary nonattainment area and, therefore, does not accurately characterize the worst case air quality in the area. (USEPA's technical analysis is discussed in more detail in the technical support document which is available at USEPA's Region V office.) Therefore, USEPA proposes disapproval of the redesignation of Floyd County, Indiana to full attainment for TSP. Under these circumstances, the entire County remains designated unclassifiable.

However, if the State requests during the public comments period (1) to redesignate a small portion of eastern Floyd County (which is directly across the Ohio River from the primary TSP nonattainment area in Louisville, Kentucky) to secondary nonattainment and provides acceptable boundaries, and (2) to redesignate the remainder of the County attainment, then, based on USEPA's analysis referenced above, USEPA proposes to approve this modified redesignation request.

### Porter County

At this time, all of Porter County, Indiana is currently designated unclassifiable.<sup>1</sup> On March 14, 1984, the

<sup>1</sup>Based on the ambient data before the Agency, on August 18, 1982 (47 FR 3565), USEPA unilaterally redesignated a part of Porter County as a primary nonattainment area for TSP. As codified at 40 CFR 81.315 (1983), this nonattainment area was:

An area bounded on the north by the Lake Michigan shoreline, on the east by Mineral Springs Road, on the south by I-94, and on the west by

State of Indiana requested USEPA to revise the TSP designation of Porter County, Indiana to attainment for the entire county, except for the area bounded on the west by Indiana 249 from I-94 to Burns Ditch then following Burns Ditch to Lake Michigan, on the north by Lake Michigan, on the east by Mineral Springs Road, and on the south by I-94. To support the redesignation request, the State submitted ambient air quality data collected at the monitors in this portion of Porter County, during the period January 1981 through December 1983.

Although violations of the 24-hour secondary TSP standard were monitored at three sites; Morgan High School, Clannicarde, and Tassinong, USEPA has discounted these violations (for designation purposes) under the Agency's rural fugitive dust policy. The remainder of the ambient data on the lack of significant industrial sources in the area in question support the State's redesignation request. Therefore, based on the available technical support from the State, USEPA proposes to approve the redesignation of the southern portion of Porter County, Indiana from unclassified to attainment for TSP. The technical data are discussed in more detail in the technical support document which is available at USEPA's Region V office.

### Sullivan County

Sullivan County was originally designated as unclassifiable in the October 5, 1978 (43 FR 46007), Federal Register. On March 14, 1984, the State of Indiana requested to USEPA to revise the TSP designation of Sullivan County, Indiana from unclassified to attainment for TSP. To support their request, the State submitted air monitored data collected from January 1981 to December 1982 at these sites in northwestern Sullivan County operated by Indiana and Michigan Breed Power Generating Station ("Breed"). (Breed is the only utility or major industry in the immediate area and the largest point

Indiana 249 from I-94 to Burns Ditch and then following Burns Ditch to Lake Michigan.

The remainder of Porter County remained designated "Unclassified"

The Bethlehem Steel Corporation filed a petition challenging USEPA's action in the United States Court of Appeals for the Seventh Circuit, and on December 13, 1983, the Court overturned the redesignation. See *Bethlehem Steel Corp. v. USEPA*, 723 F. 2d 1303 (7th Cir. 1983). The Court held that USEPA had exceeded its authority under the Act by unilaterally redesignating the area without a request from the State to do so. Based on the Court's decision, on June 6, 1984 (49 FR 23343), USEPA officially returned the area formerly designated primary nonattainment to unclassifiable.

source of particulates in Sullivan County.)

The three monitoring sites are: (1) Fairbanks Station, which is about 2.7 kilometers (km) southeast of Breed, is surrounded by farm fields, and is 5 meters (m) from a gravel road and 3 m from a gravel drive; (2) Turman Creek Station, which is located 9 km southeast of Breed, 6 m from gravel and wooded areas; and (3) Sludge Pit Station, which is in the middle of farm country, is located at the end of a gravel drive, and is 100 m from the gravel County Line Road.

The only 24-hour primary exceedance measured at the Fairbanks Station site was in 1982. (Since only one exceedance occurred, there were no primary violations.) There were two 24-hour secondary exceedances at Fairbanks Station and five at Turman Creek Station in 1981. In 1982, all three stations recorded one 24-hour secondary TSP exceedance, but each on a different day. (The technical data are discussed in more detail in the technical support document, which is available at USEPA's Region V office.)

The probability that rural fugitive dust is the cause of these exceedances is suggested by the siting of monitors, i.e., near unpaved roads and farm fields and with no industrial sources close by. Furthermore, meteorological data prove that the Breed Plant cannot be considered to be responsible for these exceedances. Thus, USEPA has discounted these violations (for designation purposes) under the Agency's rural fugitive dust policy.

Because the remainder of the ambient data and the lack of significant industrial sources (except for Breed) support the State's request, USEPA proposes approval of the redesignation of Sullivan County from unclassifiable to attainment for TSP NAAQS.

#### Vigo County

On July 16, 1982 (47 FR 30978), USEPA modified its original designation of Vigo County to reduce the size of the primary nonattainment area to a 0.5 km radius around a monitoring site at Indiana State University. The nonattainment area was restricted to this small area based on the Vigo County Air Pollution Control Division's demonstration that the nonattainment problem is highly localized. According to the Vigo County Agency, the primary cause of this problem was re-entrained fugitive dust resulting from traffic cutting through the unpaved parking lot where the monitoring site is located.

On February 16, 1984, the State asked that the nonattainment area be redesignated to full attainment.<sup>2</sup> To support the redesignation request, the State submitted monitoring data collected at this monitoring site. The Vigo County Agency also stated that the nontraditional fugitive dust control strategy (i.e., elimination of traffic cutting through the parking lot) began in June 1982, although permanent barricades preventing this traffic were not erected until October 19, 1982.

In reviewing the monitoring data for this site, USEPA found that violations have occurred in the last eight quarters of monitoring data. (This monitoring site was discontinued in June of 1983.) For the matter, there were violations in the last four quarters of data. The State did request that several monitored exceedances in this data base not be considered for designation purposes. USEPA has determined that there is no sustainable basis to discount these exceedances for designation purposes.

<sup>2</sup>The State of Indiana originally requested USEPA to redesignate the TSP primary nonattainment area in Vigo County to full attainment on April 14, 1983. However, on November 15, 1983, the State revised their request asking that the nonattainment area be redesignated to secondary nonattainment instead. On February 16, 1984, the State revised its position again to request full attainment.

(Further analysis of this issue is discussed in the technical support document which is available at the USEPA Region V office.) As a result, the available monitoring data do not support the State's request to redesignate the area to full attainment. Therefore, USEPA proposes disapproval of the redesignation of Vigo County to full attainment for TSP.

However, if the State requests during the public comment period a formal redesignation to secondary nonattainment from primary nonattainment for the area within a 0.5 km radius around the monitoring site at Indiana State University, the USEPA proposes to approve this revised redesignation request based on the technical data submitted by the State. If the State does not request redesignation of this portion of Vigo County to secondary nonattainment, then USEPA is proposing that it remain designated primary nonattainment for TSP.

USEPA is providing a 60 day public comment period on this notice of proposed rulemaking. Public comments received on or before this date will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12291. (Sec. 107(d) of the Act, as amended (42 U.S.C. 7407)

Dated: September 23, 1984.

Valdas V. Adamkus,  
Regional Administrator.

[FR Doc. 84-22604 Filed 11-13-84; 8:45 a.m.]  
BILLING CODE 6560-50-M

# Notices

Federal Register

Vol. 49, No. 221

Wednesday, November 14, 1984

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

**National Marketing Quotas for Fire-Cured (Type 21), Fire-Cured (Types 22-23), Dark Air-Cured (Types 35-36), Virginia Sun-Cured (Type 37), Cigar-Binder (Types 51-52), and Cigar-Filler and Cigar-Binder (Types 42-44; 53-55) Tobaccos**

**AGENCY:** Agricultural Stabilization and Conservation Service, USDA.

**ACTION:** Notice of proposed determinations.

**SUMMARY:** The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to proclaim by February 1, 1985, national marketing quotas for cigar-binder (types 51 & 52), fire-cured (types 21-23), and dark air-cured tobaccos for the 1985-86, 1986-87, and 1987-88 marketing quotas for fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), cigar-binder (types 51-52), and cigar-filler and cigar-binder (types 42-44; 53-55) kinds of tobacco for the 1985-86 marketing year. The public is invited to submit written comments, views and recommendations concerning the determination of the national marketing quotas for such kinds of tobacco, the conduct of the referendum, and other related matters which are discussed in this notice.

**DATE:** Comments must be received on or before December 31, 1984 in order to be assured of consideration.

**ADDRESSES:** Send comments to the Director, Commodity Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room

3741-South Building, 14th and Independence Avenue, SW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-5187 The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

**SUPPLEMENTARY INFORMATION:** This notice has been reviewed in conformity with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major." It has been determined that the implementation of these proposed determinations will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

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

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires that, with respect to cigar-binder (types 51 & 52), fire-cured (types 21-23), and dark air-cured tobaccos, the Secretary of

Agriculture must proclaim by February 1, 1985, the respective national marketing quotas for the 1985-86, 1986-87, and 1987-88 marketing years. In addition, the Secretary is required to conduct, within 30 days after proclamation of such national marketing quotas, referenda of farmers engaged in the 1984 production of these kinds of tobacco to determine whether they favor or oppose marketing quotas for such years. Since cigar-binder tobacco farmers voting in a referendum in February 1984, disapproved quotas for the 3 marketing years beginning October 1, 1984 (49 FR 20529), and since such disapproval was not the third consecutive disapproval of quotas for cigar-binder tobacco, the Act requires proclamation of marketing quotas for cigar-binder tobacco for the 3 marketing years beginning October 1, 1985. For fire-cured and dark air-cured, the 1984-85 marketing year is the last year of the three consecutive years for which marketing quotas previously proclaimed will be in effect for these kinds of tobacco.

The Secretary is also required: (1) To determine and announce the amounts of the national marketing quotas with respect to fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured, cigar-binder (types 51-52), and cigar-filler and cigar-binder (types 42-44; 53-55) tobaccos for the 1985-86 marketing year; (2) to convert such marketing quotas into national acreage allotments and announce the allotments; (3) to apportion to such allotments, less reserves of not to exceed 1 percent of each kind of tobacco respectively, through county ASCS committees among old farms; and (4) to apportion the reserves for use in (a) establishing acreage allotments for new farms and (b) making corrections and adjusting inequities in old farm allotments. The six kinds of tobacco discussed in this notice account for approximately 5 percent of total U.S. tobacco production.

Section 312(a) of the Act (7 U.S.C. 1312(a)) provides that the Secretary shall proclaim not later than February 1 of any marketing year with respect to these kinds of tobacco, a national marketing quota for each of the next three succeeding marketing years whenever the Secretary determines with respect to such kinds of tobacco—

(1) That a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) That such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That the marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum. However, if such producers have disapproved national marketing quotas for three successive years subsequent to 1952, thereafter a national marketing quota shall not again be proclaimed in accordance with section 312(a) of the Act which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers unless, prior to November 10 of the marketing year, one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as the Secretary may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years.

Quotas were previously proclaimed, referenda conducted, and quotas approved by growers as follows: fire-cured (type 21), fire-cured (types 22-23), and dark air-cured (types 35-36) tobaccos for the 1982-83, 1983-84, and 1984-85 marketing years (47 FR 20167); Virginia sun-cured tobacco for the 1983-84, 1984-85, and 1985-86 marketing years (48 FR 28303); cigar-binder tobacco (types 51-52) for the 1981-82, 1982-83, and 1983-84 marketing years (46 FR 51945); and cigar-filler and binder tobacco (types 42-44; 53-55) for the 1984-85, 1985-86, and 1986-87 marketing years (49 FR 20529). Producers of such kinds of tobacco will be eligible to participate in the tobacco price support program.

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Number 118 (7 CFR Part 30) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 & 14;

Flue-cured tobacco, comprising type 21; Flue-cured tobacco, comprising types 22, 23, & 24;

Dark air-cured tobacco, comprising types 35 & 36;

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31; Maryland tobacco, comprising type 32;

Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, & 55; and

Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) of the Act also provides that anyone or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has issued a determination (15 FR 8214) that types 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support. Also pursuant to such authority, the Secretary has issued a determination (22 FR 367) that beginning with the 1957-58 marketing year, cigar-binder (types 51-52) shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support. Type 45 tobacco is no longer grown. No further determinations under section 301(b)(15) are contemplated at this time.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1985, with respect to kinds of tobacco specified in this notice of proposed determination, the amount of the national marketing quota which will be in effect for the 1985-86 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of such 1984-85 national marketing quota may, not later than March 1, 1984, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The aggregate reserve supply level for the 1984-85 marketing year for the 6

kinds of tobacco discussed in this notice was determined to be 240 million pounds (49 FR 6137). The proposed reserve supply level for the 1985-86 marketing year will range between 230 million and 280 million pounds. The aggregate total supply for the 1984-85 marketing year is 279 million pounds based on carryover of 189 million and production of 90 million pounds.

Section 312(c) of the Act (7 U.S.C. 1312(c)) requires that within 30 days after a national marketing quota is proclaimed in accordance with section 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kinds of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results so proclaimed shall not be in effect, but the results shall in no way affect or limit the subsequent proclamation and submission to a referendum of a national marketing quota as otherwise authorized in section 312.

Section 313(g) of the Act (7 U.S.C. 313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment by dividing the national market quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed. In addition, the Secretary is authorized to apportion through county committees the national acreage allotment to tobacco producing farms (less a reserve not to exceed 1 percent thereof for new farms, and for making corrections and adjusting inequities in old farm allotments) among old farms.

#### Proposed Determinations

Accordingly, comments are requested on the following proposed determinations for the kinds of tobacco listed for the 1985-86 marketing year:

1. With respect to fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured, cigar-binder (types 51 & 52), and cigar-filler and binder (types 42-44; 53-55) tobaccos:

a. The amount of the reserve supply level, within the aggregate range of 230 and 280 million pounds;

b. The amount of the national marketing quota for each kind of tobacco for the 1985-86 marketing year,

within the aggregate range of 85–115 million pounds; and

c. The amount of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments, within the aggregate range of 100 and 500 acres.

2. With respect to cigar-binder (types 51 and 52), fire-cured (types 21–23), and dark air-cured tobaccos:

a. The date(s) or period(s) of the referenda for determining whether quotas will be in effect for 1985–86, 1986–87, and 1987–88 marketing years for such kinds to tobacco; and

b. Whether the referenda should be conducted at polling places rather than by mail ballot (See 7 CFR Part 717).

Signed at Washington, D.C., on November 8, 1984.

Everett Rank,

*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc. 84-29814 Filed 11-13-84; 8:45 am]

BILLING CODE 3410-05-M

#### Forest Service

##### Stanislaus National Forest Grazing Advisory Board; Meeting

The Stanislaus National Forest Grazing Advisory Board will meet at 8:00 a.m. on December 11, 1984, in Conference Room A of the Forest Supervisor's Office, 19777 Greenley Road, Sonora, California 95370. The purpose of this meeting is for election of officers, and for recommendations on allotment management plans and use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify me at 19777 Greenley Road, Sonora, California 95370. Written statements may be filed with the committee before or after the meeting.

The committee has not established rules for public participation.

Dated: October 31, 1984.

Blaine L. Cornell,  
*Forest Supervisor.*

[FR Doc. 84-29758 Filed 11-13-84; 8:45 am]

BILLING CODE 3410-11-M

#### Soil Conservation Service

##### Swan Quarter Watershed, NC

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of availability of a record of decision.

**SUMMARY:** Coy A. Garrett, responsible Federal official for projects

administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of North Carolina, is hereby providing notification that a record of decision to proceed with the installation of the Swan Quarter Watershed project is available. Single copies of this record of decision may be obtained from Coy A. Garrett at the address shown below.

**FOR FURTHER INFORMATION CONTACT:** Coy A. Garrett, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 535 Federal Building, Raleigh, North Carolina 27601, telephone (919) 755-4210.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. State and local review procedures for Federal and federally assisted programs and projects are applicable)

[FR Doc. 84-29761 Filed 11-13-84; 8:45 am]

BILLING CODE 3410-16-M

#### CIVIL RIGHTS COMMISSION

##### Texas 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 Texas Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 9:00 p.m., on November 30, 1984, at the El Paso Civic Center, Juarez Room, 1 Civic Center Plaza, El Paso, Texas 79901. The Immigration Subcommittee will hold a meeting to discuss future program plans.

Persons desiring additional information, or planning a presentation to the Committee should contact the Southwestern Regional Office at (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 7, 1984.

John I. Binkley,

*Advisory Committee Management Officer.*

[FR Doc. 84-29737 Filed 11-13-84; 8:45 am]

BILLING CODE 6335-01-M

##### Illinois 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 Illinois Advisory Committee to the Commission will convene at 11:00 a.m. and will end at 2:00 p.m., on December 14, 1984, at the Midwestern Regional Office, U.S. Commission on Civil Rights, Conference Room, 230 Dearborn Street, Chicago,

Illinois 60604. The purpose of the meeting is to discuss proposed projects on "Civil Rights of the Handicapped" and "The Status of Civil Rights in Illinois"

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 8, 1984.

John I. Binkley,

*Advisory Committee Management Officer.*

[FR Doc. 84-29859 Filed 11-13-84; 8:45 am]

BILLING CODE 6335-01-M

##### Michigan 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 Michigan Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on December 6, 1984, at the Westin Hotel, 400 East Jefferson, Renaissance Center, Detroit, Michigan 48243. The purpose of the meeting is to develop and refine program plans for fiscal year 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 8, 1984.

John I. Binkley,

*Advisory Committee Management Officer.*

[FR Doc. 84-29860 Filed 11-13-84; 8:45 am]

BILLING CODE 6335-01-M

#### DEPARTMENT OF COMMERCE

##### Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: Service Annual Survey

Form Numbers: Agency—B-501 through

B-513, and B-505A; OMB—0607-0422

Type of Request: Revision of a currently approved collection

Burden: 14,500 respondents; 2,940 reporting hours  
 Needs and Uses: The purpose of this survey is to measure the economic activity of selected industries within the service sector. This survey is the only annual source of service receipts data. The Bureau of Economic Analysis (BEA) uses the information from the survey as input to its computation of the national accounts. The data is used extensively by private industry as a primary tool for marketing analysis.

Affected Public: Business or other for-profit institutions

Frequency: Annually

Respondent's Obligation: Mandatory  
 OMB Desk Officer: Timothy Sprehe, 395-4814

Agency: Bureau of the Census  
 Title: Reinterview Questionnaire: 1985 Census of Tampa, Florida and Jersey City, New Jersey

Form Numbers: Agency—DB-159; OMB—None

Type of Request: New Collection  
 Burden: 7,700 respondents; 385 reporting hours

Needs and Uses: This survey is being conducted as part of the Bureau's planning activities for the 1990 Decennial Census. This survey, which is a major aspect of the Bureau's coverage improvement program, is to verify the accuracy of the enumerator's work. Reinterview is a check to verify that an enumerator visited the correct addresses and correctly listed all household members on the 1985 Census Pretest Questionnaire. This data will be used to evaluate the accuracy and quality of enumerator work and identify problems which can be corrected before the 1990 Decennial Census.

Affected Public: individuals or households

Frequency: One-time

Respondent's Obligation: Mandatory  
 OMB Desk Officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: November 7, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84-29315 Filed 11-13-84; 8:45 am]

BILLING CODE 3510-CW-M

#### Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis  
 Title: Reinsurance Transactions with Companies Resident Abroad  
 Form Number: Agency—BE-48; OMB—0608-0016

Type of Request: Extension of a currently approved collection  
 Burden: 240 respondents; 360 reporting hours

Needs and Uses: This survey secures data on reinsurance transactions from U.S. insurance companies with foreign insurers. This data is required to prepare the balance of payments.

Affected Public: Businesses or other for-profit institutions

Frequency: Annually

Respondent's Obligation: Voluntary  
 OMB Desk Officer: Timothy Sprehe, 395-4814

Agency: Economic Development Administration (EDA)  
 Title: Public Works Application  
 Form Number: Agency—ED-101A; OMB—0610-0011

Type of Request: Reinstatement  
 Burden: 200 respondents; 17,000 reporting hours

Needs and Uses: State and local governments use the form to apply for Public Works grants under the Public Works and Economic Development Act. EDA Regional Offices use the information to assure that applicants meet statutory and program requirements, and for program administration.

Affected Public: Individuals or households

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit  
 OMB Desk Officer: Timothy Sprehe, 395-4814

Agency: International Trade Administration (ITA)  
 Title: Participation Agreement  
 Form Number: Agency—ITA-4008P; OMB—N/A

Type of Request: Existing collections in use without OMB approval  
 Burden: 3,000 respondents; 1,000 reporting hours

Needs and Uses: ITA sponsors up to 200 overseas trade promotion events each fiscal year. The Participation Agreement is the vehicle by which individual firms agree to participate in ITA's trade promotion program, identify the products or services they intend to sell or promote, and record their required financial contribution to the Department.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Sheri Fox, 395-3785

Agency: Minority Business Development Agency (MBDA)

Title: 1982 Characteristics of Business Owners Survey

Form Number: Agency—MB-4; OMB—N/A

Type of Request: New collection  
 Burden: 125,000 respondents; 31,250 reporting hours

Needs and Uses: MBDA will collect the data to enable them to compare characteristics of minority and women business owners and their businesses with those of all businesses. MBDA will use the data to evaluate existing Government programs designed to promote minority and women-owned businesses and to plan and manage future programs and research efforts.

Affected Public: Individuals or households; businesses or other for-profit institutions; small businesses or organizations

Frequency: Single-time

Respondent's Obligation: Mandatory  
 OMB Desk Officer: Timothy Sprehe, 395-4814

Agency: National Oceanic and Atmospheric Administration  
 Title: Sea Grant Budget  
 Form Number: Agency—NOAA-90-4; OMB-0648.0034

Type of Request: Extension of the expiration date of a currently approved collection

Burden: 40 respondents; 200 reporting hours

Needs and Uses: The National Sea Grant College Office awards both single and multi-project grants. This information is used by both grantee and grantor to determine the cost of each project and to determine the allowability of matching costs. The information is also used in negotiating costs and in the administrative control of expenditures.

Affected Public: State or local governments; non-profit institutions  
 Frequency: Annually

Respondent's Obligation: Required to obtain or retain a benefit  
 OMB Desk Officer: Sheri Fox, 395-3785  
 Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.  
 Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: November 7, 1984.  
 Edward Michals,  
*Department Clearance Officer.*  
 [FR Doc. 84-29816 Filed 11-13-84; 8:45 am]  
 BILLING CODE 3510-CW-M

### International Trade Administration

#### Decision on Application for Duty-Free Entry of Scientific Instrument; University of California, Irvine

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 84-217 Applicant: University of California, Irvine, CA 92717 Instrument: Gas Chromatograph/Mass Spectrometer Data System, Model 7070 EHF 11-250. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: See notice at 49 FR 28426.

Comments: None received.  
 Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (February 8, 1984).

Reasons: The foreign instrument provides routine resolution of 5000 to 25000 for masses to 2600 atomic mass units at full accelerating potential (6000 electron volts) and software capable of rapid data assignment of mass/charge ratios with an accuracy of 2.0 parts per million.

The capability of the foreign instrument described above is pertinent

to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formerly requested a bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purpose of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to the only known domestic manufacturer of a comparable instrument (Nuclide Corporation, which manufactures magnetic sector mass spectrometers), it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)  
 Frank W. Creel,  
*Acting Director, Statutory Import Programs Staff.*

[FR Doc. 84-29823 Filed 11-13-84; 8:45 am]  
 BILLING CODE 3510-DS

#### Decision on Application for Duty-Free Entry of Scientific Instrument; University of Texas Health Science Center at Houston

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651,

80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket No. 84-211. Applicant: University of Texas Health Science Center at Houston, Houston, TX 77025. Instrument: Mass Spectrometer, Model MS 50TC with Accessories. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use: See notice at 49 FR 24912.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (December 22, 1983).

Reasons: The foreign instrument provides dynamic resolution of 40 000 and mass range of 10 000 atomic mass units. The National Institutes of Health advises in its memorandum dated August 28, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purpose of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to the only known domestic manufacturer of a comparable instrument (Nuclide Corporation, which manufactures magnetic sector mass spectrometers), it is apparent that the domestic manufacturer was either not able or not-willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,  
Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-29824 Filed 11-13-84; 8:45 am]  
BILLING CODE 3510-DS-M

[C-408-046];

#### Sugar From the European Communities; Final Results of Administrative Review of Countervailing Duty Order

**AGENCY:** International Trade Administration/Import Administration, Commerce.

**ACTION:** Notice of final results of administrative review of countervailing duty order.

**SUMMARY:** On July 26, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on sugar from the European Communities. The review covers the period July 1, 1981, through June 30, 1982.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

**EFFECTIVE DATE:** November 14, 1984.

**FOR FURTHER INFORMATION CONTACT:** Al Jemmott or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202)377-2786.

**SUPPLEMENTARY INFORMATION:**

#### Background

On July 26, 1984, the Department of Commerce ("the Department") published in the Federal Register (49 FR

30085) the preliminary results of its administrative review of the countervailing duty order on sugar from the European Communities (43 FR 33237, July 31, 1978). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

#### Scope of the Review

Imports covered by the review are shipments of sugar, with the exception of specialty sugars, from the European Communities ("the EC"). Such merchandise is currently classifiable under items 155.2025, 155.2045 and 155.3000 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1981, through June 30, 1982, and a program of restitution payments made through the Guidance and Guarantee Fund under the Common Agricultural Policy of the EC.

#### Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. The final results of the review are the same as the preliminary results. We determine that specialty sugars (e.g., cones, hats, pearls, loaves) are not subject to the order. We further determine the aggregate net subsidy to be 10.45 cents per pound of sugar for the period July 1, 1981, through June 30, 1982.

The Department will instruct the Customs Service to assess countervailing duties of 10.45 cents per pound of sugar for all shipments exported on or after July 1, 1981, and on or before June 30, 1982.

The Department will also instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751 (a)(1) of the Tariff Act, of 10.45 cents per pound on any shipment of EC sugar entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751 (a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: November 5, 1984.

Alan F. Holmer

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-29824 Filed 11-13-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-004]

#### Toy Balloons (Including Punchballs) and Playballs From Mexico; Final Results of Administrative Review of Countervailing Duty Order

**AGENCY:** International Trade Administration/Import Administration, Commerce.

**ACTION:** Notice of final results of administrative review of countervailing duty order.

**SUMMARY:** On March 19, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on toy balloons (including punchballs) and playballs from Mexico. The review covers the period October 21, 1982, through March 31, 1983.

We gave interested parties an opportunity to comment on the preliminary results. At the request of both the petitioner and the respondents, we held a public hearing on April 30, 1984. After review of all comments received, the Department has determined the total bounty or grant during the period of review to be 3.46 percent *ad valorem* for toy balloons (including punchballs) and 8.74 percent *ad valorem* for playballs.

**EFFECTIVE DATE:** November 14, 1984.

**FOR FURTHER INFORMATION CONTACT:** Victoria Marshall or Stephen Nyschot, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

#### Background

On March 19, 1984, the Department of Commerce ("the Department") published in the Federal Register (49 FR 10142) the preliminary results of its administrative review of the countervailing duty order on toy balloons (including punchballs) and playballs from Mexico (47 FR 57532, December 27, 1982). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

### Scope of the Review

Imports covered by the review are shipments of Mexican toy balloons (including punchballs) and playballs. Such merchandise is currently classifiable under items 737.9536 and 735.0990 of the Tariff Schedules of the United States Annotated.

The review covers the period October 21, 1982, through March 31, 1983, and one program, preferential financing under the Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX").

The review also covers six additional programs that we find not to confer bounties or grants during the period on exports of Mexican toy balloons (including punchballs) and playballs.

### Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner, National Latex Products Company, and the respondents, Latex Occidental, S.A. and Industrias Salver, S.A., we held a public hearing on April 30, 1984.

*Comment 1:* The petitioner contends the Department's "understand[ing]" that the CEDI [Certificado De Devolucion De Impuestos] was terminated by Executive Order on August 25, 1982. "does not comport with the facts. The Mexican government merely suspended eligibility for future CEDI tax certificates; it did not invalidate CEDI tax certificates in the possession of Mexican exporting firms and it retained the right to reinstate the eligibility for new certificates. The petitioner further contends that we should countervail the CEDI certificates during the periods in which they are used. The Department was incorrect in its assertion that the certificates are in fact used "on a current basis." The certificates are in fact of benefit only when some tax liability exists, a time that does not necessarily correspond with the date of issuance of the certificate. Finally, if the Department is unable to trace use of specific certificates, then the Department should calculate the benefit on the basis of average use over time.

*Department's Position:* The petitioner is correct in asserting that the CEDI program was only suspended and not terminated on August 25, 1982. The Mexican government has not granted new certificates on exports after that date. However, those granted on shipments prior to that date may be used for up to 5 years after the date of issuance. We have consistently followed the practice of allocating the full amount

of the CEDI benefits to the year in which the certificates were issued. In this manner we have treated them in the same way as a cash payment. There are two primary reasons for this. First, it is not possible to verify CEDI use at the government level since government records only show the date of issuance of the certificates. To trace the actual use of CEDI certificates on a company-by-company basis in all Mexican cases is a practical impossibility. Second, the incentive to export, provided by this program, comes not from the use of the certificate, but rather, from the knowledge of receiving more certificates whenever additional export shipments take place. The use of a year-old certificate creates no more incentive for a manufacturer to export than it does for him to produce for domestic sale. Since the program has been suspended there is no continuing incentive to export. In all other Mexican cases, we countervailed the benefits from the CEDI program on a current basis. If the Mexican government reintroduces the CEDI program, we will again countervail the benefits on a current basis.

As for the petitioner's suggestion to calculate an average use rate, calculation of such an average requires an impractical tracing of the actual use at some point in time.

*Comment 2:* The petitioner points out that the legislative history of the Trade Assignments Act of 1979 requires, and the Court of International Trade has held (*Michelin Tire Corporation v. United States*, C.I.T., Slip Op. 83-136, Dec. 22, 1983) that the measurement of a subsidy be specific for each recipient. The petitioner argues that this requirement obligates us to calculate the specific CEDI benefit obtained by each manufacturer based on the date of use of the CEDI certificates.

*Department's Position:* We do not believe that either of the cited authorities address the central issue of when the benefit occurs under the CEDI program. Moreover, as indicated in Comment 1, we believe that we are capturing the true incentive effect of this program by determining the benefit based on date of issuance.

*Comment 3:* The petitioner argues that we inappropriately compressed the useful life of the CEDI benefit by basing the calculation of benefit on the date of issuance of a certificate. Again, citing *Michelin*, the petitioner argues that the benefit must be extended "over time" by looking to the date of use of the certificates.

*Department's Response:* The *Michelin* decision deals with large grants of money given for the purchase of buildings and equipment. We do

allocate the benefits of such grants over the average useful life of the renewable physical assets in the industry in question. The cash payments that we are dealing with here are shipment specific and designed to encourage export. They are of a type that we normally expense in one year. The petitioner is not seeking to have us allocate these benefits over a number of years, but rather in a different year than the one we have chosen. If there were a problem under the *Michelin* decision with our treatment of CEDI certificates, the suggestion to consider the benefit as arising in the year of use arguably is just as much a "compression" of the useful life of the benefit, and therefore no more appropriate.

*Comment 4:* The petitioner contends that the source of the benchmark rates must, by definition, be stable points of reference and should not fluctuate without notice. In particular, the source of the peso-denominated benchmark has fluctuated four times and the dollar-denominated benchmark has changed once. The Department should continue to use the rates previously established, i.e., CPP + 10 or 12, as the benchmarks for this investigation.

*Department's Position:* The Department continually strives to use the most accurate information to establish a nation-wide rate as its benchmark in evaluating short-term preferential loans. We believe that each source has been the most accurate information available to us at the time of its use. We are continually improving the accuracy of the benchmark through the adoption of new sources as they become available.

We now consider the nominal rate published in the Banco de Mexico's *Indicadores Economicos* ("the IE rate") to be the most accurate indicator of the national average short-term borrowing rate. See final affirmative countervailing duty determination and order regarding Mexican bricks (49 FR 19585, May 8, 1984).

In calculating the benefit for short-term dollar-denominated preferential loans in our preliminary results, we used the mean of the interquartile range from Table 1.34 of the *Federal Reserve Bulletin*. We have re-examined that practice, and have determined that a more appropriate benchmark is the weighted average of the interest rates for loans of less than one million dollars taken from the same source and table. Using that information, comparable dollar-denominated loans were available during the review period at 13.65 percent. We therefore determine the net bounty or grant from FOMEX

export loans to be 1.34 percent *ad valorem* for toy balloons (including punchballs) and 1.91 percent *ad valorem* for playballs during the period of review.

*Comment 5:* The petitioner contends that the Department should verify actual payment and should consider the possibility that FOMEX loans were "rolled-over" and that these "roll-overs" constituted an additional benefit.

*Department's Position:* If the loans were rolled-over, interest was paid at the time of the roll-over; therefore, there is no additional benefit. The rolled-over principal would constitute FOMEX loans already included in our data base. During verification we did verify a randomly selected sample of the loans, confirmed the terms, and checked repayment.

*Comment 6:* The respondents argue that the Department should use company-specific, short-term rates in this case since there is only one manufacturer in the Mexican market for each product under consideration. Therefore, nationwide benchmark rates should not be applicable. Alternatively, the respondents contend that the only fair national-average benchmark would be the *Indicadore Economicos* nominal loan rate for peso-denominated loans.

*Department's Position:* It is well established Department policy that, when a nationally directed loan program exists, the Department will compare the preferential loan interest rates of the program to a national average commercial rate for comparable short-term loans. Therefore, we agree with the alternative argument to use the *Indicadores Economicos* nominal interest rate for peso-denominated loans.

*Comment 7:* Salver did not ship playballs to the United States during the period of review. Salver argues that the Department may not impose countervailing duties, or set a cash deposit of estimated countervailing duties upon its products based on presumed FOMEX export financing since Salver is ineligible for such financing because of the nature and history of its commercial transactions (*ie.*, payment from U.S. purchasers occurred more than 60 days after the date of export).

*Department's Position:* We were unable to verify Salver's claimed non-shipment to the United States and non-use of FOMEX export financing on exports to the U.S. As best evidence, we used the rate of FOMEX export financing on Salver's exports to the rest of the world. The FOMEX regulations in our possession indicate that loans may be given for a term of up to 2 years. We

have found in other countervailing duty investigations frequent use of FOMEX export financing for export sales with payment terms exceeding 60 days. Therefore, we believe that, if Salver exports to the United States it could receive FOMEX loans. Consequently, we believe our estimate of the benefit based on Salver's FOMEX financing on third country sales is reasonable.

#### Final Results of the Review

After reviewing all comments received and adjusting for methodological changes, we determine the total bounty or grant to be 3.46 percent *ad valorem* for toy balloons (including punchballs) and 8.74 percent *ad valorem* for playballs during the period of review.

Section 707 of the Tariff Act provides that the difference between the deposit of an estimated countervailing duty and the final calculation of duty under the countervailing duty order shall be disregarded to the extent that the estimated duty is less than the final duty, and refunded to the extent that the estimated duty is higher than the final duty, for merchandise entered, or withdrawn from warehouse, for consumption before (for non-signatories) the date of the countervailing duty order, here December 27, 1982. The Department therefore will instruct the Customs Service to assess countervailing duties of 3.46 percent of the f.o.b. invoice price for toy balloons (including punchballs) and 6.23 percent of the f.o.b. invoice price for playballs on all shipments of the merchandise entered, or withdrawn from warehouse, for consumption on or after October 21, 1982, the date of the Department's preliminary determination, and on or before December 28, 1982.

We will instruct the Customs Service to assess countervailing duties of 3.46 percent of the f.o.b. invoice price for toy balloons (including punchballs) and 8.74 percent of the f.o.b. invoice price for playballs on any shipment entered, or withdrawn from warehouse, for consumption on or after December 27, 1982, and exported on or before March 31, 1983.

As provided by section 751(a)(1) of the Tariff Act, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 3.65 percent of the entered value on all shipments of Mexican toy balloons (including punchballs) and 9.61 percent of the entered value on all shipments of Mexican playballs entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until

publication of the final results of the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: November 6, 1984.

Alan F. Holmer,  
Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-2210 Filed 11-14-84; 8:45 am]  
BILLING CODE 3510-DS-M

#### National Bureau of Standards

[Docket No. 30812-161]

#### Approval of Federal Information Processing Standard 1-2; Code for Information Interchange, Its Representations, Subsets, and Extensions

AGENCY: National Bureau of Standards, Commerce.

**ACTION:** The purpose of this notice is to announce that the Secretary of Commerce has approved a revised standard, which will be published as FIPS Publication 1-2.

**SUMMARY:** FIPS PUB 1-2 consolidates and supersedes five existing FIPS standards. The superseded standards are FIPS PUBS 1-1, 7, 15, 25, and 36. This consolidation reduces the number of closely related FIPS PUBS in the family of standards based upon the voluntary American National Standard Code for Information Interchange (ASCII). There is also a concurrent revision to another standard, FIPS PUB 2, Perforated Tape Code for Information Interchange, which is announced in an accompanying notice in this issue of the Federal Register.

In consolidating the provisions of FIPS 1-1, 25, 36, this revised standard adopts in whole three American National Standards: X3.4-1977, Code for Information Interchange (ASCII); X3.32-1973, Graphic Representation of the Control Characters of American National Standard Code for Information Interchange; and X3.41-1974, Code Extension Techniques for Use with the 7-Bit Coded Character Set of American National Standard Code for Information Interchange.

The document which was presented to the Secretary, is part of the public

record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

The approved standard contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the revised standard is provided in this notice.

FIPS PUB 1-2 continues to specify the same three subsets of ASCII graphic characters that are detailed in FIPS PUB 15, and it also encompasses, simplifies, and replaces the implementation instructions currently prescribed in FIPS PUB 7

Because there are no substantive changes other than consolidation and simplification of the superseded FIPS PUBS, FIPS PUB 1-2 becomes effective upon publication of this notice in the Federal Register.

**ADDRESS:** Interested parties may purchase copies of this revised standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this revised standard is set out in the Where to Obtain Copies Section of the announcement portion of the standard.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Little, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921-3723.

Dated: November 7, 1984.

Ernest Ambler,  
Director.

#### Federal Information Processing Standards Publication 1-2

[FIPS PUB 1-2 Supersedes FIPS PUBS; 1-1, 7, 15, 35, and 36]

#### Announcing the Standard for Code for Information Interchange, its Representations, Subsets, and Extensions

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 98-306 (79 Stat. 1127; 40 U.S.C. 759(f)), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15, Code of Federal Regulations (CFR).

**Name of Standard.** Code for Information Interchange, its Representations, Subsets, and Extensions. (The Code for Information Interchange is commonly known as ASCII (pronounced "as key"), an acronym for American Standard Code for Information Interchange.)

**Category of Standard.** Hardware and Software Standard.

**Subcategory.** Interchange Codes, Media, and Data Files.

**Explanation.** This standard specifies a coded character set and a recommended collating sequence, subsets, extensions, and certain graphic representations for the set, all for use in Federal information processing systems, communications systems, and related equipment, that are procured by the Federal Government. Related equipment includes all character-oriented devices and media, such as printers, teleprinters, display devices, keyboards, magnetic tape in the form of reels, cassettes or cartridges, flexible disks, optical or magnetic character readers and printers or embossers, punched cards, perforated tape, or other interchangeable media that are produced for input to a computer based system or received as output from a computer based system. The standard also applies to the data processed, stored, transmitted, or interchanged in or through such systems and equipment. Data systems to which this standard is applicable include any structured arrangement of character-oriented records, files, or indices. Additional control functions for many types of equipment such as character imaging devices are given in FIPS PUB 86, Additional Controls for Use with ASCII. Instructions for implementing the Standard code and its extensions, in various media, are given in other FIPS PUBS cited below in the section on "Related Documents." Information concerning the use of this standard in communications systems that are a part of the National Communications System may be obtained from the Manager, National Communications System, Attention: NCS-O, Washington, D.C. 20305.

**Approving Authority.** Secretary of Commerce.

**Maintenance Authority.** Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

#### Cross Index

a. American National Standard X3.4-1977, Code for Information Interchange (ASCII).

b. American National Standard X3.32-1973, Graphic Representation of the Control Characters of American

National Standard Code for Information Interchange.

c. American National Standard X3.41-1974, Code Extension Techniques for Use with the 7-Bit Coded Character Set of American National Standard Code for Information Interchange.

#### Related Documents

a. International Standard ISO 646-1983, 7-Bit Coded Character Set for Information Processing Interchange.

b. CCITT Recommendation V.3, 1972, International Alphabet No. 5.

c. International Standard ISO 4873-1979, 8-Bit Coded Character Set for Information Interchange.

d. International Standard ISO 2022-1982, Coded Extension Techniques for use with the ISO 7-Bit Coded Character Set.

e. International Standard ISO 2375-1974, Procedure for Registration of Escape Sequences.

f. American National Standard X3.64-1979, Additional Controls for Use with American National Standard Code for Information Interchange.

g. International Standard ISO 6429-1983, Additional Control Functions for Character Imaging Devices.

h. American National Standard X3.20-1976, Procedure for the Use of the Communication Control Characters of American National Standard Code for Information Interchange in Specified Data Communication Links.

i. American National Standard X3.57-1977, Structure for Formatting Message Headings for Information Interchange using the American National Standard Code for Information Interchange for Data Communication System Control.

j. American National Standard X4.23-1982, Keyboard Arrangements for Alphanumeric Machines.

k. FIPS PUB 2-1, Perforated Tape Code for Information Interchange (adopts ANSI X3.6-1965, reaffirmed in 1983).

l. FIPS PUB 3-1, Recorded Magnetic Tape for Information Interchange (800 CPI, NRZI) (adopts ANSI X3.22-1973).

m. FIPS PUB 14-1, Hollerith Punched Card Code (adopts ANSI X3.26-1980).

n. FIPS PUB 16-1, Bit Sequencing of the Code for Information Interchange in Serial-by-Bit Data Transmission (adopts ANSI X3.15-1976).

o. FIPS PUB 17-1, Character Structure and Character Parity Sense for Serial-by-Bit Data Communication in the Code for Information Interchange (adopts ANSI X3.16-1976).

p. FIPS PUB 18-1, Character Structure and Character Parity Sense for Parallel-by-Bit Data Communication in the Code

for Information Interchange (adopts ANSI X3.25-1976).

q. FIPS PUB 25, Recorded Magnetic Tape for Information Interchange (1600 CPI, Phase Encoded) (adopts ANSI X3.39-1973).

r. FIPS PUB 32-1, Optical Character Recognition Character Sets (adopts ANSI X3.17-1977 for OCR-A and ANSI X3.49-1975 for OCR-B).

s. FIPS PUB 33-1, Character Set for Handprinting (adopts ANSI X3.45-1982).

t. FIPS PUB 50, Recorded Magnetic Tape for Information Interchange, 6250 cpi (246 cpm), Group Coded Recording (adopts ANSI X3.54-1976).

u. FIPS PUB 51, Magnetic Tape Cassettes for Information Interchange (3.810 mm [0.150 inch] Tape at 32 bpmm [800 bpi], Phase Encoded) (adopts ANSI X3.48-1977).

v. FIPS PUB 52, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (¼ inch), 63 bpmm (1600 bpi), Phase Encoded (adopts ANSI X3.56-1977).

w. FIPS PUB 79, Magnetic Tape Labels and File Structure for Information Interchange (adopts ANSI X3.27-1978 with qualifications).

x. FIPS PUB 86, Additional Controls for Use with American National Standard Code for Information Interchange (adopts ANSI X3.64-1979).

y. FIPS PUB 91, Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape (adopts ANSI X3.59-1981).

z. FIPS PUB 93, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (¼ inch), 63 bpmm (1600 bpi), Phase Encoded (adopts ANSI X3.72-1981).

aa. ISO International Register of Character Sets to be Used with Escape Sequences, maintained and available without charge from the Registration Authority for ISO 2375 (Related Document e. above); European Computer Manufacturers Association (ECMA), Rue du Rhone 114, CH-1204 Geneva, Switzerland (the mailing address must include a specific name of a person in each agency requesting a copy of the register and its updates which are issued by ECMA as new sets become registered).

**Applicability.** This standard is applicable to Federal acquisition and use of data processing or communication systems, data systems, system components, and related equipment that may be required to accept, process, store, transmit or interchange character coded information, or represent control characters.

**Implementation.** All equipment and coded character information to which this standard is applicable that is brought into the Federal Government inventory on or after the date of this FIPS PUB and all use thereof must be in conformance with this standard unless a waiver has been obtained in accordance with the waiver provisions given below. The superseded FIPS PUBS still apply according to their terms to systems, equipment and information obtained before the date of this FIPS PUB. More efficient utilization of magnetic tape and other media for interchange and installation files is sometimes realized by the use of non-standard techniques (packed numerics, floating point, pure binary). Where such techniques were adopted before July 1, 1983, local use may be continued without waiver. The use of subsets of fewer than the 128 characters of ASCII must be in accordance with the section on the specification of subsets included in this FIPS PUB. The use of extended sets in 7-bit form employing alternate assignments of the 128 binary patterns of ASCII must be accomplished in accordance with ANSI X3.41 which also is adopted by this FIPS PUB. The use of expanded sets in 8-bit form, having 256 binary patterns available, must also be accomplished in accordance with ANSI X3.41. Extended and expanded sets, wherever possible, must be in conformance with a set registered in the ISO international Register of Character Sets to be Used with Escape Sequences as noted in Related Document aa.

Additional control functions for character-oriented equipment and data systems are now governed by FIPS PUB 86.

**Specifications.** This standard adopts in whole three American National Standards:

a. American National Standard X3.4-1977, Code for Information Interchange (ASCII).

b. American National Standard X3.32-1973, Graphic Representation of the Control Characters of American National Standard Code for Information Interchange.

c. American National Standard X3.41-1974, Code Extension Techniques for Use with the 7-Bit Coded Character Set of American National Standard Code for Information Interchange.

This standard also specifies three graphic character subsets of ASCII, in "Specifications for Subsets of the Standard Code for Information Interchange," included in this FIPS PUB. The three subsets are:

Figure 1—95-Character Graphic Subset  
Figure 2—64-Character Graphic Subset

Figure 3—16-Character Graphic Numeric Subset

These three subsets are derived from the 128-character set of the American National Standard Code for Information Interchange (ASCII, ANSI X3.4-1977).

In order to facilitate the interchange of data and equipment at the subset level within the Federal government, it is essential to limit the use of subsets to the three described in this FIPS PUB. Each subset is intended to be used in those applications whose needs are adequately served by that subset.

**Waivers.** If instances arise in which an agency cannot comply with the provisions of this FIPS PUB, the head of the agency is authorized to waive its application. Generally, two conditions apply in those exceptional cases which would warrant a waiver:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard and,

b. The interchange of information with other systems is not anticipated.

Notification of approved waivers shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899.

**Special Information.** FIPS PUB 1, Code for Information Interchange, was first issued in 1968, adopting the then current ASCII standard, X3.4-1969, except for the so-called "New Line option." The first revision, FIPS PUB 1-1, was issued in 1980, adopting in whole the current version of ASCII, ANSI X3.4-1977, including the New Line option. FIPS PUB 7, Implementation of the Code for Information Interchange and Related Media Standards, was published in 1969 and was in effect until it was superseded by the issuance of this FIPS PUB 1-2. FIPS PUB 7 did not adopt a standard, but was developed to provide implementation guidance for Federal agencies. FIPS PUB 15, Subsets of the Standard Code for Information Interchange, was issued in 1971 and was based in part upon a draft voluntary standard for graphic subsets of ASCII which has not since been approved as an American National Standard; as a consequence, the specifications for subsets of ASCII are not available as an ANSI publication but are included as a section of this document. FIPS PUB 35, Code Extension Techniques in 7 or 8 Bits, was issued in 1975, adopting in whole ANSI X3.41-1974. FIPS PUB 36, Graphic Representation of the Control Characters of ASCII, was also issued in 1975, adopting in whole ANSI X3.32-1973. Section 8 of FIPS PUB 7 discusses the use of subsets, extended sets (in 7

bits), expanded sets (in 8 bits) and registration of extended and expanded sets by NBS. Since adoption of FIPS PUB 7, NBS has not registered any such sets. Subsequently, an international registry of character sets to be used with ISO 646 (similar to ASCII) Escape sequences has been established. The international Registration Authority is currently the European Computer Manufacturers Association (ECMA). See Related Document aa. above.

**Where to Obtain Copies.** Copies of this publication are available for sale from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the American National Standards adopted by the specifications provision of this standard is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 1-2 (FIPSPUB1-2), and title. Payment may be made by check, money order, or deposit account.

Ordering information for the ISO International Register of Character Sets to be Used with Escape Sequences, is provided in paragraph aa of the Related Documents provision.

**Additional Provision Specifying Subsets.** The final printed version of FIPS 1-2 will include a section entitled: "Specifications for Subsets of the Standard Code for Information Interchange." This provision will contain all of the technical information from the specifications portion of FIPS PUB 15, which is being superseded by FIPS PUB 1-2. Minor editorial changes will be made to update the specifications portion of FIPS PUB 15.

[FR Doc. 84-29786 Filed 11-13-84; 8:45 am]  
BILLING CODE 3510-13-M

[Docket No. 30812-161]

### Approval of Federal Information Processing Standard 2-1; Perforated Tape Code for Information Interchange

**AGENCY:** National Bureau of Standards, Commerce.

**ACTION:** The purpose of this notice is to announce that the Secretary of Commerce has approved a revised standard, which will be published as FIPS Publication 2-1

**SUMMARY:** The original FIPS PUB 2 was published in 1968 and its sections on Applicability and Qualifications made reference to a "future FIPS Publication" (FIPS PUB) for details concerning implementation plans and specific areas of application. The referenced future document became FIPS PUB 7,

published in 1969. FIPS PUB 7, Implementation of the Code for Information Interchange and Related Media Standards, did not adopt a standard, but was developed to provide relevant implementation guidance to Federal agencies. FIPS PUB 7 and other related standards are being superseded by FIPS PUB 1-2, which is announced in an accompanying notice in this issue of the Federal Register.

This revised standard adopts in whole the American National Standard X3.6-1965 (reaffirmed in 1983), Perforated Tape Code for Information Interchange.

The document, which was presented to the Secretary, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

The approved standard contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the revised standard is provided in this notice.

**ADDRESS:** Interested parties may purchase copies of this revised standard, including the technical specifications portions, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this revised standard is set out in the Where to Obtain Copies Section of the announcement portion of the standard.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Little, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921-3723.

Dated: November 7, 1984.

Ernest Ambler,  
*Director.*

**Federal Information Processing Standards Publication 2-1**

[FIPS PUB 2-1]

*Announcing the Standards for Perforated Tape Code for Information Interchange*

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)),

Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15, Code of Federal Regulations (CFR).

**Name of Standard.** Perforated Tape Code for Information Interchange (FIPS 2-1).

**Category of Standard.** Hardware Standard, Interchange Codes and Media.

**Explanation.** This standard specifies the representation of the Federal Standard Code for Information Interchange (FIPS 1-2) on perforated tape used in Federal information processing systems, communication systems, and associated equipment. Certain terms used in this standard are explained in FIPS 1-2.

**Approving Authority.** Secretary of Commerce.

**Maintenance Agency.** Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

#### Cross Index

American National Standard X3.6-1965 (reaffirmed in 1983), Perforated Tape Code for Information Interchange.

#### Related Documents

a. FIPS PUB 1-2, Code for Information Interchange, Its Representations, Subsets and Extensions.

b. FIPS PUB 26, One-Inch Perforated Tape for Information Interchange (adopts ANSI X3.18-1974).

c. FIPS PUB 27, Take-Up Reels for One-Inch Perforated Tape for Information Interchange (adopts ANSI X3.20-1967).

**Applicability.** Generally applicable to the representation of character coded information on perforated tape used with data processing, communications, and related equipments. This standard is applicable to the use of perforated tape in coded character environments involving Federal procurement and use of data processing and communication systems, data systems, system components, and related equipment that may be required to accept, process, store, transmit or interchange character coded information. Information concerning the use of this standard in communications systems that are a part of the National Communications System may be obtained from the Manager, National Communications System, Attention: NCS-O, Washington, D.C. 20305.

**Implementation.** All equipment and data systems to which this standard is applicable that are brought into the Federal Government inventory on or after the date of this FIPS PUB must be in conformance with this standard

unless a waiver has been obtained in accordance with the waiver provisions given below. FIPS PUB 2 and FIPS PUB 7 still apply according to their terms to equipment and systems obtained before the date of this FIPS PUB.

**Specifications.** This standard adopts in whole American National Standard X3.6-1965 (reaffirmed in 1983), Perforated Tape Code for Information Interchange.

**Waivers.** If instances arise in which an agency cannot comply with the provisions of this FIPS PUB, the head of the agency is authorized to waive its application. Generally, two conditions apply in those exceptional cases which would warrant a waiver:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard and,

b. The interchange of information with other systems is not anticipated.

Notification of approved waivers shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899.

**Where the Obtain Copies.** Copies of this publication are available for sale from the National Technical Information Services, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications documents is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 2-1 (FIPS PUB 2-1), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 84-29767 Filed 11-13-84; 8:45 am]

BILLING CODE 3510-13-M

### National Oceanic and Atmospheric Administration

#### Mid-Atlantic Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**ACTION:** Notice.

**SUMMARY:** National Marine Fishery Management Council's Scientific and Statistical Committee will meet on November 19, 1984, at the Best Western, Airport Inn, Philadelphia International Airport, Philadelphia, PA, to discuss the Surf Clam and Ocean Quahog FMP, Amendments 6 and 7; Amendment 2 to the Atlantic Mackerel, Squid and Butterfish FMP, and other fishery-related matters. The meeting may be lengthened or shortened depending upon progress on agenda items. For further

information, contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901; telephone (302) 674-2331.

Dated: November 7, 1984.

Roland Finch,

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 84-23770 Filed 11-13-84; 8:45 am]

BILLING CODE 3510-22-M

#### North Pacific Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**ACTION:** Notice.

**SUMMARY:** The North Pacific Fishery Management Council will meet in Anchorage, AK, December 5-7, 1984. The meeting will convene at the Captain Cook Hotel at 9 a.m., December 5. The agenda includes setting harvest levels for groundfish and their apportionments to domestic and foreign fishermen for 1985, and a full discussion of the effects of the 1985 domestic groundfish harvest on foreign fisheries, including how to deal with O-TALFF and O-JVP species.

The Council also will discuss halibut and sablefish management, review the structure of its Advisory Panel, give final approval to its comprehensive fishery management goals, review foreign permit applications for directed and joint venture fishing for 1985, and recommend groundfish allocations of joint venture operations and foreign nations for directed fishing operations.

Also at the hotel, the Council's Scientific and Statistical and Permit Review Committee will meet December 3-4, separately, while the Council's Advisory Panel will meet on December 5 with the Council and on December 6, separately. Other plan team and workgroup meetings may be held on short notice during the week.

A detailed agenda should be available by mid-November. For further information, contact Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274-5463.

Dated: November 7, 1984.

Roland Finch,

*Director, Office of Fisheries, National Marine Fisheries Service.*

[FR Doc. 84-23773 Filed 11-13-84; 8:45 am]

BILLING CODE 3510-22-M

#### Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Pacific Fishery Management Council's Groundfish Task Force will meet November 21, 1984, in Portland OR, to review draft proposals for managing 1985 groundfish fisheries and develop alternatives, to consider by-catch levels and to prepare a report to the Council. For further information, contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201; telephone: (503) 221-6352.

Dated: November 7, 1984.

Roland Finch,

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 84-23777 Filed 11-13-84; 8:45 am]

BILLING CODE 3510-22-M

#### Pacific Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Pacific Fishery Management Council will meet on November 28-29, 1984, in Seattle, WA. On November 28, after a short closed session, to discuss U.S./Canada negotiations and a litigation update, the Council will review the performance of the 1984 groundfish fishery; consider optimum yield for widow and shortbelly rockfish, Pacific ocean perch, sablefish and whiting; adopt allowable biological catch or harvest guidelines for the remainder of the species in the groundfish management unit; adopt management measures for 1985; consider an application for an experimental fishing permit for soupfin shark; and consider public comments on its draft comprehensive fishery management goals. On November 29, the Council will consider a progress report from its committee reviewing the function of Council entities, a report from its committee on the development of a strategy to achieve comprehensive salmon management, and a process for development of the 1985 salmon management options.

The Council's Scientific and Statistical Committee, Groundfish Advisory Subpanel and Team will meet on November 27-28 at the same location to consider Council agenda items. The Salmon Advisory Subpanel and Team

will meet also at the same location, November 28-29, to consider salmon agenda items. Detailed agendas for all meetings will be available for the public around November 9.

With the exception of the scheduled closed session of the Council, all meetings are held open to the public. For further information, contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201; telephone: (503) 221-6352.

Dated: November 7, 1984.

Roland Finch,

Director, Office of Fisheries Management,  
National Marine Fisheries Service.

[FR Doc. 84-29778 Filed 11-13-84; 8:45 a.m.]

BILLING CODE 3510-22-M

## DEPARTMENT OF EDUCATION

### National Advisory Council on Vocational Education; Public Hearing

**AGENCY:** National Advisory Council on Vocational Education, Department of Education.

**ACTION:** Notice of public hearing of the Council.

**SUMMARY:** This notice sets forth the proposed agenda of a forthcoming hearing of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of this hearing is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

**DATE:** December 2, 1984 10:00 a.m.—12:00 noon; December 3, 1984 9:00 a.m.—12:00 noon.

**ADDRESS:** December 2, 1984—Room #7, Convention Center, New Orleans, LA; December 3, 1984—Belle Chase Room, Hilton Riverside Hotel, New Orleans, LA.

**SUPPLEMENTARY INFORMATION:** The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulation for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are

established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluation of programs carried out under this title and publish and distribute the results thereof.

The hearing of the National Advisory Council on Vocational Education, as announced, is open to the public. The hearing, in conjunction with the annual convention of the American Vocational Association, will focus on activities and changes in vocational education and will hear from vocational teachers and administrators, State Councils, and students organizations.

Records are kept of the Council's proceedings, and are available for public inspection at the office of the National Advisory Council on Vocational Education from 9:00 AM to 5:00 PM,—425 13th Street, NW., Suite 412, Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** Carolyn J. Edwards, NACVE Staff at above address. Telephone (202) 376-8873.

Signed at Washington, D. C. on November 8, 1984.

James W. Griffith,

Executive Director, National Council on Vocational Education.

[FR Doc. 84-29845 Filed 11-13-84; 8:45 am]

BILLING CODE 4000-01-M

### Office of Postsecondary Education

#### Accrediting Agencies for Review Under a Special Procedure

**AGENCY:** Department of Education.

**ACTION:** Notice of accrediting agencies for review under a special procedure.

**SUMMARY:** The Secretary of Education (the Secretary) publishes a list of nationally recognized accrediting agencies based on the recommendations of the National Advisory Committee on Accreditations and Institutional Eligibility. Recommendations to the Secretary concerning renewal of recognition of accrediting agencies already on the list are handled under a special review procedure. The list of agencies reviewed under this procedure is comprised of (1) agencies that were awarded the full four-year recognition period in their last review and (2) agencies that have submitted interim reports. The Advisory Committee relies on the Division of Eligibility and Agency Evaluation staff analyses of these

agencies and public comment on the analyses to formulate its recommendations to the Secretary.

**DATE:** Comments on these analyses must be received on or before December 14, 1984.

**ADDRESS:** Comments should be addressed to Morris L. Brown, Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, 400 Maryland Avenue, SW., (Room 3030, ROB-3), U.S. Department of Education, Washington, D.C. 20202.

**FOR FURTHER INFORMATION CONTACT:** Morris L. Brown, Telephone: (202) 245-9873.

**SUPPLEMENTARY INFORMATION:** This document is intended to advise the public that the National Advisory Committee on Accreditation and Institutional Eligibility, in making recommendations to the Secretary regarding his responsibility for listing accrediting agencies as required by 20 U.S.C. 1141(a), 20 U.S.C. 1094(b)(3) and other statutes, is following a special review procedure regarding some agencies.

Usually the Advisory Committee reviews in detail each report and petition, and each staff analysis, and hears oral presentations from the petitioning agencies and interested third parties before making recommendations to the Secretary.

The Special procedure for reviewing agency petitions and interim reports will reduce the depth of review by the Advisory Committee for agencies that were awarded the full four-year recognition period in their last review, and for agencies that have submitted interim reports. The Advisory Committee will use both staff analyses and public comments before submitting final recommendations to the Secretary regarding the list of these agencies as required under 34 CFR Part 603.

This notice provides the names of the agencies to be reviewed under this special procedure. The Department's Division of Eligibility and Agency Evaluation staff has prepared analyses of the petitions and reports of these agencies according to the criteria for recognition in 34 CFR 603.6, and has prepared recommendations on these agencies.

The public is invited to comment on these analyses before the Advisory Committee makes final recommendations to the Secretary.

The reports and petitions of the following agencies are under review.

**Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations**

*A. Petitions for Continuation of Recognition*

Accrediting Commission on Education for Health Services Administration (for accreditation of graduate programs in health services administration)

Proposed Recommendation: Continue recognition for a period of four years. Request the agency to submit an interim report in one year concerning issues related to § 603.6(a)(2)(iii) and (b)(3)(iii) of the criteria for recognition.

American Osteopathic Association, Bureau of Professional Education (for accreditation of programs leading to the D.O. degree)

Proposed Recommendation: Continue recognition for a period of four years. Request the agency to submit an interim report in one year concerning issues related to § 603.6(b)(4) and (b)(5) of the criteria for recognition.

National Association of Trade and Technical Schools, Accrediting Commission (for accreditation of private, postsecondary degree and non-degree granting institutions that are predominantly organized to train students for trade and technical careers)

Proposed Recommendation: Continue recognition for a period of four years with a report in one year concerning issues related to § 603.6 (a)(3)(iii)(A) and (b)(3)(viii)(A) of the criteria for recognition.

National Council for Accreditation of Teacher Education (for accreditation of baccalaureate and graduate programs)

Proposed Recommendation: Continue recognition for a period of four years. Request an interim report in one year concerning issues related to § 603.6 (a)(2)(ii), (b)(2)(i), (b)(3)(v); and (b)(5) of the criteria for recognition.

Nation League for Nursing, Inc. (for accreditation of professional, technical and practical nurse programs)

Proposed Recommendation: Continue recognition for a period of four years, and request an interim report in two years concerning § 603.6 (a)(3)(iii)(A) of the criteria for recognition.

*B. Interim Reports*

Accrediting Council on Education in Journalism and Mass Communication, Accrediting Committee

Proposed Recommendation: Accept the report.

American Dietetic Association, Commission on Accreditation

Proposed Recommendation: Accept the report.

American Psychological Association, Committee on Accreditation

Proposed Recommendation: Accept the report.

American Veterinary Medical Association, Council on Education

Proposed Recommendation: Accept the report.

American Veterinary Medical Association, Committee on Animal Technician Activities and Training

Proposed Recommendation: Accept the report.

North Central Association of Colleges and Schools, Commission on Institutions of Higher Education

Proposed Recommendation: Accept the report.

Western Association of Schools and Colleges, Accreditation Commission for Community and Junior Colleges

Proposed Recommendation: Accept the report.

Petitions for State Agencies and Accrediting Bodies Recognized for the Approval of Nurse Education

*A. Petitions for Continuation of Recognition*

Iowa Board of Nursing.

Proposed Recommendation: Continue recognition for a period of four years.

Louisiana State Board of Nursing

Proposed Recommendation: Continue recognition for a period of four years with an interim report in one year concerning issues related to criteria 3.a. and 3.f.(1).

Invitation to Comment: A copy of the analysis of any of the reports and petitions submitted by the agencies listed in this Notice may be obtained from Morris L. Brown, Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, 400 Maryland Avenue SW., (Room 3030, ROB-3), U.S. Department of Education, Washington, D.C. 20202.

Dated: November 7, 1984.

T.H. Bell,  
Secretary of Education.

[FR Doc. 84-29634 Filed 11-13-84; 8:45 am.]

BILLING CODE 4000-01-M

**National Advisory Committee on Accreditation and Institutional Eligibility; Meeting**

**AGENCY:** Department of Education.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a public meeting of the National Advisory Committee on Accreditation and Institutional Eligibility. This notice also describes the functions of the Committee. 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 its opportunity to attend and to participate.

**DATES:** November 27, 1984, 9:00 a.m. to 5:00 p.m., local time; and November 28, 8:30 a.m. to 4:00 p.m. Requests for oral presentations before the Committee must be received on or before November 16, 1984. Written comments may be submitted at any time prior to the meeting and will be considered by the Advisory Committee.

**ADDRESS:** Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, SW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Carnell, Postsecondary Relations Staff, 400 Maryland Avenue, SW (Room 3205—ROB-3), U.S. Department of Education, Washington, D.C. 20202 (202/245-9700).

**SUPPLEMENTARY INFORMATION:** The National Advisory Committee on Accreditation and Institutional Eligibility is authorized by section 1205 of the Higher Education Act as amended by Pub. L. 96-374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education.

The Committee also advises the Secretary of Education regarding policy affecting both recognition of accrediting and approval bodies, and institutional eligibility for participation in Federal funding programs. The meeting on November 27-28 will be open to the public. The meeting will be held in the Pierre Suite on the 11th floor of the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, D.C. The Advisory Committee will review petitions and interim reports by accrediting agencies relative to initial or continued recognition by the Secretary of Education. The Committee will also hear presentations by representatives of these petitioning agencies and interested third parties. The agencies having petitions and interim reports pending before the Committee are:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations

*A. Petition for Initial Recognition*  
Commission on Opticianry  
Accreditation

*B. Petition for Renewal of Recognition*  
American Academy of Microbiology,

Committee on Postdoctoral  
Education Programs

American Association for Marriage  
and Family Therapy, Commission  
on Accreditation for Marriage and  
Family Therapy Education

**C. Petitions for Extension of Scope of  
Recognition**

National Accreditation Council for  
Agencies Serving the Blind and  
Visually Handicapped  
National Home Study Council,  
Accrediting Commission

**D. Interim Reports**

American Bar Association, Council of  
the Section of Legal Education and  
Admissions to the Bar  
American Optometric Association,  
Council on Optometric Education

A portion of this meeting will be used  
by the Advisory Committee to review  
and make final recommendations to the  
Secretary on agencies reviewed under a  
special procedure.

Request for oral presentations before  
the Committee should be submitted in  
writing to Paul H. Carnell (address  
above). Requests should include the  
names of all persons seeking an  
appearance, the organization they  
represent, and the purpose for which the  
presentation is requested. Requests  
should be received on or before  
November 16, 1984. Time constraints  
may limit oral presentations. However,  
all written materials will be considered  
by the Advisory Committee.

A record will be made of the  
proceedings of the meeting and will be  
available for public inspection at the  
Office of Postsecondary Education, 400  
Maryland Avenue, SW (Room 3030-  
ROB-3), U.S. Department of Education,  
Washington, D.C. 20202 from the hours  
of 8:00 a.m. to 4:30 p.m., Monday through  
Friday.

Signed at Washington, D.C., on November  
8, 1984.

Edward M. Elmendorf,  
Assistant Secretary for Postsecondary  
Education.

[FR Doc. 84-29731 Filed 11-13-84; 8:45 am]  
BILLING CODE 4000-01-M

**National Advisory Council on  
Continuing Education; Meeting**

**AGENCY:** National Advisory Council on  
Continuing Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the  
schedule and proposed agenda of a  
meeting of the National Advisory  
Council on Continuing Education. It also  
describes the functions of the Council.  
Notice of meetings 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.

**DATES:** December 5-7, 1984.

**ADDRESS:** Hilton Palacio del Rio, 200 S.  
Alamo, San Antonio, Texas 78205.

**FOR FURTHER INFORMATION CONTACT:**  
Dr. William G. Shannon, Executive  
Director, National Advisory Council on  
Continuing Education, 425 Thirteenth  
Street, NW., Suite 529, Washington, D.C.  
20004, Telephone: (202) 376-8888.

**SUPPLEMENTARY INFORMATION:** The  
National Advisory Council on  
Continuing Education is established  
under section 117 of the Higher  
Education Act (20 U.S.C. 1109), as  
amended. The Council is established to  
advise the President, the Congress, and  
the Secretary of the Department of  
Education on the following subjects:

(a) An examination of all federally  
supported continuing education and  
training programs, and  
recommendations to eliminate  
duplication and encourage coordination  
among these programs;

(b) the preparation of general  
regulations and the development of  
policies and procedures related to the  
administration of Title I of the Higher  
Education Act; and

(c) activities that lead to changes  
in the legislative provisions of the title  
and other federal laws affecting federal  
continuing education and training  
programs.

The meetings of the Council are open  
to the public. However, because of  
limited space, those interested in  
attending are asked to call the Council's  
office beforehand.

The Council meeting will begin on  
December 5 with a dinner meeting from  
7:00 P.M. to 9:00 P.M., and continue from  
8:30 A.M. to 5:00 P.M. on December 6,  
and from 8:30 A.M. to 12:00 Noon on  
December 7, 1984.

The proposed agenda includes:

- Chairman's Report
- Installation of members
- Approval of minutes
- Approval of agenda
- Discussion: *The Financing and  
Administration of Continuing  
Education*

• Testimony from representatives of  
higher education, business, and  
government.

—S. 2919, "The Continuing Education  
Act of 1985."

- Executive Director's Report
- Future meetings

Records are kept of all Council  
proceedings and are available for public  
inspection at the office of the National  
Advisory Council on Continuing

Education, 425 Thirteenth Street, NW.,  
Suite 529, Washington, D.C.

Signed at Washington, D.C., on November 8,  
1984

William G. Shannon,  
Executive Director.

[FR Doc. 84-29738 Filed 11-13-84; 8:45 am]  
BILLING CODE 4000-01-M

**Office of Elementary and Secondary  
Education**

**Indian Education Act, Part B; Indian  
Fellowship Program**

**AGENCY:** Department of Education.

**ACTION:** Application Notice for  
Continuation Fellowships for Fiscal  
Year 1985.

**SUMMARY:** Applications are invited for  
noncompeting continuation fellowships  
under the Indian Education Act—Indian  
Fellowship Program. This program  
authorizes the award of fellowships to  
Indian students.

Authority for this program is  
contained in section 423 of the Indian  
Education Act, as amended. (20 U.S.C.  
3385b)

The purpose of these awards is to  
enable Indian students to pursue  
courses of study leading to: (a)  
Postbaccalaureate degrees in medicine,  
law, education, and related fields, or (b)  
Undergraduate or graduate degrees in  
business administration, engineering,  
natural resources, and related fields.

**Closing date for transmittal of  
applications:** To be assured of  
consideration for funding, fellows  
should mail or hand deliver their  
applications by March 4, 1985.

If the application is late, the  
Department of Education may lack  
sufficient time to review it with other  
applications for lack sufficient time to  
review it with other applications for  
noncompeting continuations and may  
decline to accept it.

**Applications delivered by mail:** An  
application sent by mail must be  
addressed to the U. S. Department of  
Education, Application Control Center,  
Attention: 84.087, Washington, D.C.  
20202.

An applicant must show proof of  
mailing consisting of one of the  
following:

(1) A legibly dated U.S. Postal Service  
Postmark.

(2) A legible mail receipt with the date  
of mailing stamped by the U.S. Postal  
Service.

(3) A dated shipping label, invoice, or  
receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

**Applications delivered by hand:** An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Street, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sunday, and Federal holidays.

**Program information:** In Fiscal Year 1984, 27 continuation fellowships were awarded totaling \$285,707. The average continuation fellowship grant was \$10,582.

**Available funds:** The continuing resolution enacted by Congress on October 12, 1984, authorizes \$1,470,000 to be made available for new and continuation awards. It is estimated that approximately \$197,880 will be available for 17 continuation fellowships.

Fellows who received a new fellowship in FY 1984 for a period of one year are not eligible to apply for continuation fellowships. A fellow desiring assistance after a one-year fellowship must apply as a new applicant this year.

The estimated maximum stipend allowed for a graduate fellow will be \$600 per month. The estimated maximum stipend allowed for an undergraduate fellow will be \$375 per month. An estimated maximum stipend allowance of \$90 per month will be allowed for each dependent. Financial need and the applicant's resources will be taken into account in determining the amount of the fellowship award. The Secretary awards a fellowship in an amount up to but not more than the difference between the student's resources, including other sources of financial aid, and the student's expenses.

**Application forms:** Application forms and program information packages are expected to be ready for distribution by November 21, 1984. They may be obtained by writing to the Director, Indian Education Programs, U.S.

Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with regulations instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The secretary strongly urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810-0020)

**Applicable regulations:** The regulations that apply to this program are the Indian Fellowship program Regulations published in the Federal Register at 48 FR 35333 on August 3, 1983 (34 CFR Part 263).

Further information: For further information, contact Alice Ford, Indian Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 732-1923.

(20 U.S.C. 3385b)

(Catalog of Federal Domestic Assistance No. 84.087; Indian Education—Fellowships for Indian Students (B))

Dated: November 6, 1984.

Lawrence F. Davenport,  
*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 84-29335 Filed 11-13-84; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### National Petroleum Council; Refinery Survey Task Group; Meeting

Notice is hereby given that the Refinery Survey Task Group will meet in November 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Refinery Survey Task Group will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Refinery Survey Task Group will hold its first meeting on Thursday, November 15, 1984, and Friday, November 16, 1984, starting at 8:00 a.m. each day, in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Suite 600, Washington, D.C.

The tentative agenda for the Refinery Survey Task Group meeting follows:

1. Opening remarks by Chairman and Government Cochairman.
2. Discuss the scope of the overall study.
3. Discuss the study assignment of the Refinery Survey Task Group.
4. Discuss and other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Refinery Survey Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Refinery Survey Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Carolyn Klym, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353/2709, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on November 6, 1984.

William A. Vaughan,

*Assistant Secretary, Fossil Energy.*

[FR Doc. 84-2943 Filed 11-13-84; 8:45 am]

BILLING CODE 6450-01-M

## Economic Regulatory Administration

### Proposed Remedial Order; Brazoria Energy, Inc. and Gerald W. Collum

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of proposed remedial order to Brazoria Energy, Inc. and Gerald W. Collum.

**SUMMARY:** Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Brazoria Energy, Inc. and

Gerald W. Collum (Brazoria), P.O. Box 2361, Longview, Texas 75606. This Proposed Remedial Order alleges that Tomlinson charged prices in excess of its actual purchase prices in violation of 10 CFR 212.186, 210.62(c) and 205.202 during the period September 1978 through December 1980 in the amount of \$8,104,903.93. In addition, the Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR § 212.183 during the period September 1978 through February 1980 in the amount of \$551,133.32.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Houston, Texas, on the 17th day of October, 1984.

Sandra K. Webb,

*Director, Houston Office, Economic Regulatory Administration.*

[FR Doc. 84-29851 Filed 11-13-84; 8:45 am]

BILLING CODE 6450-01-M

#### **Proposed Remedial Order; Cougar Oil Marketers, Inc. and Ira Wynn Sanborn**

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of proposed remedial order to Cougar Oil Marketers, Inc. and Ira Wynn Sanborn.

**SUMMARY:** Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Cougar Oil Marketers, Inc. and Ira Wynn Sanborn (Cougar), 8588 Katy Freeway, Houston, Texas 77024. This Proposed Remedial Order alleges that Cougar charged prices in excess of its actual purchase prices in violation of 10 CFR 212.186, 210.62(c) and 205.202 during the period November 1979 through January 1981 in the amount of \$5,011,533.66. In addition, the Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.183 during the period November 1979 through October 1980 in the amount of \$412,145.53..

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in accordance with 10 CFR 2105.193.

Issued in Houston, Texas, on the 17th day of October, 1984.

Sandra K. Webb,

*Director, Houston Office, Economic Regulatory Administration.*

[FR Doc. 84-29853 Filed 11-13-84; 8:45 am]

BILLING CODE 6450-01-M

#### **Proposed Remedial Order; Independent Trading Corp. and Independent Refining Corp.**

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of proposed remedial order to Independent Trading Corporation and Independent Refining Corporation.

**SUMMARY:** Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Independent Trading Corporation and Independent Refining Corporation (Independent), 11777 Katy Freeway, Suite 300, South Building, Houston, Texas 77079. This Proposed Remedial Order alleges that Independent average markup during certain months between July 1979 and May 1980 was in excess of Independent's permissible average markup in violation of 10 CFR 212.183, 210.62(c), and 205.202 in the amount of \$13,332,453.00.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue,

SW., Washington, D.C. 20585, in accordance with 10 CFR 2105.193.

Issued in Houston, Texas, on the 17th day of October, 1984.

Sandra K. Webb,

*Director, Houston Office, Economic Regulatory Administration.*

[FR Doc. 84-29854 Filed 11-13-84; 8:45 am]

BILLING CODE 6450-01-M

#### **Proposed Remedial Order; Southwestern States Marketing Corp. and Kenneth Walker**

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Southwestern States Marketing Corporation, and Kenneth Walker. This Proposed Remedial Order alleges pricing violations in the amount of \$32,872,175.00 plus interest in connection with the resale of crude oil at prices in excess of those permitted under 10 CFR Part 212, Subparts F and L during the time period September 1977 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mary Johnson, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Suite 200E, Dallas, Texas 75247 or by calling (214) 767-7483. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room: 6E-086, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 16th day of October, 1984.

Ben Lemos,

*Director, Dallas Field Office, Economic Regulatory Administration.*

[FR Doc. 84-29850 Filed 11-13-84; 8:45 am]

BILLING CODE 6450-01-M

#### **Proposed Remedial Order; Tomlinson Petroleum, Inc. and Tomlinson Interests, Inc.**

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of Proposed Remedial Order to Tomlinson Petroleum, Inc. and Tomlinson Interests, Inc.

**SUMMARY:** Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy

(DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Tomlinson Petroleum, Inc. and Tomlinson Interests, Inc. (Tomlinson), 1212 Mam Street, Suite 200, Houston, Texas 77003. This Proposed Remedial Order alleges that Tomlinson charged prices in excess of its actual purchase prices in violation of 10 CFR 212.186, 210.62(c) and 205.202 during the months October 1979 and February, June, and October of 1980 in the amount of \$74,204,159.00. In addition, the Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.183 during the period October 1979 through November 1980 in the amount of \$37,533,533.00.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearing and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Sandra K. Webb,  
Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 84-29852 Filed 11-13-84; 8:45 am]  
BILLING CODE 6450-01-88

[Docket No. ERA 82-16-NG]

**Pacific Gas Transmission Co.; Conditional Authorization To Import Natural Gas From Canada**

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of issuance of conditional order granting amendments to authorization to import natural gas from Canada.

**SUMMARY:** The Economic Regulatory Administration gives notice that the ERA Administrator on November 1, 1984, issued an Opinion and Order granting a conditional authorization to Pacific Gas Transmission Company (PGT) which, when made final, would allow PGT to import an additional 1.9 Tcf of natural gas from Canada during the period November 1, 1985, through October 31, 1993. The incremental increase in authorized volumes will permit PGT to continue to import natural gas at its currently authorized level of 1023 MMcf per day through October 31,

1993. This authorization is conditioned on a showing by PGT prior to the flow of the additional gas on November 1, 1985, that PGT's import arrangement will provide competitively priced gas in the market served. A copy of the Opinion and Order is attached.

**FOR FURTHER INFORMATION CONTACT:**

Stanley C. Vass, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA-017B, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9432.

Michael T. Skinker, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667

Issued in Washington, D.C., on November 7, 1984.

James W. Workman,  
Director, Office of Fuels Programs, Economic Regulatory Administration.

Pacific Gas Transmission Co., ERA Docket No. 82-16-NG. Conditional Order Granting Amendments to Authorization to Import Natural Gas From Canada. DOE/ERA Opinion and Order No. 63

November 1, 1984.

**I. Background**

The Pacific Gas Transmission Company (PGT) is currently authorized to import up to 1023 MMcf per day of Canadian natural gas from Alberta and Southern Gas Company, Ltd. (Alberta and Southern), on an average daily basis, and an annual contract quantity of 373,500 MMcf through October 31, 1985. Thereafter, authorized volumes began to decline and expire completely on October 31, 1993.<sup>1</sup>

On October 23, 1982, PGT filed two applications with the Economic Regulatory Administration (ERA) to amend its authorization to permit PGT to continue to import natural gas at its currently authorized level of 1023 MMcf

<sup>1</sup> Under FERC Docket Nos. CP 63-343 and CP 63-347, March 13, 1970 (43 FPC 418), PGT is currently authorized to import the following volumes:

Period	Annual volumes* (MMcf)	Average daily volumes (MMcf/d)
Present to 10/31/85	370,000	1,023
11/1/85 to 10/31/88	335,070	839
11/1/88 to 10/31/93	159,000	430
11/1/89 to 10/31/93	77,745	213

\*Annual volumes were determined by multiplying average daily volumes by 365.

per day through October 31, 2000. On June 7, 1983, PGT amended these applications to change the proposed ending date from October 31, 2000, to October 31, 1993.<sup>2</sup> The change corresponds to the period that Alberta and Southern is authorized to export natural gas by the Canadian National Energy Board (NEB).<sup>3</sup> This request represents a total increase in authorized volumes of 1.9 Tcf. On July 13, 1983, the ERA consolidated PGT's two applications into this docket, ERA 82-16-NG.<sup>4</sup>

In support of its request, PGT stated that all the additional natural gas it is seeking to import would be sold to its parent company, the Pacific Gas and Electric Company (PG&E), to permit PG&E to continue to provide reliable service to gas customers in northern and central California. PGT asserted that continued access to Canadian natural gas supplies would assure the adequacy of future gas supplies to PGT's California market. As an indication of the reliability of the Canadian gas supply, PGT noted that the import has never been curtailed or cut back since it began more than 20 years ago. PGT requested expedited consideration of its application inasmuch as the NEB export authorization granted to Alberta and Southern in January 1983 is conditioned upon receipt of proof of January 31, 1935,

<sup>2</sup> Incremental volumes PGT has applied for:

Period	Annual volumes* (MMcf)	Average daily volumes (MMcf/d)
Present to 10/31/85		
11/1/85 to 10/31/88	67,525	185
11/1/88 to 10/31/93	220,655	603
11/1/89 to 10/31/93	235,630	610

\*Annual volumes were determined by multiplying average daily volumes by 365.

<sup>3</sup> Although Alberta and Southern applied to the NEB for authorization to continue to export natural gas through October 31, 2000, the NEB in its Omnibus Decision of January 27, 1983, authorized Alberta and Southern to export natural gas only through October 31, 1993. Under NEB Licenses GL-3, GL-35, GL-24, and GL-16, Alberta and Southern is currently authorized to export natural gas as follows:

Period	Yearly average (MMcf)	Average daily volumes* (MMcf/d)
Present to 10/31/85	**373,500	**1,023.3
11/1/85 to 10/31/88	274,768	753.0
11/1/88 to 10/31/92	154,117	422.0
11/1/89 to 10/31/93	44,000	122.0

\*The daily average volume was determined by dividing the yearly average by 365.

\*\*Volumes authorized for export generally equal to the level FERC is seeking to import through October 31, 1993. Thereafter, PGT's proposed export level exceeds the level currently authorized for export.

<sup>4</sup> 43 FR 32252, July 12, 1983.

of ERA's import authorization for the additional volumes.

In an April 15, 1984, supplemental filing in response to the Secretary of Energy's new policy guidelines for natural gas imports,<sup>5</sup> PGT requested a conditional authorization, subject to completion of negotiations with its supplier on pricing and minimum purchase terms for the incremental volumes. The company proposed to make a showing prior to November 1, 1985, the start-up date for the flow of the incremental volumes, that the import arrangement is in full compliance with the policy guidelines. PGT asserted that such a conditional authorization would provide the assurance that it seeks of the future availability of gas supplies to serve its California market.

PGT noted that a Canadian gas price competitive with available fuels in northern and central California for periods beginning after the then-scheduled end of the Canadian Volume Related Incentive Pricing (VRIP) program on October 31, 1984, could only be negotiated once changes in the Canadian gas export pricing policy were accomplished.

In its April 15, 1984, supplement, PGT cited the reductions in its minimum purchase obligations that it had negotiated with Alberta and Southern effective January 1, 1984, for the period January 1, 1984, through June 30, 1984, as evidence that it would be able to accomplish the changes needed in volume purchase terms to meet the competitiveness criteria in the policy guidelines. Under these reductions, PGT's minimum purchase levels were reduced to an annual take-or-pay level based on 60 percent of the daily contract quantity, an annual minimum purchase obligation of 40 percent of daily contract quantity, and no monthly minimum obligation.

On August 3, 1984, PGT indicated in comments submitted jointly with PG&E in this docket that the new Canadian pricing policy announced by the Canadian Government on July 13, 1984, paved the way for attainment of a competitive Canadian natural gas price. PGT stated that it intended to file a modified price for currently authorized imports that would be competitive in its market area, which it did on October 1, 1984. In that same filing, PGT stated that a separate filing would be made in this docket at an appropriate future date to incorporate the revised import terms into its pending application.

Under the original gas sale contract between PGT and Alberta and Southern, PGT was required to take or pay for 90

percent of the contract quantity of natural gas on an annual basis, and to physically take not less than 80 percent of contract quantity on a monthly basis or 75 percent of contract quantity on a daily basis. As a result of amendments to this contract in March 1981 and in June 1982, the daily contract quantity was reduced from 1023 MMcf of natural gas to 869.79 MMcf of natural gas, effective July 1, 1980, through June 30, 1984, thereby reducing PGT's minimum purchase requirements by about 15 percent for that period. Under the contract as amended, PGT may recover take-or-pay gas during any contract year by taking delivery of additional volumes over and above the required minimum average daily volume but not in excess of daily maximum volumes.

In its October 1, 1984, information filing, concerning its existing authorization, PGT submitted an amendment to its existing gas sale contract with Alberta and Southern reducing the price for Canadian natural gas which PGT is currently authorized to import, and superseding the volume revisions contained in the January 1, 1984, changes. The amendment is effective November 1, 1984, for currently authorized volumes. It provides for a commodity rate at the international border of \$2.99 (U. S.) per MMBtu which is subject to semi-annual review and adjustment, plus a demand charge based on actually incurred costs of transportation and shipping within Canada to the export point. This price structure is currently projected to result in an average delivered price at the California border of \$3.63 (U. S.) per MMBtu. The contract amendment also reduced PGT's take-or-pay obligation from 60 percent to 50 percent of daily contract quantity and eliminated the yearly, monthly, and daily minimum purchase obligations with respect to volumes PGT is currently authorized to import. The make-up of previously incurred take-or-pay gas by PGT is deferred for two contract years, until July 1, 1986, and then make-up of take-or-pay gas incurred before July 1, 1984, is limited to not more than 10 percent of the volume of gas actually taken by PGT during that contract year.

#### *II Interventions and Comments*

On July 13, 1983, a notice was issued by the ERA inviting comments or petitions to intervene by August 18, 1983.<sup>6</sup> A total of 16 petitions to intervene and three notices of intervention from state commissions were received.<sup>7</sup>

<sup>6</sup>48 FR 32852, July 19, 1983.

<sup>7</sup>Intervenors were:

1. Pacific Interstate Transmission Company.

Six intervenors opposed PGT's application.<sup>8</sup> The opposition to the PGT request focused on the issue of whether the Canadian natural gas would be competitive in the California market. These intervenors requested that trail-type hearings be held to determine whether the additional natural gas imports would adversely affect future development of domestic supplies and raise the cost of gas to California consumers, and to determine whether there was a regional need for the gas.

On July 5, 1984, a procedural order was issued by the ERA granting all interventions and providing an opportunity to comment and to request additional procedures with respect to PGT's application a supplemented on April 15, 1984. Responses were due by August 6, 1984, and answers to responses were due by August 21, 1984. The order stated that it was the Administrator's intention to grant the amended authorization as requested, subject to a showing by PGT, prior to the incremental flow of gas, that the import arrangement, as then structured, would provide natural gas competitively in the market served. Parties opposing the PGT application were advised that the proposed buyer-seller negotiated arrangement as presumed to be competitive unless the parties demonstrated otherwise.

2. El Paso Natural Gas Company.

3. U.S. Representative Bill Richardson.

4. Independent Petroleum Association of New Mexico.

5. Oklahoma Independent Petroleum Association.

6. Pacific Gas and Electric Company.

7. Public Utilities Commission of the State of California.

8. Oklahoma Corporation Commission.

9. Railroad Commission of Texas.

10. ARCO Oil and Gas Company, Division of Atlantic Richfield Company.

11. Southland Royalty Company.

12. Mesa Petroleum Company.

13. Sun Exploration and Production Company.

14. Getty Oil Company.

15. Rault Petroleum Corporation.

16. Ward Petroleum Corporation.

17. Mustang Production Company.

18. Harrell Energy Company.

19. Phillips Petroleum Company.

<sup>8</sup>The intervenors who opposed PGT's application were: (1) El Paso Natural Gas Company (El Paso), which is the Pacific Gas and Electric Company's (PG&E) major domestic supplier; (2) the Independent Petroleum Association of New Mexico (IPANM), whose members supply gas to El Paso; (3) U.S. Representative Bill Richardson (New Mexico), whose district includes one of El Paso's major supply areas; (4) the Oklahoma Independent Petroleum Association (OIPA), whose members supply gas to El Paso; (5) Harrell Energy Company (Harrell); and (6) Ward Petroleum Corporation (Ward), both of which are Oklahoma producers supplying El Paso.

<sup>5</sup> 49 FR 6684, February 22, 1984.

A total of 12 responses to the July 5, 1984, procedural order were received, ten of which were from parties.<sup>9</sup>

None of the parties objected to PGT's reduced minimum purchase obligations under the revised contract with Alberta and Southern for the period January 1, 1984, through June 30, 1985. El Paso, Mustang, and Representative Bill Richardson endorsed the reduction in PGT's minimum purchase obligations under its existing import arrangement.

However, all the parties asserted that PGT's proposed import arrangement could not be evaluated without knowing all the terms of the arrangement. For this reason, the parties, except Representative Richardson and the Public Utilities Commission of the State of California, indicated that action on PGT's proposal should be deferred until after all the terms of the proposed import were known and the parties were given an opportunity to comment thereon. Representative Richardson asserted that there should be an evidentiary hearing prior to ERA's final approval of the negotiations between PGT and Alberta and Southern to ensure that the public interest is protected. The Public Utilities Commission of the State of California stated that it did not object to approval of the proposed import project under the conditions stated in the ERA's July 5, 1984, procedural order.

PGT, jointly with PG&E, filed the only answer to these responses. PGT observed that several of the responses reiterated earlier comments about the impact of PGT's minimum purchase obligations and noted that changed circumstances now have given exporters and U.S. buyers flexibility to negotiate prices which are competitive in the markets served. PGT also noted that it seeks to continue a reliable source of supply for the California market. PGT's import represents about 40 percent of PG&E's available supply.

<sup>9</sup>The parties responding were: (1) El Paso Natural Gas Company; (2) U.S. Representative Bill Richardson; (3) Phillips Petroleum Company, a major supplier of natural gas to the California market; (4) Rault Petroleum Corporation, a gas producer supplying El Paso from wells in New Mexico; (5) Mustang Production Company, an Oklahoma gas producer supplying El Paso; (6) and (7) the applicant, PGT, and its sole resale customer PG&E; (8) the Railroad Commission of Texas; (9) the Oklahoma Corporation Commission; and (10) the Public Utilities Commission of the State of California. Each of the state commissions responding have regulatory responsibilities over natural gas in their respective states. Two responses were received from other than parties to the proceeding: The Energy and Minerals Department of the State of New Mexico and the AN-SON Corporation, and Oklahoma gas producer.

### III. Decision

PGT's application has been evaluated to determine if the arrangement meets the public interest requirements of Section 3 of the Natural Gas Act. Under Section 3, an import is to be authorized unless there is a finding that it "will not be consistent with the public interest."<sup>10</sup> The Administrator is guided by the Secretary of Energy's policy relating to the regulation of natural gas imports.<sup>11</sup> Under these policy guidelines, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test. The need for the import and the security of the import supply are other considerations.

In this case, PGT has asked for a conditional order for the proposed incremental volumes of imported gas to provide a measure of assurance that it will have adequate future gas supplies to satisfy the California market. The decision must balance the applicant's stated need for assurances of long-term supplies with the parties' concern about whether PGT's import will be competitive and market-responsive.

In assessing the intervening parties' concern, we note that PGT has not yet completed the required demonstration of the competitiveness of the incremental volumes of gas proposed for import. However, PGT has demonstrated that a good faith effort to achieve arrangement is underway. PGT has achieved a new pricing structure for gas it is currently authorized to import, effective November 1, 1984, and expects to request approval to apply those terms to the incremental volumes covered by this application at a future date. This arrangement also includes changes in the take-or-pay and minimum purchase provisions that PGT asserts will reduce the cost of this gas in its market and make it competitive.

By requesting that an order be issued conditioned upon achievement of a competitive, market-responsive import arrangement, PGT recognizes that the application before this agency is not yet in full compliance with the policy guidelines. While several of the parties have indicated that action on PGT's application should be deferred until all the terms of its import arrangement are known and commented upon, none of the parties has expressed any strong objection to issuance of the requested conditional order so long as the opportunity is provided to comment and request additional procedures before a final opinion and order is issued.

<sup>10</sup>15 U.S.C. § 717b.

<sup>11</sup>49 FR 6684, February 22, 1984.

In evaluating PGT's concern for long-term assurance of adequate supplies, it is noted that none of the parties has suggested that the needs of the northern and central California market can be met solely from domestic sources of natural gas or that competitively priced Canadian gas is not needed in that market. No one has directly challenged PGT's assessment of its future gas needs. What the parties have questioned is whether Canadian gas is the appropriate choice for meeting those needs if it is not competitive in the markets served.

Therefore, it is considered appropriate in this case to conditionally authorize the import as requested.<sup>12</sup> The applicant asserts that this will provide a measure of assurance that future gas supplies will be available for the California market. It is concluded, on balance, that continuation of the existing supply of Canadian natural gas for the California market through October 31, 1993, is reasonable and consistent with the policy guidelines, provided that PGT shows, prior to the flow of the gas under the proposed import, that the arrangement, including the pricing and minimum purchase terms, would be competitive in the markets served. The competitiveness of PGT's import arrangement will be fully evaluated in an ERA proceeding before final action is taken. Parties will be given an opportunity to comment on all aspects of the import arrangement and to request additional procedures when PGT applies to make the authorization final.

Accordingly, I find that a conditional order is not inconsistent with the public interest, and thus should be granted.

### Order

For the reasons set forth above, pursuant to Section 3 of the Natural Gas Act, it is ordered that:

A. The import authorization previously issued by the Federal Power Commission to Pacific Gas Transmission Company (PGT) under Docket Nos. G-17350, G-17351 and G-17352 on August 5, 1960 (24 FPC 134), as amended in Docket Nos. CP 65-213, CP 65-214 and CP 65-215 on June 14, 1966 (35 FPC 1003), as amended in Docket Nos. CP 67-187 and CP 67-188 on October 30, 1968 (40 FPC 1147), and as

<sup>12</sup>Because the proposed importation of gas will use existing pipeline facilities, DOE has determined that granting this application is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act and therefore an environmental impact statement or environmental assessment is not required.

amended in Docket Nos. CP 69-346 and CP 69-347 on March 13, 1970 (43 FPC 418), is hereby further amended to increase the authorized volumes to permit PGT to import up to 1023 MMcf of Canadian natural gas per day for the period November 1, 1985 through October 31, 1993.

B. The amendment set forth in ordering paragraph A above is conditioned on a showing by PGT, prior to the start of the flow of the gas on November 1, 1985, that PGT's import arrangement, as then structured, is competitive in the PG&E markets. Paragraph A becomes effective only upon the issuance of a final opinion and order by the Administrator approving such amendment.

Issued in Washington, D.C., November 1, 1984.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 84-29781 Filed 11-13-84; 8:45 a.m.]

BILLING CODE 6450-01-M

### Office of Energy Research

#### Energy Research Advisory Board Demand Subpanel of the Energy R&D Strategy Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Demand Subpanel of the Energy R&D Strategy Panel of the Energy Research Advisory Board

Date and time: December 5, 1984—8:30 a.m.—5:00 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 6A-110, Washington, D.C. 20585

Contact: William L. Woodard, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-8933

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

#### Agenda:

- Discussion of Draft Subpanel Report
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Subpanel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

The Chairperson of the Subpanel empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 84-29782 Filed 11-13-84; 8:45 am]

BILLING CODE 6450-01-M

#### Energy Research Advisory Board International R&D Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: International R&D Panel of the Energy Research Advisory Board (ERAB)

Date & time: December 17, 1984—12:00 Noon—6:00 p.m., December 18, 1984—9:00 a.m.—4:00 p.m., December 19, 1984—9:00 a.m.—12:00 Noon

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4A-110, Washington, D.C. 20585

Contact: William L. Woodard, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-5444

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

#### Tentative Agenda

##### December 17

- Introduction and Discussion of Status Review Papers
- Fusion Research
- High Energy Physics
- R&D in Clean Combustion of Coal
- Public Comment (10 minute rule)

##### December 18

- R&D in Nuclear Waste
- R&D in Synfuels
- Meeting with Assistant Secretary and Deputy Assistant Secretary for International Affairs and Energy Emergencies
  - European Perspectives on International Cooperation
  - Panel Discussion; Future Meeting Schedule
  - Public Comment (10 minute rule)

##### December 19

- R&D in Global Health and Environment
- CO<sub>2</sub> and Climate R&D
- Panel Discussion
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William L. Woodard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 30, 1984.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 84-29783 Filed 11-13-84; 8:45 am]

BILLING CODE 6450-01-M

### Federal Energy Regulatory Commission

[Docket No. CP85-43-000]

#### Bear Creek Storage Co., Application

November 7, 1984.

Take notice that on October 17, 1984, Bear Creek Storage Company (Bear Creek), P.O. Box 82, Bienville, Louisiana 71008, filed in Docket No. CP85-43-000 an application pursuant to section 7 of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the installation of a portable field compressor and appurtenant piping and the withdrawal of storage gas for delivery to Southern Natural Gas Company (Southern), all incident to its compliance with a court-ordered test of the T.J. Cummings No. 1 Well penetrating its storage reservoir in the Bear Creek Field of Bienville Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Bear Creek seeks authorization for: (1) The temporary re-completion of the T.J. Cummings No. 1 Well (test well) in the lower zone of the Pettit Limestone Reservoir, (2) the installation of a portable field compressor and approximately 1,700 feet of 4-inch pipeline necessary for the recovery of storage gas (which would otherwise be lost during testing) and for the delivery of such gas to Southern at its existing delivery point at the Bienville compressor station, (3) the withdrawal from the test well and the delivery through the temporary facilities of storage gas during the test period for the account of Southern, and (4) the reworking of the test well upon completion of the production test for the purpose of once again eliminating its ability to produce from the Pettit Limestone Reservoir. The cost of the proposal is estimated to be \$285,050.

Bear Creek states that it is filing the application in compliance with an order, effective September 28, 1984, of the Louisiana First Circuit Court of appeals, which directed, within 60 days, tests on the T.J. Cummings No. 1 Well to determine its productivity.

Any person desiring to be heard or to make any protest with reference to said application should on or before

November 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 application 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 Bear Creek to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-2370 Filed 11-13-84; 845 am]  
BILLING CODE 6717-01-M

[Docket No. CP85-15-000]

#### **K N Energy, Inc.; Application**

November 7, 1984.

Take notice that on October 9, 1984, K N Energy, Inc. (K N), Lakewood, Colorado, 80215, filed in Docket No. CP85-15-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain compression facilities on K N's system in Colorado and to abandon, in place, approximately 6.8 miles of 2-inch lateral pipeline in Nebraska, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is explained that K N is currently limited in its ability to take its annual contract obligations from certain producing fields in the Niobrara, Colorado, area due to inadequate facilities. K N states that the relocation of an existing 800 horsepower reciprocating compressor from Ft. Laramie, Wyoming, compressor station to Buckboard compressor station would alleviate the capacity restrictions in its gathering system. It is submitted that the 2-inch pipeline is paralleled with a 4-inch pipeline and operating experience has shown that the 4-inch pipeline would be adequate to serve downstream customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 the 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 application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are 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 K N to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-2370 Filed 11-13-84; 845 am]  
BILLING CODE 6717-01-M

[Docket No. RP85-13-000]

#### **Northwest Pipeline Corp.; Proposed Changes in FERC Gas Tariff**

November 7, 1984

Take notice that Northwest Pipeline Corporation (Northwest) on October 31, 1984 tendered for filing proposed changes in its FERC Gas Tariff, First Revision Volume No. 1 and Original Volume No. 2. The proposed changes would increase jurisdictional revenues by \$57,797,602, inclusive of transportation services, annually based on the twelve-month period ending June 30, 1984, as adjusted. Northwest has proposed that the increased rates and tariff sheets filed herein be effective December 1, 1984.

Northwest states that the requested rate increase is to recover its jurisdictional cost of service for the twelve months ended June 30, 1984, as adjusted for changes through March 31, 1984. Northwest states that the principal reasons for the requested increases are:

(1) Increases in gas plant and related cost of service items; (2) increased cost of capital; (3) increased rents, transportation of gas by others, and other operation and maintenance expenses; and (4) decreased sales volumes.

Northwest states that copies of this filing were served on the Company's

jurisdictional customers and affected state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 14, 1984. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-29790 Filed 11-13-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. C185-29-000]

**Odeco Oil & Gas Co., Application for a Certificate and for Partial Limited-Term Abandonment**

November 7, 1984

Take notice that on October 26, 1984, Odeco Oil & Gas Company (Applicant) of P.O. Box 61780, New Orleans, Louisiana 70161, filed an application pursuant to the provisions of the Natural Gas Act and the Commission's rules and regulations thereunder for a certificate of public convenience and necessity to (i) authorize sales of natural gas for resale in interstate commerce under a special marketing program, (ii) permit limited term partial abandonment for the gas sold under the program, (iii) confer pre-granted abandonment for sales of gas actually sold under the certificate, (iv) allow transportation of the natural gas by interstate pipelines able and willing to participate, and (v) confer pre-granted abandonment for transportation services allowed under the certificate.

Sales will be made to those parties allowed to purchase under the Commission's Order issued September 26, 1984 in Docket No. C183-269-000, *et al.*

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make protest with reference to said application should on or before November 19, 1984, file with the Federal Energy Regulatory

Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirement of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

FR Doc. 84-29791 Filed 11-13-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. G-8736-000]

**Orange and Rockland Utilities, Inc., Petition To Amend**

November 7, 1984.

Take notice that on October 15, 1984, Orange and Rockland Utilities, Inc. (Petitioner), One Blue Hill Plaza, Pearl River, New York 10965, filed in Docket No. G-8763-000 a petition to amend the order issued June 10, 1955,<sup>1</sup> in Docket No. G-8736, as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize the transfer of Petitioner's gas sales for resale service provided to its wholly-owned subsidiary, Rockland Electric Company (Rockland Electric), to Petitioner's existing Rate Schedule CS-1, instead of the Rate Schedule S-1 under which the service is presently authorized, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the requested change is necessary because Rate Schedule S-1 referred to the Ford Motor Company assembly plant in Mahwah, New Jersey, served by Rockland Electric has been shut down. Petitioner further states that new industrial and commercial tenants plan to occupy the plant. Petitioner proposes to provide Rockland Electric with gas under its Rate Schedule CS-1, which Rockland Electric would use to serve the new occupants.

Petitioner avers that the June 10, 1955, order issuing the certificate in this docket did not specify a particular level

<sup>1</sup>This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (d10 CFR 1000.1), it was transferred to the Commission.

of volumes. Petitioner requests that the transfer of service to Rate Schedule CS-1 be authorized up to 1,5000 Mcf of natural gas per day, the maximum delivery quantity specified in the previous Rate Schedule S-1 service agreement which would be superseded by a new Rate Schedule CS-1 service agreement. Petitioner further avers that it anticipates initial sales to Rockland Electric of approximately 22,500 Mcf per year and maximum daily demand of 237 Mcf and that Rockland Electric's requirements would increase in subsequent years as more customers occupy the Mahwah plant. Petitioner avers that if new customers occupy the Mahwah plant its Rate Schedule CS-1 provided a method increased volumes of sales.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-29792 Filed 11-13-84; 8:45 am]  
BILLING CODE 6717-10-M

[Docket No. CP85-24-000]

**Piedmont Natural Gas Company, Inc.; Application**

November 7, 1984.

Take notice that on October 12, 1984, Piedmont Natural Gas Company, Inc. (Applicant), 1915 Rexford Road, Charlotte, North Carolina 28233, filed in Docket No. CP85-24-000 an application pursuant to section 7(f) of the Natural Gas Act for a determination that its distribution system extending across the North Carolina-South Carolina state line into York County, South Carolina, is a service area within which Applicant may enlarge or extend its facilities for the purpose of supplying increased market demands in such area without

further Commission authorization, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its utility operations are subject to regulations by the North Carolina Utilities Commission and the Public Service Commission of South Carolina (PSCSC) as to rates, services area, adequacy of service, allocation of gas, safety standards, extensions and abandonment of facilities, and accounting and depreciation. It is further stated that the city of Charlotte, Mecklenburg County, North Carolina, and its environs is presently served by Applicant. It is explained that Charlotte's environs have recently extended across the North Carolina-South Carolina state line into South Carolina and that Applicant has been requested to extend its gas facilities across said state lines for the purpose of serving customers in this expanding area which is contiguous to its existing service area. Applicant states that there are presently no other gas facilities available to deliver natural gas to customers in the area in York County, South Carolina, which Applicant proposes to serve.

It is asserted that none of the gas which Applicant would transport into South Carolina would be for resale. It is further asserted that all rates charged by Applicant for any gas transported across the state line into South Carolina and sold in South Carolina would be subject to the jurisdiction of the PSCSC. Applicant submits that in order to construct the facilities necessary and to perform the service proposed herein, it would obtain the approval of the PSCSC.

Applicant states that it has adequate peak, day and annual gas supplies to serve the area in question and has determined that the proposed extension of service into this contiguous area is economically feasible.

Applicant, therefore, requests the Commission to define its service area pursuant to section 7(f) of the Natural Gas Act and to authorize it to construct the facilities necessary without further authorization from the Commission and to find that the rates to be charged in the defined service area are not subject to the jurisdiction of the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211).

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 section 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 application 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 determination of a service area is required. 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-23783 Filed 11-13-84; 6:45 am]  
BILLING CODE 6717-01-M

[Docket No. CP85-25-000]

**Piedmont Natural Gas Company, Inc.;  
Application**

November 7, 1984.

Take notice that on October 12, 1984, Piedmont Natural Gas Company, Inc. (Applicant), 1915 Rexford Road, Charlotte, North Carolina 28233, filed in Docket No. CP85-25-000 an application pursuant to section 7(f) of the Natural Gas Act for a determination that its distribution system extending across the North Carolina-South Carolina state line into Lancaster County, South Carolina, is a service area within which Applicant may enlarge or extend its facilities for the purpose of supplying increased market demands in such area without further Commission authorization, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its utility operations are subject to regulation by the North Carolina Utilities Commission and the Public Service Commission of South Carolina (PSCSC) as to rates, service area, adequacy of service,

allocation of gas, safety standards, extensions and abandonment of facilities, and accounting and depreciation. It is further stated that the city of Charlotte, Mecklenburg County, North Carolina, and its environs is presently served by Applicant. It is explained that Charlotte's environs have recently extended across the North Carolina-South Carolina state line into South Carolina and that Applicant has been requested to extend its gas facilities across said state lines for the purpose of serving customers in this expanding area which is contiguous to its existing service area. Applicant states that there are presently no other gas facilities available to deliver natural gas to customers in the area in Lancaster County, South Carolina, which Applicant proposes to serve.

It is asserted that none of the gas which Applicant would transport into South Carolina would be for resale. It is further asserted that all rates charged by Applicant for any gas transported across the state line into South Carolina and sold in South Carolina would be subject to the jurisdiction of the PSCSC. Applicant submits that in order to construct the facilities necessary and to perform the service proposed herein, it would obtain the approval of the PSCSC.

Applicant states that it has adequate peak day and annual gas supplies to serve the area in question and has determined that the proposed extension of service into this contiguous area is economically feasible.

Applicant, therefore, requests the Commission to define its service area pursuant to section 7(f) of the Natural Gas Act and to authorize it to construct the facilities necessary without further authorization from the Commission and to find that the rates to be charged in the defined service area are not subject to the jurisdiction of the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protest 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 application 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 determination of a service area is required. 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29784 Filed 11-13-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. CP84-739-000]

#### Southwest Gas Corp.; Application

November 7, 1984.

Take notice that on September 26, 1984, Southwest Gas Corporation, P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP84-739-000 an application pursuant to section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Southwest states that authorization to tap its transmission lines and install measuring facilities would permit it to make direct sales to small commercial and industrial users located on or near its transmission facilities without the delay inherent in the preparation, filing for, and approval of application for certificate of public convenience and necessity governing such sales. Southwest also requests waiver of §§ 157.211(b)(2) and 157.211(c)(2) of the Commission's Regulations to the extent necessary to permit Southwest to construct and operate sales taps under the prior notice procedure of § 157.205 to

serve residential, commercial, and industrial retail customers which are not presently served by Southwest at other locations. Southwest asserts that it is primarily a local distribution company. Southwest specifically states that along its northern Nevada jurisdictional system, it makes jurisdictional sales for resale of natural gas to two customers which distribute gas for ultimate consumption in the areas of Reno and Sparks, Nevada, and South Lake Tahoe, California. Southwest further states that outside of those communities, it is the retail gas distributor along its jurisdictional system, and is viewed by the general public and state and local regulatory authorities as the local gas company. Southwest also stated that it must often install additional sales taps on its jurisdictional system in order to render service to new retail customers, but that presently it must obtain Commission authorization on a case-by-case basis each time a new retail customer desires service. Southwest further asserts that in light of its operational circumstances, the public interest would be served by authorizing Southwest to install such taps under the blanket certificate notice procedure. Southwest also states that it is not prohibited by its tariff from adding delivery points to make such sales.

Any person desiring to be heard or to make any protest with reference to said application should on or before

November 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 application 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 and permission and approval for the proposed abandonment are 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 Southwest to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29785 Filed 11-13-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP85-16-000]

#### Stingray Pipeline Co., Change in Tariff

November 7, 1984.

Take notice that on November 1, 1984 Stingray Pipeline Company (Stingray) tendered for filing First Revised Sheet No. 1, Thirteenth Revised Sheet No. 4, Second Revised Sheet No. 10, Second Revised Sheet No. 15, Sixth Revised Sheet No. 40, First Revised Sheet No. 45, Original Sheet No. 70-A, Original Sheet No. 70-B, and Third Revised Sheet No. 71 to its FERC Gas Tariff, Original Volume No. 1. An effective date of April 1, 1985 was proposed.

Stingray submits that these revised tariff sheets reflects a rate adjustment due to the reduction in Transportation Quantities of Stingray's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 14, 1984. 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 file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29786 Filed 11-13-84; 8:43 am]  
BILLING CODE 6717-01-M

[Docket No. CP79-338-001]

**Texas Eastern Transmission Corp.,  
Petition To Amend**

November 7, 1984.

Take notice that on October 19, 1984, Texas Eastern Transmission Corporation (Petitioner), Post Office Box 2521, Houston, Texas 77252, filed in Docket CP79-338-001 a petition to amend the Commission's order issued May 30, 1980, in Docket No. CP79-338-000 pursuant to section 7(c) of the Natural Gas Act by authorizing an extension of the term of the transportation and exchange service presently being provided to South Jersey Gas Company (South Jersey) until December 31, 1986, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner began transportation and exchange of up to 3,500 dt equivalent of natural gas per day for South Jersey on August 1, 1979. Petitioner states that it receives the gas from Algonquin Gas Transmission Company by displacement at Petitioner's M and R Station 1078 or at other mutually agreeable points of interconnection. Petitioner explains that it then exchanges with and/or transports the gas to Transcontinental Gas Pipe Line Corporation (Transco), for the account of South Jersey, at a point of interconnection between Petitioner and Transco (M and R Station No. 919) or at other mutually agreeable points of interconnection and that Transco then delivers the gas to South Jersey at existing points of interconnection between South Jersey and Transco. Petitioner requests that the extension be pursuant to a new letter agreement dated September 28, 1984, which is based on Petitioner's Rate Schedule X-112 that is on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-23797 Filed 11-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-31-000]

**United Gas Pipe Line Co.; Application**

November 7, 1984.

Take notice that on October 15, 1984, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85-31-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing construction and operation of facilities and for permission and approval to abandon certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is engaged in a multi-year project to renovate and modernize the operations of its transmission system. Therefore, Applicant proposes to replace 12.75 miles of 18-inch loopline on its existing Baton Rouge-New Orleans line with 12.75 miles of 20-inch pipeline and an 8-inch regulator station at the north end of the replacement located in Ascension and East Baton Rouge Parishes, Louisiana. Applicant explains that the existing line, which was installed in 1927, is a Dresser coupling connected line with high maintenance costs. Applicant further explains that the existing line would be abandoned in place, with possible removal and salvage of some portions of the line. It is indicated that the estimated cost of the proposed facilities is \$7,730,000, including filing fees.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 application 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 and permission and approval for the proposed abandonment are 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-23793 Filed 11-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-56-000 and TA85-1-56-001]

**Valero Interstate Transmission Co.;  
Change in Rates Pursuant to  
Purchased Gas Cost Adjustment  
Provisions**

November 7, 1984.

Take notice that on October 31, 1984, Valero Interstate Transmission Company ("Vitco") tendered the following filings containing changes in rates pursuant to purchased gas cost adjustment provisions:

Original Supplement No. 46 to FERC Gas Rate Schedule No. 1, For Sale of Gas by Vitco to Natural Gas Pipeline Company of America;

Original Supplement No. 126 to FERC Gas Rate Schedule No. 2, For Sale of Gas by Vitco to Transcontinental Gas Pipe Line Corporation; and

Original Supplement No. 22 to FERC Gas Rate Schedule No. 14, For Sale of Gas by Vitco to El Paso Natural Gas Company.

6th Revised Sheet No. 14 Superseding 5th Revised Sheet No. 14 of Vitco FERC Gas Rate Schedule T-1.

Vitco states that the rates stated on Exhibit A to each of the rate schedule supplements and 6th Revised Sheet No. 14 to Rate Schedule T-1 reflects the change in purchased gas costs based on the six months ended August 31, 1984.

The change in rate provided in Exhibit A to Original Supplement No. 46 to Rate Schedule No. 1 includes a decrease in purchased gas costs of 16.04¢ per Mcf and a negative surcharge of 31.60¢ per Mcf. The change in rate provided in Exhibit A to Original Supplement No. 126 to Rate Schedule No. 2 includes a decrease in purchase gas costs of 13.51¢ per Mcf and a surcharge of 312.76¢ per Mcf. The change in rate provided in Exhibit A to Original Supplement No. 22 to Rate Schedule No. 14 includes an increase in purchased gas costs of 12.38¢ per Mcf and a surcharge of 13.25¢ per Mcf. The change in rate provided on 6th Revised Sheet No. 14 to Rate Schedule T-1 includes an increase in purchased gas cost of 1.13¢ per Mcf and a negative surcharge of 14.73¢ per Mcf. The surcharge in each instance is designed to eliminate the balance in the deferred purchased gas cost account.

Vitco states that these rates include no incremental pricing factor because Vitco was granted an exemption from certain filing and accounting requirements in Docket No. SA80-42.

The proposed effective date for the above filings is December 1, 1984. Vitco requests a waiver of any Commission regulations or order which would prohibit implementation by December 1, 1984.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before November 14, 1984. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-20989 Filed 11-13-84; 8:45 am]  
BILLING CODE 6717-01-M

**[Docket No. CP81-395-001]  
Acadian Gas Pipeline System;  
Application To Extend Service**

November 9, 1984.

Take notice that on November 7, 1984, Acadian Gas Pipeline System (Applicant), 1200 Milam Street, Suite 2700, Houston, Texas, 77002, filed in Docket No. CP81-395-001 an application, pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978, requesting authorization to extend for a three-year term its transportation service on behalf of Columbia Gas Transmission Company (Columbia) heretofore rendered pursuant to Commission authorization received October 2, 1981, in Docket No. CP81-395-000 (17 FERC ¶ 61,022), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on October 2, 1981, it received Commission authorization to transport up to 16,200 dekatherms (dt) equivalent of natural gas per day on behalf of Columbia through a period expiring November 20, 1984. Applicant further states that it was authorized to receive the gas at the outlet of Exxon Company, USA's, Garden City Plant in St. Mary's Parish, Louisiana, and deliver a thermally equivalent amount to Union Carbide Corporation (Union Carbide) for Columbia's account at Union Carbide's plant near Taft, Louisiana.

Applicant proposes to extend the above-described service for an additional three-year period, expiring November 20, 1987. Applicant proposes to charge a transportation rate equal to 15.5 cents per dt equivalent of natural gas, based upon settlement rates reached in Docket Nos. ST80-299 and ST80-366. Applicant estimates that it will transport up to 16,200 dt equivalent of natural gas per day and a total of up to 17,739,000 dt equivalent of natural gas over the three-year period.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-20989 Filed 11-13-84; 8:45 am]  
BILLING CODE 6717-01-M

**Office of Hearings and Appeals**

**Cases Filed; Week of October 12 Through October 19, 1984**

During the Week of October 12, through October 19, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: November 6, 1984.  
George B. Broznay,  
Director, Office of Hearings and Appeals.

**LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS**

[Week of October 12 through October 19, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 24, 1984	Ralph Pedler, Dallas, TX	HRD-0242 and HRH-0242	Motion for discovery and request for evidentiary hearing. If granted, Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Ralph Pedler in response to the May 10, 1984, Proposed Remedial Order (Case No. HRC-0231) issued to him.

## LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of October 12 through October 19, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 15, 1984	Murphy Oil Corp., Washington, DC	HRD-0244	Motion for discovery. If granted: Discovery would be granted to Murphy Oil Corp. in connection with the Statement of Objections submitted in response to the Apr. 16, 1984, Proposed Remedial Order (Case No. HRD-0244) issued to Murphy Oil Corp.
Oct. 18, 1984	Laketon Asphalt Refining, Inc., Washington, DC	HEE-0095	Request for modification/rescission. If granted: The Office of Hearings and Appeals' Sept. 19, 1984, Decision and Order (Case Nos. HEE-0051, HEZ-0210, and HEZ-0214) would be rescinded, and the Department of Interior's request for exception relief from the provisions of 10 CFR Part 212 with respect to its sales of royalty crude oil to Laketon Asphalt Refining, Inc. would be removed to the Federal Energy Regulatory Commission.
Oct. 17, 1984	Economic Regulatory Administration, Houston, TX	HRZ-0223	Intermediary Order. If granted: The Jan. 18, 1984, Proposed Remedial Order issued to Revco Petroleum Corp. and Gordon H. Wake (Case No. HRO-0105) would be amended to join five new parties and delete two alternative regulatory violations.
Do	Laketon Asphalt Refining, Inc., Washington, DC	HRD-0243	Motion for discovery. If granted: Discovery would be granted to Laketon Asphalt Refining, Inc. in connection with the firm's Motion for Modification/Rescission (Case No. HEE-0095).
Oct. 18, 1984	A&K Oil Service, Inc., Bristol, RI	HEE-0105	Exception to the Reporting Requirements. If granted: A&K Oil Service, Inc. would not be required to file Form EIA-782B, "Retailer/Retailers' Monthly Petroleum Product Sales Report".
Do	Andi-Co Appliances, Inc., Fort Lee, NJ	HEE-0103	Temporary Exception. If granted: Andi-Co Appliances, Inc. would receive a temporary exception from testing 100 units of the AEG dishwasher model 203/205, a dishwasher which can use cold inlet water, according to certain requirements of 10 CFR, Part 430, Subpart B, Appendix C, pending a final determination on the firm's Application for Exception (Case No. HEE-0103).
Do	Griffin, Branigan & Butler, Arlington, VA	HFA-0225	Appeal of an Information Request Denial. If granted: The Sept. 17, 1984, Freedom of Information Request Denial issued by the Chicago Operations Office would be rescinded, and Griffin, Branigan & Butler would receive access to the requested sections of a contract pricing proposal by Dico.
Do	Raymond D. Reister, Hamilton, OH	HFA-0254	Appeal of an Information Request Denial. If granted: Raymond D. Reister would receive access to copies of information pertaining to him or to certain "Death-Ray Beam plans" submitted to the Lawrence Livermore National Laboratory in 1973.
Do	Thomas P. Reidy, Inc., Washington, DC	HRZ-0222	Intermediary Order. If granted: The Office of Hearings and Appeals would compel the Economic Regulatory Administration to respond to certain interrogatories submitted by Thomas P. Reidy, Inc. (Case No. HRR-0090).
Oct. 18, 1984	Elk Hills Waste Watch Committee, Bakersfield, CA	HFA-0255	Appeal of an Information Request Denial. If granted: Elk Hills Waste Watch Committee would receive access to pages 25 and 26 which were deleted from a report released to the Committee entitled "Investigation Report on the Explosion and Fire Resulting in One Fatality and One Injury at the 35R Gas Plant."

## REFUND APPLICATIONS RECEIVED

[Week of October 12 to October 19, 1984]

Date	Name of refund proceeding/ name of refund applicant	Case No. Assigned
10/12/84	Northeast Petroleum Industries/ Rhode Island	RQ25-122
10/15/84	Gulf/Machise Interstate Trans. Co.	RF40-142
10/15/84	Gulf/Donald A. Potter	RF40-143
10/15/84	Gulf/Ed's Springfield Gulf	RF40-144
10/15/84	Gulf/Larty's Gulf	RF40-145
10/16/84	Gulf/Abbott Service Station	RF40-146
10/17/84	Gulf/Minich's Gulf Service	RF40-147
4/2/84	WES/Fort LeBoeuf School District	RF41-11
10/17/84	Gulf/Balou Park Gulf, Inc.	RF40-148
10/18/84	Gulf/State of Maine	RF40-149
10/18/84	Gulf/Chuck Johns Gulf Service	RF40-150
10/19/84	Gulf/Houston Oil Co.	RF40-151
10/19/84	Amoco/Rhode Island	RQ21-123

[FR Doc. 84-29785 Filed 11-13-84; 8:45 am]

BILLING CODE 6950-01-M

### Issuance of Decisions and Orders; Week of October 8 Through October 12, 1984

During the week of October 8 through October 12, 1984, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a

list of submissions that were dismissed by the Office of Hearings and Appeals.

#### Remedial Order

##### *Petro-Thermo Corporation, 10/9/84; HRO-0133*

Petro-Thermo Corporation objected to a Proposed Remedial Order which the Southwest District of the Economic Regulatory Administration (ERA) issued to the firm on February 18, 1983. In the Proposed Remedial Order, the ERA found that during the period November 1973 through December 1979, Petro-Thermo, as a reseller of crude oil, had sold crude oil at prices exceeding the applicable ceiling prices under the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subparts F and L. After considering Petro-Thermo's objections, the DOE concluded that Petro-Thermo was a producer of the crude oil that it reclaimed from waste oil, and a reseller of the condensate it mixed with that crude oil. The DOE concluded that Petro-Thermo was entitled to receive lower-tier ceiling prices for the reclaimed oil it produced, and that the Proposed Remedial Order should be issued as a final order, with modifications to the remedial provisions.

#### Motion for Discovery

##### *Pel-Star Energy, Inc., 10/10/84; HRD-0160, HRH-0160*

Pel-Star Energy, Inc., James C. Stevens and John H. Harvison (collectively "Pel-Star")

filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with a Statement of Objections to a Proposed Remedial Order issued to Pel-Star by the Economic Regulatory Administration. In the PRO, the ERA alleges that the prices Pel-Star charged in its sales of crude oil were in excess of its actual purchase prices in situations where the firm performed no service or other function traditionally and historically associated with the resale of crude oil, and that this practice amounted to a violation of the DOE regulation prohibiting layering in the resale of crude oil. As an alternative theory of liability the ERA alleges that Pel-Star violated the DOE regulations because it charged prices in excess of its permissible average markup. In its Motion for Discovery, Pel-Star sought extensive discovery of the administrative record and contemporaneous construction of the regulations at issue in the PRO. Pel-Star also sought to depose numerous individuals and to obtain records of several pipeline companies. The Office of Hearings and Appeals denied the Motion for Discovery because Pel-Star had not shown that the requested discovery would yield relevant or material information. The Motion for Evidentiary Hearing was denied because Pel-Star had not attempted to demonstrate that such a hearing was necessary.

**Interlocutory Order**

*Shell Oil Company, Economic Regulatory Administration, 10/9/84; HRZ-0018, HRD-0029, HRD-0030*

Shell Oil Company filed a Motion to Dismiss a Proposed Remedial Order (PRO) issued to the firm and a Motion for Discovery. The Economic Regulatory also filed a Motion for Discovery.

In denying Shell's Motion to Dismiss, the DOE found that the PRO sets forth a *prima facie* case and affords Shell adequate notice and an opportunity to formulate its defenses. The DOE also denied Shell's Motion for Discovery, finding the Shell's allegations of prosecutorial abuse and denial of due process had no basis and discovery was therefore unnecessary, that Shell had failed to establish its need for contemporaneous construction discovery concerning 10 CFR 212.83, and that Shell's request for all audit-related materials was overly broad, was an unwarranted intrusion into the agency's decision-making process and sought materials which are irrelevant to a determination in the enforcement proceeding.

The DOE also denied the ERA's Motion for Discovery, finding that the requested material concerning the operation of Shell's OP-5 chemical plant and Shell's historical accounting practices was irrelevant because discovery regarding these factual matters would not alter the application of the refiner price rule to the uncontested circumstances of the case. The DOE found that the price rule does not allow the passthrough of labor and tax costs incurred in construction of the plant as increased nonproduct costs because such costs are not related to "refining operations" as required by the rule.

**Supplemental Order**

*Illinois Gasoline Dealers Association, 10/11/84; HFX-0108*

On October 11, 1984, the Office of Hearings and Appeals (OHA) issued a Supplemental Order to the Illinois Gasoline Dealers Association (IGDA). This order discusses the IGDA's conduct during the Amoco refund proceeding, and raises the possibility that the IGDA knowingly submitted inaccurate and misleading information to the OHA. Pursuant to 10 CFR 205.3(b)(1), the OHA is considering disciplinary action, including the suspension of IGDA's privilege of participating in future OHA refund proceedings. The supplemental order sets forth the facts of the case, and extends the IGDA an opportunity to show cause why the OHA should not take disciplinary action. Within 30 days of the issuing of this decision, a hearing shall be convened for this purpose, the date and location of which are to be set by the OHA.

**Implementation of Special Refund Procedures**

*Wisconsin Industrial Fuel Oil, Inc., 10/12/84; HEF-0199*

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the settlement funds obtained as the result of a Consent Order entered into by the Department of Energy with Center Fuel Company through its subsidiary Wisconsin Industrial Fuel Oil, Inc.

The Decision sets forth refund application procedures for firms who purchased Nos. 5 and 6 fuel oil from Wisconsin during the consent order period (August 19, 1973 through May 31, 1978). Specific information regarding the information to be included in refund applications is discussed in the Decision and Order.

**Refund Application**

*Windham Gas and Oil Company/D&A Oil Company, 10/12/84; RF43-4*

The DOE issued a Decision and Order concerning an Application for Refund filed by D&A Oil Company, a retailer of Windham motor gasoline. D&A elected to apply for a refund based upon the presumption of injury outlined in *Windham Gas and Oil Company*, 12 DOE ¶85,074 (1984). In considering the application, the DOE concluded that D&A should receive a refund based upon its total volume of Windham motor gasoline purchases, up to the threshold level for small claims of 50,000 gallons per month. The refund granted in this proceeding totals \$1,154.

**Dismissals**

The following submissions were dismissed:

**Name and Case No.**

State of California; RQ21-75, RQ5-76, RQ8-46  
State of Idaho; RQ21-45  
State of Rhode Island; RQ21-101  
State of South Carolina; RQ21-55  
Y. Shanmugadhasan; HFA-0249  
Texas Gas Exploration/Standard Oil Company (Indiana); RF44-1

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

*Director, Office of Hearings and Appeals.*

November 1, 1984.

[FR Doc. 84-23784 Filed 11-3-84; 8:45 am]

BILLING CODE 6450-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

[OPP-50613; PH-FRL 2717-4]

**Issuance of Experimental Use Permits; Albany International Corp. et al.**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has granted experimental use permits to the

following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

**FOR FURTHER INFORMATION CONTACT:**

By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

**SUPPLEMENTARY INFORMATION:** EPA has issued the following experimental use permits:

*36638-EUP-8.* Issuance. Albany International Corporation, 110 A St., Needham Heights, MA 02194. This experimental use permit allows the use of 0.627 pounds of the biological insecticides (Z,Z)-7,11-hexadecadien-1-ol acetate and (Z,E)-7,11-hexadecadien-1-ol acetate on cotton to evaluate the control of the pink bollworm. A total of 80 acres are involved. The experimental use permit is effective for February 21, 1984 to February 21, 1985. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

*36638-EUP-10.* Issuance. Albany International Corporation, 110 A St., Needham Heights, MA 02194. This experimental use permit allows the use of 0.53 pounds of the biological insecticides (Z,Z)-7,11-hexadecadien-1-ol acetate and (Z,E)-7,11-hexadecadien-1-ol acetate on cotton to evaluate the control of the pink bollworm. A total of 80 acres are involved; this program and the one above are authorized only in the State of Arizona. The experimental use permit is effective from February 29, 1984 to February 28, 1985. A permanent exemption from the requirement of a tolerance for residues of the active ingredients in or on cottonseed has been established (40 CFR 180.1043). The permits will use the same active ingredients but different formulations. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

*45639-EUP-15.* Issuance. BFC Chemicals, Inc., P.O. Box 2867, Wilmington, DE 19805. This experimental use permit allows the use of 7.12 pounds of the insecticide dioxathion in ear tags on beef cattle to evaluate the control of horn flies. A total of 1,100 animals are involved; the

program is authorized only in the States of Arkansas, California, Delaware, Florida, Georgia, Kentucky, New Mexico, Oklahoma, South Carolina, Texas, and Wyoming. The experimental use permit is effective from February 16, 1984 to December 31, 1984. This permit is issued with the limitation that the number of ear tags not exceed 2,200 (2 per animal) and that the ear tags be used only on beef cattle. Ear tags must be removed before slaughter. A permanent tolerance for residues of the active ingredient in or on cattle has been established (40 CFR 180.171). (George LaRocca, PM 15, Rm. 204, CM#2, (703-557-2400))

**17946-EUP-5. Renewal.** J.J. Mauget Company, P.O. Box 3422, Burbank, CA 91504. This experimental use permit allows the use of 1.03 pounds of the fungicides-2-(2-ethoxyethoxy)ethyl-2-benzimidazolecarbamate and methyl 2-benzimidazolecarbamate on approximately 650 ornamental trees to evaluate the control of various fungal diseases. A total of 25 acres are involved; the program is authorized only in the States of California, Hawaii, Illinois, Massachusetts, Missouri, New York, Oklahoma, and Texas. The permit was previously effective from September 15, 1981 to July 9, 1983. The permit is now effective from February 10, 1984 to February 20, 1986. (Henry Jacoby, PM 21, Rm. 229, CM#2, (703-557-1900))

**10464-EUP-7. Issuance.** Weyerhaeuser Company, P.O. Box 420, Centralia, WA 98531. This experimental use permit allows the use of 1,300 pounds of the herbicide hexazinone on conifer forest plantations to evaluate the control of various kinds of unwanted vegetation. A total of 30 acres are involved; the program is authorized only in the State of Washington. The experimental use permit is effective from April 1, 1984 to December 31, 1984. (Richard Mountfort, PM 23, Rm. 253, CM#2, (703-557-1830))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95-396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: November 2, 1984.

Douglas D. Camp, Jr.  
Director, Registration Division, Office of  
Pesticide Programs.

[FR Doc. 84-23608 Filed 11-13-84; 8:45 a.m.]

BILLING CODE 6560-50-M

[OPP-50626; PH-FRL 2717-3]

**Issuance of Experimental Use Permits;  
Brea Agricultural Service, Inc., et al.**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

**FOR FURTHER INFORMATION CONTACT:** By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

**SUPPLEMENTARY INFORMATION:** EPA has issued the following experimental use permits:

**9018-EUP-1. Issuance.** Brea Agricultural Service, Inc., Drawer 1, Stockton, CA 95201. This experimental use permit allows the use of 60,140 pounds of the plant growth regulator lactic acid on alfalfa, almonds, apples, barley, beans (green and dry), cherries, citrus, corn (field and sweet), cucumbers, grapes, melons, nectarines, onions, peaches, peppers, potatoes, prunes, squash, strawberries, sugar beets, tomatoes, and wheat to evaluate its ability to increase fruit set. A total of 16,535 acres are involved; the program is authorized only in the States of Arizona, Arkansas, California, Colorado, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, New Jersey, New Mexico, Ohio, Oregon, Texas, Utah, Washington, and Wisconsin. The experimental use permit is effective from October 11, 1984 to October 11, 1985. Temporary exemptions from the requirement of a tolerance have been established for residues of the active ingredient in or on alfalfa, almonds, apples, barley, beans (green and dry), cherries, citrus, corn (field and sweet), cucumbers, grapes,

melons, nectarines, onions, peaches, peppers, potatoes, prunes, squash, strawberries, sugar beets, tomatoes, and wheat. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1809))

**10182-EUP-15. Renewal.** ICI Americas, Inc., Wilmington, DE 19897. This experimental use permit allows the use of 1,029 pounds of the insecticide pirimphos-methyl on stored peanuts to evaluate the control of various insects. A total of 25,200 tons are involved; the program is authorized only in the States of Alabama, Florida, Georgia, New Mexico, North Carolina, South Carolina, Texas, and Virginia. The experimental use permit was previously effective from September 2, 1983 to September 2, 1984. The permit is now effective from September 27, 1984 to September 27, 1985. A temporary tolerance for residues of the active ingredient in or on eggs, milk, peanuts, peanut hulls, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep has been established. A food additive regulation for residues of the active ingredient in or on peanut oil has been established (21 CFR 193.463). (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703-557-2386))

**10182-EUP-17. Extension.** ICI Americas, Inc., Wilmington, DE 19897. This experimental use permit allows the use of 378 pounds of the insecticide pirimphos-methyl on grain sorghum, rice, stored corn, and wheat to evaluate the control of various insects. A total of 32,400 tons are involved; the program is authorized only in the States of Alabama, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from September 27, 1984 to September 27, 1985. A temporary tolerance for residues of the active ingredient in or on corn, grain sorghum, rice, and wheat has been established. A feed additive regulation for residues of the active ingredient in or on rice hulls and rice and wheat milling fractions has been established (21 CFR 561.432). (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703-557-2386))

**20954-EUP-20. Extension.** Zococon Corporation, 975 California Ave., P.O. Box 10975, Palo Alto, CA 94304. This experimental use permit allows the use of 175 pounds of the growth regulator methoprene on various stored

commodities to evaluate the control of various insects. A total of 4,666 tons are involved; the program is authorized only in the States of California, Kansas, North Dakota, Minnesota, and Wisconsin. The experimental use permit is effective from September 21, 1984 to September 21, 1986. Temporary tolerances for residues of the active ingredient in or on almonds, cashews, chestnuts, cocoa beans, coffee beans, dried peas, hazelnuts, macadamia nuts, pecans, and walnuts have been established. A food additive regulation for residues of the active ingredient in or on cereal (barley, corn, oat, rice, rye, and wheat), corn meal, dried apples, dried apricot, dried peaches, dried prunes, dry dog food, grits, hominy, macaroni, raisins, and wheat flour has been established (21 CFR 193.285). (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

**20954-EUP-27. Issuance.** Zoecon Corporation, 975 California Ave., P.O. Box 10975, Palo Alto, CA 94304. This experimental use permit allows the use of 2,774.2 pounds of the insecticide (alpha *RS,2R*)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[2-chloro-4-(trifluoromethyl)anilino]-3-methylbutanoate on broccoli, Brussels sprouts, and cauliflower to evaluate the control of various insects. A total of 10,720 acres are involved; the program is authorized only in the States of California, Delaware, Florida, New Jersey, Oregon, Pennsylvania, Texas, and Virginia. The experimental use permit is effective from September 17, 1984 to September 17, 1986. Temporary tolerances for residues of the active ingredient in or on broccoli, Brussels sprouts, and cauliflower have been established. (Timothy Gardner, PM 17, Rm 207, CM#2, (703-557-2690))

**20954-EUP-28. Issuance.** Zoecon Corporation, 975 California Ave., P.O. Box 10975, Palo Alto, CA 94304. This experimental use permit allows the use of 1,652.5 pounds of the insecticide (alpha *RS,2R*)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[2-chloro-4-(trifluoromethyl)anilino]-3-methylbutanoate on apples, broccoli, Brussels sprouts, cauliflower, and potatoes to evaluate the control of various insects. A total of 6,450 acres are involved; the program is authorized only in the States of Arkansas, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Washington, West Virginia, and

Wisconsin. The experimental use permit is effective from September 17, 1984 to September 17, 1986. Temporary tolerances for residues of the active ingredient in or on apples, broccoli, Brussels sprouts, cauliflower, and potatoes have been established. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95-396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: November 2, 1984.

Douglas D. Camp,   
 Director, Registration Division, Office of   
 Pesticide Programs.

[FR Doc. 84-29807 Filed 11-13-84; 8:45 am]

BILLING CODE 6560-50-M

**[PF-392; PA-FRL 2717-2]**

**Pesticide Tolerance Petitions; Chevron Chemical Co. and ICI Americas Inc.**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has received pesticides and feed additive petitions relating to the establishment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

**ADDRESS:** By mail, submit comments identified by the document control number [PF-392] and the petition number, attention Product Manager (PM-23), at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

In person, bring comments to: Information Services Section (TS-757C), Environmental Protection Agency, Rm. 236, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A

copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:**

By mail: Richard Mountfort, (PM-23), Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460  
Office location and telephone number: Rm 247, CM # 2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-557-1830).

**SUPPLEMENTARY INFORMATION:** EPA has received pesticide (PP) and feed additive (FAP) petitions relating to the establishment of tolerances for certain pesticide chemicals in or on certain raw agriculture commodities in accordance with the Federal Food, Drug, and Cosmetic Act.

**Initial Filing**

1. *PP 5F3158*, Chevron Chemical Co., Ortho Agricultural Chemicals Division, 940 Hensley St., Richmond CA 94804-0036. Proposes amending 40 CFR 180.401 by establishing tolerances for the combined residues of the herbicide thobencarb [S-[(4-chlorophenyl)methyl]diethylcarbamothioate] and its moiety-containing metabolites in or on the following raw agricultural commodities: Celery, endive (escarole), and lettuce at 0.1 part per million (ppm). The proposed analytical method for determining residues is gas chromatography.

2. *PP 4F3147 & FAP 4H5442*, ICI Americas Inc., Agricultural Chemicals Division, Wilmington, DE 19897. Proposes amending 40 CFR 180.411 (raw agricultural commodity), and 21 CFR 561.428 (animal feed commodity), by establishing tolerances for residues of the herbicide ( $\pm$ )-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy] propanoic acid (fluazifop), both free and conjugated, and of ( $\pm$ )-butyl-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy] propanoate (fluazifop-butyl), all expressed as fluazifop, in or on the following raw agricultural commodities.

Petition ID	CFR affected	Commodities	Parts per million (ppm)
PP 4F3147	40 CFR 180.411	Peanuts.....	0.5
FAP 4H5442	21 CFR 561.428	Peanut hulls.....	0.5
		Peanut meal.....	1.0
		Peanut soapstock.....	2.0

The proposed analytical method for determining residues is high pressure liquid chromatography (HPLC).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)), 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))

Dated: October 31, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-29808 Filed 11-13-84; 8:45 am]

BILLING CODE 6560-50-M

#### [FRL-2717-7]

#### Management Advisory Group to the EPA Construction Grants Program; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two day meeting of the Management Advisory Group to the EPA Construction Grants Program (MAG) will be held on November 29-30, 1984, at the Environmental Protection Agency, 4th & M Streets, S.W., Washington, D.C. The meeting will begin at 9:00 a.m. on both days in the large conference room of the EPA Washington Information Center.

The principal purpose of the meeting is for the MAG Task Forces on (1) Financing Publicly Owned Treatment Works, and (2) Compliance and Operation and Maintenance to work on these priority areas. The agenda will also include briefings and discussions on other topics of current or future interest to MAG. Any member of the public wishing to make comments is invited to submit them in writing to the Executive Secretary at the meeting.

The meeting will be open to the public. Any member of the public wishing additional information should contact Ms. Georgette Brown at (202) 382-5859.

Dated: November 1, 1984.

Henry L. Longest, II,  
Assistant Administrator for Water.

[FR Doc. 84-29803 Filed 11-13-84; 8:45 am]

BILLING CODE 6560-50-M

#### [OPP-00185; PH-FRL 2717-1]

#### State-FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** There will be a 2-day meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG). The meeting will be open to the public.

**DATES:** Thursday, December 6, and Friday, December 7, 1984, beginning at 8:30 a.m. each day and ending prior to 12 noon on December 7, 1984.

**ADDRESS:** The meeting will be held at: Hyatt Regency—Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202, (703-486-1234).

**FOR FURTHER INFORMATION CONTACT:** By mail, Philip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; 1921 Jefferson Davis Highway, Arlington, VA. 22202, (703-557-7096).  
**SUPPLEMENTARY INFORMATION:** This will be the nineteenth meeting of the full Group. The tentative agenda thus far includes the following topics:

1. Action items from the July 1984 meeting of the SFIREG.
2. Regional reports.
3. Working Committee reports.
4. Other topics which may arise.

Dated: November 5, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-29309 Filed 11-13-84; 8:45 am]

BILLING CODE 6560-50-M

#### [FRL # 2718-7]

#### Pesticide Emergency Exemption Rulemaking Advisory Committee; Meeting

As required by the Federal Advisory Committee Act (Pub. L. 94-463), we are giving notice of the next two meetings of the Pesticide Emergency Exemption Rulemaking Advisory Committee.

The next meeting will be held on 29 and 30 November. This meeting will start at 1:00 p.m. on Thursday the 29th, and run until completion. (An evening session is possible.) The Committee will reconvene on Friday the 30th, at 9:00 a.m. and meet until 3:30 p.m. The Committee will meet again on December 18th, from 9:00 a.m. until 3:30 p.m.

The purpose of the meetings is to continue to develop and attempt to reach consensus on the issues identified by the Committee for resolution.

All meetings will be held in room 1112, Crystal Mall, Building #2, Arlington, Virginia.

If interested in attending, or in receiving more information, please contact Chris Kirtz at (202) 382-7565. Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 84-29803 Filed 11-13-84; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL HOME LOAN BANK BOARD

[No. 84-572]

#### Powers of Receiver and Conduct of Receiverships

Dated: October 15, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

**SUMMARY:** The Board has adopted a resolution setting forth its intention with respect to the administration of repurchase agreements by the Federal Savings and Loan Insurance Corporation acting as receiver of insured institutions. The resolution is intended to provide clarification for the financial community and the public at large with regard to this matter.

**EFFECTIVE DATE:** October 15, 1984.

**FOR FURTHER INFORMATION CONTACT:** Lawrence W. Hayes (202) 377-6428, Office of the General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

Whereas, The Federal Home Loan Bank Board ("Board") has considered the function of repurchase transactions in providing liquidity and funding for insured institutions; and

Whereas, The Board is the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"); and

Whereas, The Board has reviewed the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98-353, 391-96, 98 Stat. 333, 364-66:

Now, therefore, it is resolved That the Board hereby finds and determines that it is desirable that the Board clarify the manner in which the FSLIC as receiver of an insured institution, which may not be a debtor under chapters 7 and 11 of title 11 of the United States Code, entitled "Bankruptcy", would exercise its rights with respect to repurchase agreements of an insured institution entered into prior to receivership; and

Resolved further, That the Board hereby determines that, pending issuance of comprehensive regulations concerning receiverships instituted by

the Board, the sense and intention of the Board with respect to the administration of repurchase agreements by the FSLIC as receiver shall be set forth in resolution form so that such intention may be clarified for the financial community and the public at large, *provided*, however, that the Board does not hereby intend to interfere with the appropriate discretion committed to a receiver by regulation or order of the Board to administer assets and liabilities of the receivership; and

Resolved further, That it is the sense and intention of the Board that the FSLIC, as receiver, conservator, or legal custodian of an insured institution, in the absence of fraud or other similarly extraordinary circumstances, should not attempt to stay, avoid, or otherwise limit the exercise by a repo participant of a contractual right to cause the liquidation of a repurchase agreement arising from the appointment of the FSLIC as receiver, conservator, or other legal custodian for the purpose of liquidating the insured institution; *provided*, that such liquidation of a repurchase agreement should be accomplished in a commercially reasonable manner; *provided further* that the receiver should enforce its claim to any excess received by a repo participant upon liquidation of a repurchase agreement over the stated repurchase price, including interest, if any, and reasonable expense of liquidation; and *provided further* that the Board does not hereby intend to approve, countenance, or inhibit a receiver or its successor from attempting to stay a liquidation of a repurchase agreement based solely upon receivership proceedings in which creditor liabilities of an insured institution, including its liabilities to repo participants, are fully assumed by another insured institution, a bank the deposits of which are insured by the Federal Deposit Insurance Corporation, or the FSLIC in its corporate capacity, pursuant to contract with the receiver, immediately following the receiver's taking possession of such insured institution; and

Resolved further, That for the purposes of this resolution, "repo participant" and "repurchase agreement" shall have the definitions assigned in 11 U.S.C. § 101, as amended by the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98-353, 391, 98 Stat. 333, 364-65; but in such definitions "filing of the petition" shall mean the appointment of a receiver, "debtor" shall mean the insured institution, and "securities that are direct obligations of, or that are fully guaranteed as to principal and interest

by, the United States or any agency of the United States" shall include, but not be limited to, securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

Resolved further, That the Secretary to the Board shall forward this resolution for publication in the Federal Register.

(Section 5, 48 Stat. 132, as amended; 12 U.S.C. 1464; 402, 406, 48 Stat. 1256, 1259, as amended; 12 U.S.C. 1725, 1729; Reorg. Plan No. 3 of 1947, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

John F. Ghuzzoni,  
Assistant Secretary.

[FR Doc. 84-29563 Filed 11-13-84; 8:45 am]  
BILLING CODE 6720-01-M

### FEDERAL MARITIME COMMISSION

#### Agreement(s) Filed; U.S./Netherlands Antilles Ocean Carriers Association

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, D.C. 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, D.C. 20573, within 15 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. 202-010669.

Title: United States/Netherlands Antilles Ocean Carriers Association.

Parties:

Concorde Caribe Line, Ltd.  
Coordinated Caribbean Transport, Inc.

King Ocean Services, S.A.  
Sea-Land Service, Inc.

Synopsis: The proposed agreement would establish a conference agreement with intermodal rate and service contract authority in the trade between United States Atlantic and Gulf ports, and all inland points in the United States via such ports, and ports in Aruba, Bonaire and Curacao.

By Order of the Federal Maritime Commission.

Dated: November 7, 1984.

Francis C. Hurney,  
Secretary.

[FR Doc. 84-29740 Filed 11-13-84; 8:45 am]  
BILLING CODE 6730-01-M

### Ocean Freight Forwarder License Applicants

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C., app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

*Donna Marie Ferreira Golz*  
453 Linnell Avenue, San Leandro, CA 94578

Patrick A. Terzano d.b.a. Captain's Trans Ocean Shipping  
5245 Bleigh Avenue, Philadelphia, PA 19135

By the Federal Maritime Commission.

Dated: November 7, 1984.

Francis C. Hurney,  
Secretary.

[FR Doc. 84-29739 Filed 11-13-84; 8:45 a.m.]  
BILLING CODE 6730-01-M

### Agreement(s) Filed; Nippon Yusen Kaisha/Showa Line, Ltd. et al.

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, D.C. 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, D.C. 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.: 213-009731-011.

Title: Nippon Yusen Kaisha/Showa Line, Ltd. Containership Service Agreement.

Parties:  
Nippon Yusen Kaisha

**Showa Line, Ltd.**

Synopsis: The proposed amendment would terminate the agreement upon the effectiveness of Agreement No. 213-010657. The parties have requested a shortened review period.

Agreement No.. 217-010500-003.

Title: Nippon Yusen Kaisha/Showa Line, Ltd. Space Charter Agreement.

Parties:

Nippon Yusen Kaisha  
Showa Line, Ltd.

Synopsis: The proposed amendment would terminate the agreement upon the effectiveness of Agreement No. 213-010657. The parties have requested a shortened review period.

Agreement No.. 221-010670.

Title: Oakland Terminal Agreement.

Parties: The Port of Oakland (Port)

Italia S.p.A. di Navigazione d'Amico  
Societa di Navigazione per Azioni  
(Italia-d'Amico Line)

Synopsis: Agreement No. 221-010670 provides Italia-d'Amico Line shall have the nonexclusive right to premises at the Port's South Street Public Container Terminal, for the handling of its vessels in the North American Pacific Coast-Mediterranean service. Italia-d'Amico Line agrees that the assigned premises shall be published, regularly scheduled Northern California port of call for its vessel operations. As a consideration for its regular use of the Port, Italia-d'Amico Line will pay to the Port 90 percent of tariff dockage and wharfage instead of 100 percent of said charges. If Italia-d'Amico Line generates in excess of 31,000 revenue tons per acre in a contract year, wharfage payments for such tonnage in excess of that amount will be refunded to Italia-d'Amico Line. The term of the agreement commences the first of the month following effectiveness and terminates September 30, 1989.

Agreement No.. 221-010671.

Title: Gulfport Marine Terminal.

Parties: The Mississippi Board of Economic Development

The Mississippi State Port Authority  
at Gulfport (Authority)

International Proteins Corporation  
(IPC)

Synopsis: Agreement No. 221-010671 provides for the lease by the Authority to IPC of 70,400 square feet at Sheds No. 11 and 12, West Pier in Gulfport for the conduct of operations related to the foreign and domestic trade. The term of the agreement shall be for one year with options to extend the term for two renewal periods of one year each.

Agreement No.. 217-010672.

Title: Sea-Land/Movaline Space Charter Agreement.

Parties:

**Sea-Land Service, Inc. (Sea-Land)**

Movaline International, Ltd.

(Movaline)

Synopsis: The proposed agreement would permit Sea-Land to charter space on the tug and barge service of Movoline in the trade between ports in Florida and ports in the Dominican Republic. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: November 8, 1984.

Francis C. Hurmey,

Secretary.

[FR Doc. 84-29828 Filed 11-13-84; 8:45 am]

BILLING CODE 6730-01-M

**FEDERAL RESERVE SYSTEM****Commerce Bancshares, Inc.;  
Application To Engage de Novo in  
Nonbanking Activities**

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)), to engage *de novo* through a national bank subsidiary in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed national bank subsidiary has been submitted to the Board.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound

banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than December 3, 1984.

A. Federal Reserve Bank of Kansas City, (Thomas M. Hoeng, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commerce Bancshares, Inc.*, Kansas City, Missouri; to engage through a national bank subsidiary, Commerce Bank of Overland Park, N.A., Overland Park, Kansas, in deposit taking, including the taking of demand, time and savings deposits and other activities specified below. Company would also engage in the activity of making and servicing loans and other extensions of credit, trust company activities and the activity of acting as agent for the sale of credit related life, accident and health insurance sold in connection with its lending activities. The company will not engage in commercial lending activities as defined by Regulation Y.

Board of Governors of the Federal Reserve System, November 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-23771 Filed 11-13-84; 8:45 am]

BILLING CODE 6210-01-M

**Formation of, Acquisition by, or  
Merger of Bank Holding Companies;  
and Acquisition of Nonbanking  
Company; Alex Brown Financial Group**

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as

closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 5, 1984.

**A. Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Alex Brown Financial Group*, Sacramento, California; to acquire 100 percent of the voting shares of Meridian Bancorp, Concord, California, thereby indirectly acquiring Meridian National Bank, Concord, California. Alex Brown Financial Group has also applied to acquire Meridian Mortgage Services, Inc., Concord, California, thereby engaging in mortgage lending and loan servicing activities.

Board of Governors of the Federal Reserve System, November 7, 1984.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 84-29768 Filed 11-13-84; 8:45 am]

BILLING CODE 6210-01-M

#### **Applications To Engage de Novo in Permissible Nonbanking Activities; Area Financial Corp. et al.**

The companies listed in this notice have filed and application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's

approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 3, 1984.

**A. Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Area Financial Corporation*, Redwood City, California; to engage *de novo* through its subsidiary, Bay Area Mortgage Investments, Redwood City, California, in mortgage lending and mortgage brokering, consisting of making and servicing loans for its own account and for the account of others.

2. *SDNB Financial Corp.*, San Diego, California; to engage *de novo* through its subsidiary, SDNB Mortgage Bankers, San Diego, California, in mortgage banking activities, including negotiating, making, acquiring, servicing, selling, buying and/or exchanging for its own account or for the account of others, promissory notes secured directly or collaterally by liens on real property or such other extensions of credit as would

be made by or arranged by a mortgage banking company.

Board of Governors of the Federal Reserve System, November 7, 1984.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 84-29769 Filed 11-13-84; 8:45 am]

BILLING CODE 6210-01-M

#### **Formations of; Acquisitions by; and Mergers of Bank Holding Companies; City National Corp., et al.**

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 5, 1984.

**A. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *City National Corporation*, Sylacauga, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of City National Bank, Sylacauga, Alabama.

2. *First Franklin Bancshares, Inc.*, Athens, Tennessee; to acquire 80 percent of the voting shares or assets of Riceville Bank, Riceville, Tennessee.

Board of Governors of the Federal Reserve System, November 7, 1984.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 84-29770 Filed 11-13-84; 8:45 am]

BILLING CODE 6210-01-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:

*Transaction and Waiting Period Terminated Effective*

- (1) 84-0950—AEA Investors, Incorporated's proposed acquisition of voting securities of BR Investors, Incorporated, a newly formed joint venture company—October 22, 1984
- (2) 84-0991—McGraw Hill, Incorporated's proposed acquisition of voting securities of the Monchik-Weber Corporation—October 22, 1984
- (3) 84-1011—Hercules Incorporated's proposed acquisition of assets of Pure Culture Products, Incorporated, (Standard Oil Company (Indiana), UPE)—October 22, 1984
- (4) 84-1015—Dylex Limited Incorporated's proposed acquisition of voting securities of BR Investors, Incorporated, a newly formed joint venture company—October 22, 1984
- (5) 84-1048—PHH Group Incorporated's proposed acquisition of voting securities of Transamerica Relocation Service Incorporated, (Transamerica Corporation, UPE)—October 22, 1984
- (6) 84-1042—Superfos a/s's proposed acquisition of voting securities of Royster Company, (Universal Leaf Tobacco, Company, UPE)—October 23, 1984
- (7) 84-1045—Sunshine Mining Company's proposed acquisition of voting securities of First Matagorda Corporation—October 23, 1984
- (8) 84-1006—National Medical Enterprises' proposed acquisition of voting securities of American Healthcorp of Wilson County Incorporated; Russell County Medical Center, Incorporated; American Respiratory Services, Incorporated; American Healthcorp of Vero Beach, Incorporated; Metropolitan Hospital, Incorporated, American Healthcorp of Tullahoma, Incorporated, American Healthcorp Management, Incorporated, (American Healthcorp, Incorporated, UPE)—October 24, 1984
- (9) 84-1033—Cooper Industries, Incorporated's proposed acquisition of assets of Computer Cable Division of Phalo Corporation, (Transitron Electronic Corporation, UPE)—October 24, 1984
- (10) 84-1046—Jack Cooper Transport Company, Incorporated's proposed acquisition of voting securities of United Transports, Incorporated, (WDS, Incorporated, UPE)—October 24, 1984
- (11) 84-1059—Tyson Foods Incorporated's (Don Tyson UPE), proposed acquisition of voting securities of Valmac Industries, Incorporated, (Bass Brothers Enterprises, Incorporated, UPE)—October 24, 1984
- (12) 84-1061—Royal Dutch Petroleum, Company's proposed acquisition of assets of Victory Oil Company—October 24, 1984
- (13) 84-1081—Tyson Foods, Incorporated's (Don Tyson, UPE) proposed acquisition of voting securities of Valmac Industries, Incorporated, (Bass Brothers Enterprises, Incorporated, UPE)—October 24, 1984
- (14) 84-1060—McDonnell Douglas Corporation's proposed acquisition of voting securities of Science Dynamics Corporation—October 25, 1984
- (15) 84-1009—Phillips Petroleum Company's proposed acquisition of voting securities of Aminoil Incorporated and Geysers Geothermal Company, (R.J. Reynolds Industries, Incorporated, UPE)—October 26, 1984
- (16) 84-1023—The Philadelphia Saving Fund Society's proposed acquisition of voting securities of The Shorewood Corporation—October 26, 1984
- (17) 84-1053—William P. and Rita C. Clements' proposed acquisition of voting securities of Schlumberger Limited—October 26, 1984
- (18) 84-1078—American Healthcare Management, Incorporated's proposed acquisition of assets of Humana, Incorporated—October 26, 1984
- (19) 84-1089—Easter Enterprises, Incorporated's proposed acquisition of voting securities of Conren, Incorporated, (Super Valu Stores, Incorporated, UPE)—October 26, 1984
- (20) 84-1072—Group Hospitalization and Medical Services, Incorporated's proposed acquisition of assets of Medical Services of the District of Columbia—October 29, 1984
- (21) 84-1083—W. R. Grace & Company's proposed acquisition of voting securities of NMC Holding Corporation, (Constantine L. Hampers, M.D., UPE)—October 29, 1984
- (22) 84-1112—W. R. Grace & Company's proposed acquisition of voting securities of NMC Holding Corporation, (Constantine L. Hampers, M.D., UPE)—October 29, 1984
- (23) 84-1055—The Philadelphia Saving Fund Society Incorporated's proposed acquisition of voting securities of Northland Mortgage Company, (Edward H. Hamm, UPE)—October 29, 1984
- (24) 84-1047—Gannett Company Incorporated's proposed acquisition of assets of radio stations KKQB AM & FM, (H. H. Holdings, Incorporated, UPE)—October 29, 1984
- (25) 84-1097—American Medical International, Incorporated's proposed acquisition of assets of Creighton Omaha Regional Health Care Corporation—October 29, 1984
- (26) 84-1116—InterNorth Incorporated's proposed acquisition of voting securities of Hambro Gas & Oil Incorporated, (Hambros PLC, UPE)—October 29, 1984
- (27) 84-1070—American Continental Corporation's proposed acquisition of voting securities of Gulf Broadcast Company—October 31, 1984
- (28) 84-1073—Kuwait Petroleum Corporation's proposed acquisition of voting securities of Occidental Geothermal Incorporated, (Occidental Petroleum Corporation, UPE)—October 30, 1984
- (29) 84-1074 R. J. Reynolds Industries Incorporated's proposed acquisition of voting securities of Sunkist Soft Drinks, Incorporated and Trum Beverages, Incorporated, (General Cinema Corporation, UPE)—October 30, 1984

(30) 84-1092—A. E. Staley  
Manufacturing Company's proposed  
acquisition of voting securities of  
CFS Continental Incorporated—  
October 30, 1984

(31) 84-1096—The Hearst Trust  
Incorporated's proposed acquisition  
of voting securities of Laredo  
Newspapers, Incorporated, The  
Enterprise Company and  
Hillsborough Community  
Publications, Incorporated,  
[Jefferson-Pilot Corporation, UPE]—  
October 30, 1984

(32) 84-1122—A. E. Staley  
Manufacturing Company's proposed  
acquisition of voting securities of  
CFS Continental Incorporated—  
October 30, 1984

**FOR FURTHER INFORMATION CONTACT:**

Patricia A. Foster, Compliance  
Specialist, Premerger Notification  
Office, Bureau of Competition, Room  
301, Federal Trade Commission,  
Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.  
Emily H. Rock,  
Secretary.

[FR Doc. 84-29735 Filed 11-13-84; 8:45 am]  
BILLING CODE 6750-01-M

**GENERAL SERVICES  
ADMINISTRATION**

**Office of Federal Supply and Services**

**Modular Furniture; Meeting**

The General Services Administration (GSA) has developed a new modular furniture product line which is intended to improve space utilization, accommodate ADP equipment, and be easily reconfigured.

GSA will conduct a meeting on Monday, November 19, 1984, to discuss the new line. All interested agency personnel are invited to attend. The meeting will begin at 9:30 a.m. in the Auditorium at the GSA Regional Office Building at 7th and D Streets SW., Washington, D.C. Representatives of the GSA Furniture Commodity Center will be present to answer technical questions concerning the commercial item descriptions (CIDs) that will be used in a forthcoming solicitation and questions concerning the proposed procurement methodology. Copies of the CIDs may be obtained by writing to the Furniture Commodity Center (mailing address: General Services Administration, Office of Federal Supply and Services (FNE), Washington, D.C. 20406).

For more information, call Mr. A.H. Brogan on (703) 557-8450.

Dated: November 5, 1984.

James J. Grady, Jr.,  
Director of Policy and Agency Assistance.  
[FR Doc. 84-29825 Filed 11-13-84; 8:45 am]  
BILLING CODE 6820-24-M

**DEPARTMENT OF HEALTH AND  
HUMAN SERVICES**

**Food and Drug Administration**

**Advisory Committees; Meetings**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

**MEETINGS:** The following advisory committee meetings are announced:

**Anesthesiology and Respiratory  
Therapy Devices Panel**

*Date, time, and place.* December 4,  
12:30 p.m., Conference Rm. B, Parklawn  
Bldg, 5600 Fishers Lane, Rockville, MD.

*Type of meeting and contact person.*  
This meeting will take the form of a  
conference telephone call. A speaker  
phone will be provided in the  
conference room to allow public  
participation in open session of the  
meeting. Open public hearing, 12:30 p.m.  
to 1:30 p.m.; open committee discussion,  
1:30 p.m. to 4:30 p.m.; Michael S. Gluck,  
Center for Devices and Radiological  
Health (HFZ-430), Food and Drug  
Administration, 8757 Georgia Ave.,  
Silver Spring, MD 20910, 301-427-7226.

*General function of the committee.*  
The committee reviews and evaluates  
available data on the safety and  
effectiveness of devices and makes  
recommendations for their regulation.

*Agenda—Open public hearing.*  
Interested persons may present data,  
information, or views, orally or in  
writing, on issues pending before the  
committee. Those desiring to make  
formal presentations should notify the  
contact person before November 19 and  
submit a brief statement of the general  
nature of the evidence or arguments  
they wish to present, the names and  
addresses of the proposed participants,  
and an indication of the approximate  
time required to make their comments.

*Open committee discussion.* The  
committee will discuss information  
contained in a premarket approval  
application for a transcutaneous carbon  
dioxide monitor.

**Science Advisory Board to the National  
Center for Toxicological Research**

*Date, time, and place.* December 4, 9  
a.m., Director's Conference Room, Bldg.  
13, National Center for Toxicological  
Research, Jefferson, AR.

*Type of meeting and contact person.*  
Open public hearing, December 4, 9 a.m.  
to 10 a.m., open committee discussion,  
10 a.m. to 6 p.m., Ronald F. Coene,  
National Center for Toxicological  
Research, Food and Drug  
Administration, 5600 Fishers Lane, Rm.  
14-101, Rockville, MD 20857, 301-443-  
3155.

*General function of the Board.* The  
Board advises the Director, National  
Center for Toxicological Research  
(NCTR), in establishing and  
implementing a research program that  
will assist the Commissioner of Food  
and Drugs in fulfilling his regulatory  
responsibilities. The Board helps the  
agency ensure that research programs  
and methodology development at NCTR  
are scientifically sound and pertinent to  
its stated goals and objectives.

*Agenda—Open public hearing.*  
Interested persons may present data,  
information, or views, orally or in  
writing, on issues pending before the  
committee.

*Open Board discussion.* The Board  
will continue discussions on research  
initiatives for NCTR in the evaluation of  
the assumptions underlying risk  
assessment, and dietary factors in  
toxicology.

**Cardiovascular and Renal Drugs  
Advisory Committee**

*Date, time, and place.* December 10  
and 11, 9 a.m., Auditorium, Lister Hill  
Center, National Library of Medicine,  
8600 Rockville Pike, Bethesda, MD.

*Type of meeting and contact person.*  
Open public hearing, December 10, 9  
a.m. to 10 a.m.; open committee  
discussion, 10 a.m. to 5 p.m., December  
11, 9 a.m. to 5 p.m., Joan C. Standaert,  
Center for Drugs and Biologics (HFN-  
110), Food and Drug Administration,  
5600 Fishers Lane, Rockville, MD 20857,  
301-443-4730.

*General function of the committee.*  
The committee reviews and evaluates  
available data on the safety and  
effectiveness of marketed and  
investigational prescription drugs for  
use in the treatment of cardiovascular  
and renal disorders.

*Agenda—Open public hearing.*  
Interested persons desiring to present  
data, information, or views, orally or in  
writing, on issues pending before the  
committee should notify the contract  
person.

**Open committee discussion.** The committee will discuss aspirin in cardiovascular disease (OTC Trac. No. 201-1), Sterling Drug Inc., Atenupres (Lofexidine) NDA 18-955, Merrell Dow, for use in hypertension; Sectral (Acebutolol) NDA 18-917, Ives Laboratories, for use in angina pectoris, cardiac arrhythmia, and hypertension; Questran (Cholestyramine) NDA 16-640, NDA 16-019, Mead Johnson, for use in coronary artery disease.

#### Ophthalmic Devices Panel

**Date, time, and place.** December 13, 2 p.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

**Type of meeting and contact person.** This meeting will be held by a conference telephone call. A speaker telephone will be provided in the conference room to allow public participation in the meeting. Open public hearing, 2 p.m. to 2:15 p.m.; open committee discussion, 2:15 p.m. to 5 p.m., George C. Murray, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

**General function of the committee.** The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

**Agenda—Open public hearing.** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 19 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the name and addresses of proposed participants, and an indication of the approximate time required to make their comments.

**Open committee discussion.** The committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for intraocular lenses (IOL's), neodymium:yttrium-aluminum-garnet (Nd:YAG) lasers, contact lenses, and other ophthalmic devices and may discuss PMA's for these devices.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee

meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the Federal Register of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the Federal Register notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session

may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 88 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: November 7, 1984.

William F. Randolph,  
Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 84-22743 Filed 11-13-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77N-0240; DESI 1786]

**Certain Single-Entity Coronary Vasodilators—Oral Nitroglycerin; Drug Efficacy Study Implementation; Revocation of Exemption; Announcement of Marketing Conditions**

#### Correction

In FR Doc. 84-23655, beginning on page 35428, in the issue of Friday, September 7, 1984, make the following corrections.

1. On page 35429, third column, the third line of paragraph "37" should have read:

"9 mg of the drug per capsule; Phoenix"

2. On page 35430, in the second column, first line of the first paragraph, "Nitroglycerin, and "; should have read "Nitroglycerin, an" and in the fifth line of the same paragraph "(C<sub>3</sub>H<sub>5</sub>N<sub>3</sub>O<sub>3</sub>)" should have read:

"(C<sub>3</sub>H<sub>5</sub>N<sub>3</sub>O<sub>3</sub>)"

3. On page 35430, third column, ninth line of the paragraph under the heading Indications and Usage, "does" "should have read "does"

4. On page 35432, the twenty-seventh line of the second column should have read:

"potential bioequivalence problems, it should be added to the list of drugs for which bioavailability data are not"

BILLING CODE 1505-01-M

**Consumer Participation; Open Meeting**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: Los Angeles District Office, chaired by Abraham I. Kleks, District Director. The topics to be discussed are Health Fraud, Women's Health Issues, and Update on Sulfiting Agents.

**DATE:** Tuesday, November 27, 1984, 9 a.m. to 12 m.

**ADDRESS:** 102 North Plumer, Tucson, AZ 85719.

**FOR FURTHER INFORMATION CONTACT:** Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213-688-4395.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 7, 1984.

William F. Randolph,  
Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 84-29742 Filed 11-13-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83V-0399]

**Spectra-Physics, Inc., Availability of Approved Variance for Hand Held UPC Laser Scanners**

*Correction*

In FR Doc. 84-23675, beginning on page 35427 in the issue of Friday, September 7, 1984, make the following corrections.

On page 35427, first column:

1. In **FOR FURTHER INFORMATION CONTACT**, the telephone number should have read "301-443-4874"

2. In the eleventh line from the bottom of the page, "\$ 1040(f)(6)" should have read "\$ 1040.10 (f)(6)"

BILLING CODE 1505-01-M

**Public Health Service**

**National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Tris(2-ethylhexyl)phosphate**

The HHS' National Toxicology Program today announces the availability of the technical report describing toxicology and carcinogenesis studies of tris(2-ethylhexyl)phosphate, one of a family of

trialkylphosphates that have been widely-used as fire retardants and plasticizers.

Two-year toxicology and carcinogenesis studies of tris(2-ethylhexyl)phosphate were conducted by giving the chemical by gavage five days a week for 103 weeks to groups of 50 male and female F344/N rats and B6C3F1 mice. Male rats received 2,000 or 4,000 mg/kg body weight; female rats received 1,000 or 2,000 mg/kg body weight; and male and female mice received 500 or 1,000 mg/kg. Fifty vehicle controls of each sex and species received 10 ml/kg body weight (rats) or 3.3 ml/kg (mice) corn oil by gavage on the same schedule.

Under the conditions of these studies, a comparison of concurrent and historical controls indicated that there was *equivocal evidence of carcinogenicity in male F344/N rats* receiving 2,000 and 4,000 pp mg/kg tris(2-ethylhexyl)phosphate as indicated by increased incidences of pheochromocytomas of the adrenal glands. There was *no evidence of carcinogenicity in female F344/N rats or B6C3F1 mice*. There was *some evidence of carcinogenicity in female B6C3F1 mice* that received 1,000 mg/kg of tris(2-ethylhexyl)phosphate, as shown by an increased incidence of hepatocellular carcinomas. Tris(2-ethylhexyl)phosphate was associated with increased incidences of follicular cell hyperplasias of the thyroid gland in male and female B6C3F1 mice.

Copies of *Toxicology and Carcinogenesis Studies of Tris(2-ethylhexyl)phosphate in F344/N Rats and B6C3F1 Mice (Gavage Studies) T.R.274* are available without charge from NTP Public Information Office, M.D. Box 12233, Research Triangle Park, N.C. 27709, Telephone:(919) 541-3991. FTS:629-3991.

Dated: November 7, 1984.

David P. Rall, M.D., Ph.D.,  
Director.

[FR Doc. 84-29787 Filed 11-13-84; 8:45 am]

BILLING CODE 4140-01-M

**National Toxicology Program; Availability of Technical Report; on Toxicology and Carcinogenesis Studies of 1,3-Butadiene**

The HHS' National Toxicology Program today announces the availability of the technical report describing toxicology and carcinogenesis studies of 1,3-butadiene; a colorless gas used in the production of elastomers, polymers, and other chemicals. In 1983, 2.31 billion pounds

were produced and most was used in the rubber industry.

Inhalation studies of 1,3-butadiene were conducted by exposing groups of 50 males and 50 female B6C3F1 mice six hours a day for five days a week to air containing concentrations of 0, 625, and 1,250 ppm. These studies were planned for 103-week exposures but were terminated at the 60th week for male mice and the 61st for the females due to rapidly declining survival primarily caused by neoplasia.

Under the conditions of these studies, there was *clear evidence of carcinogenicity for 1,3-butadiene in male and female B6C3F1 mice* as shown by increased incidences and early indication of hemangiosarcomas of the heart, malignant lymphomas, alveolar/bronchiolar adenomas and carcinomas, and papillomas of the stomach in males and females; and acinar cell carcinomas of the mammary gland, granulosa cell tumors of the ovary, and hepatocellular adenomas and adenomas or carcinomas (combined) in females. 1,3-Butadiene was associated with non-neoplastic lesions in the respiratory epithelium, liver necrosis, and testicular or ovarian atrophy.

Copies of *Carcinogenesis Studies of 1,3-Butadiene in B6C3F1 Mice (Inhalation Studies) (T.R. 228)* are available without charge from the NTP Public Information Office, M.D. B2-04, Box 12233, Research Triangle Park, N.C. 27709, Telephone: (919) 541-3991. FTS: 629-3991.

Dated: November 7, 1984.

David P. Rall, M.D., Ph.D.,  
Director.

[FR Doc. 84-29786 Filed 11-13-84; 8:45 am]

BILLING CODE 4140-01-M

**Social Security Administration**

**Refugee Resettlement Program; Proposed Formula for Allocations to States of FY 1985 Funds for Social Services for Refugees and Cuban/Haitian Entrants**

**AGENCY:** Office of Refugee Resettlement (ORR), SSA, HHS.

**ACTION:** Notice of proposed formula for allocations to States of FY 1985 funds for refugee and entrant social services.

**SUMMARY:** This notice proposed the formula for allocation to States of FY 1985 funds for social services under the Refugee Resettlement Program (RRP). The formula yields the allowable allocation of FY 1985 refugee and Cuban/Haitian entrant social service

funds for each State participating in the RRP.

**DATE:** Comments on the allocation method provided for in this notice will be considered if received by December 14, 1984.

**ADDRESS:** Address written comments, in duplicate, to: David Howell, Office of Refugee Resettlement, Room 1229 Switzer Building, 330 C Street SW., Washington, D.C. 20201.

**FOR FURTHER INFORMATION CONTACT:** David Howell, (202) 245-1923.

**SUPPLEMENTARY INFORMATION:**

**I. Amounts Proposed for Allocation**

The Office of Refugee Resettlement (ORR) expects to have available \$71,700,000 in refugee/entrant social service funds for FY 1985. This determination is based upon the Continuing Resolution for FY 1985 (Pub. L. 98-473) which provides that social service funding be at the same level as in FY 1984.

Of this total of \$71,700,000, the Director of ORR proposes to make available to States \$64,232,786 during FY 1985 under the social service allocation formula set out in this notice. These funds will be made available for the purpose of providing social services to refugees and entrants. Separate announcements will be made for the remaining social service funds not included in this Notice.

All allocation figures include both refugees and entrants, since both populations may be served with fund made available under this Notice.

The Director proposes to allocate funds directly to States in the following manner:

- \$60,945,001 (85% of the available social service funds) would be allocated on the basis of each State's proportion of the national population of refugees and entrants who had been in the U.S. less than 3 years as of October 1, 1984.

- \$266,743 of the funds would be made available to States which have particular needs associated with small refugee/entrant populations in order to provide a floor of \$75,000 for States with fewer than 500 refugees/entrants; for States with more than 500 refugees/entrants, a minimum of \$100,000 would be available.

- \$3,021,042 of the funds would be allocated to each State on the basis of its proportion of the 3-year refugee/entrant population (including a \$5,000 floor) in order to provide an incentive for States to fund refugee/entrant mutual assistance associations (MAA's). A written assurance that these funds will be used for MAA's would be required in order for a State to receive

these funds. Separate guidance for States will be provided regarding this assurance after a final notice is published.

Of the approximately \$7,400,000 in remaining social service funds, the Director anticipates making \$3,700,000 (5%) available to States, if necessary, to provide funding beyond the proposed formula resulting from any adjustment made in population estimates (see Section III, below) specified in Section IV. In addition, approximately \$3,700,000 (5%) are currently expected to be used by ORR on a discretionary basis to provide funds for individual projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program.

Possible individual projects could test approaches to particular problems or be designed to develop model programs in refugee service delivery and self-support, including: Delivery of social services to special refugee populations; development of job opportunities; vocational-English training; and participation of community agencies, refugee organizations, business leadership, and volunteers in increasing refugee self-sufficiency. Announcements of the availability of funding and grant applications procedures for such projects will be issued when the Director determines the appropriate disposition of remaining refugee/entrant social service resources.

**II. Proposed Formula**

Under this proposal, \$60,945,001 of the funds available for FY 1985 or social services would be allocated to States in accordance with the formula specified below. A State's allowable allocation would be calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—
2. The total number of refugees and entrants who arrived in the United States not more than three years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the ORR Refugee Data System. The resulting per capita amount will be multiplied by—
3. The number of refugees and entrants in item 2, above, in the State as of October 1, 1984, adjusted for estimated secondary migration.

The calculation above will yield the formula allocation for each State. The MAA incentive award supplements will be made subsequently, contingent upon letters of assurance from States.

The proposed formula is similar to that used by ORR for social service allocation in FY 1983 and FY 1984, and incorporates improvements which were

adopted in previous years' formulas. States have generally supported the concept of the formula, which is based on 3-year population estimates, and have supported proposals that minimum amounts be provided to States with small refugee populations. We believe this position to be programmatically sound, since data on refugee receipt of cash assistance show the highest rates to occur during a refugee's first 3 years in the United States.

ORR has reviewed available data regarding the need for social services, and has considered relevant information derived from previous experience in the formula allocation of social service funds, comments received on the FY 1983 and FY 1984 formula, and numerous consultations with States. From this review, ORR has concluded that the proposed formula will result in allocations being made available to States on an equitable basis. Under this proposal, each State would receive funds in proportion to its populations of refugees generally having the greatest need for services and would be able to continue to provide services to these refugees.

While the proposed formula is based on the 3-year refugee population, social service programs are not limited to refugees who have been in the U.S. only three years. States may provide services without regard to an individual refugee's or entrant's length of residence. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program in order to use funds on behalf of entrants as well as refugees.)

ORR funds may not be used to provide services to United States citizens since they are not covered under the refugee and entrant legislation (except that services may be provided to a U.S.-born minor child in a family in which both parents are refugees or entrants or, if only one parent is present, in which that parent is a refugee or entrant). In accordance with ORR's "Statement of Program Goals, Priorities and Standards for State-Administered Refugee Resettlement Program" issued March 1, 1984, funds awarded under this notice would be subject to a requirement that at least 85 percent of a State's award be used for employment services, English language training, and case management services, reflecting the Congressional objective that "employable refugees should be placed in jobs as soon as possible after their arrival in the United States" and that social service funds be focused on these types of services. (Immigration and Nationality Act, section 412(a)(1)(B).)

States should also expect to use funds proposed under this Notice to pay for social services which are provided to refugees who participate in alternative projects. The Continuing Resolution for FY 1985, in addition to providing funds for the refugee program, amended the Immigration and Nationality Act to provide that:

The Secretary (of HHS) shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support (social) services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.<sup>1</sup>

The Department plans to issue a separate notice with respect to applications for such projects. The notice on alternative projects is not expected to contain provisions for the allocation of additional social service funds beyond the amount proposed for availability in this Notice. Therefore a State which may wish to consider carrying out such a project should take note of this in planning its use of social service funds proposed for allocation under the present notice.

Finally, ORR believes that the continued and/or increased utilization of refugee mutual assistance associations in the provision of social services promotes appropriate use of services as well as the effectiveness of the overall service system. The belief is reinforced by the interest in MAA's which has been developing under similar incentive funds awarded to States in previous years. Therefore, additional funds which would be

<sup>1</sup> This provision, generally known as the Fish Amendment, was originally included in the House-passed reauthorization of the Refugee Act, H.R. 3729, as modified and reported by the Senate Judiciary Committee.

targeted specifically to these organizations have been included in the proposal as an optional award to States which would use them for this purpose.

### III. Basis of Refugee and Entrant Population Estimates

The population estimates for the proposed allocation of funds in FY 1985 are based on the ORR Refugee Data System, adjusted as of October 1, 1984, for estimated secondary migration. The data base includes refugees of all nationalities as well as Cuban and Haitian entrants resettled after September 30, 1981.

For fiscal year 1985, ORR's formula allocations to the States for support services for refugees are to be based on the numbers of refugees who arrived, and entrants who arrived or were resettled, during the preceding three fiscal years: 1982, 1983, and 1984. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between October 1, 1981, and September 30, 1984, who are thought to be living in each State as of October 1, 1984. The population estimates for the fiscal year 1985 allocations cover refugees of all nationalities and Cuban/Haitian entrants.

The population estimates developed here are tentative and will be replaced with final population estimates for FY 1984 when these become available. The FY 1984 refugee arrival figures used here represent approximately 55,000 actual arrivals during the first ten months of the year, adjusted to 70,000, the number expected to arrive by the end of the year. In addition, the adjustment for refugees resettled under ORR's matching-grant program with national voluntary refugee resettlement agencies was based on the assumption that the number and distribution of those refugees in FY 1984 would approximate the FY 1983 pattern.

The adjustments made to the base arrival figures for estimated secondary migration were compiled from Forms

ORR-11 submitted by the States. At the time these estimates were compiled, no data had been submitted by New York, and interim data had been submitted by Georgia, Oregon, and Virginia. A late report from Maryland was partially incorporated. Receipt of final reports from these States may mean significant changes in their final population estimates and will result in minor changes for all other States. Findings from the March 1984 refugee child count of the U.S. Department of Education were also used selectively to adjust State population estimates.

Estimates have been developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. In doing so, ORR excluded from the population totals nationwide approximately 4,500 refugees who were resettled subject to a full Federal match of \$1,000 under the matching-grant program with voluntary agencies. The social service funds available to serve non-matching-grant refugees are limited and, ORR believes, should be directed to the area where those refugees live.

Table 1 below shows the estimated three-year populations, as of October 1, 1984, of all refugees (col. 1), excluding those matching-grant refugees discussed above; entrants resettled between October 1, 1981, and September 30, 1984 (col. 2); the total of these figures (col. 3); the formula amounts which the population estimates yield (col. 4); the proposed allocations after allowing for the minimum amounts (col. 5); and the amount available as an incentive to States to use MAA's as service providers (col. 6).

A detailed explanation of the development of data used in this formula allocation can be obtained by writing to the address indicated in section V of this notice.

### IV. Proposed Allocations

The following allocations are proposed for refugee/entrant social services in FY 1985:

Table 1.—Estimated Three-Year Refugee/Entrant Populations of States Participating in the Refugee Program and Social Service Formula Amounts and Proposed Allocations for FY 1985

State	Refugees (1)	Entrants (2)	Total (3)	Formula amount (4)	Proposed allocation (5)	MAA incentive allocation (6)
Alabama.....	1,078	6	1,082	\$293,214	\$293,214	\$14,433
Arizona.....	1,705	2	1,707	482,714	482,714	22,777
Arkansas.....	502	2	504	136,702	136,702	6,729
California.....	76,936	343	77,279	20,944,120	20,944,120	1,030,968
Colorado.....	2,713	12	2,725	738,429	738,429	36,349
Connecticut.....	3,054	19	3,073	832,741	832,741	40,991
Delaware.....	58	0	58	15,749	76,000	5,000
Dist. Columbia.....	893	3	896	242,722	242,722	11,948
Florida.....	4,232	1,278	5,510	1,493,259	1,493,259	73,005

Table 1.—Estimated Three-Year Refugee/Entrant Populations of States Participating in the Refugee Program and Social Service Formula Amounts and Proposed Allocations for FY 1985—Continued

State	Refugees (1)	Entrants (2)	Total (3)	Formula amount (4)	Proposed allocation (5)	MAA incentive allocation (6)
Georgia	3,660	9	3,669	694,333	694,333	43,948
Hawaii	1,131	1	1,132	306,718	306,718	15,098
Idaho	542	0	542	148,927	148,927	7,232
Illinois	9,659	84	10,043	2,721,935	2,721,935	133,986
Indiana	816	6	822	222,816	222,816	10,968
Iowa	2,112	1	2,113	572,533	572,533	23,165
Kansas	3,274	7	3,281	839,245	839,245	43,773
Kentucky	831	15	846	229,339	229,339	11,292
Louisiana	3,480	51	3,531	656,692	656,692	47,108
Maine	920	3	923	250,047	250,047	12,309
Maryland	3,254	19	3,273	887,053	887,053	43,685
Massachusetts	9,327	70	9,403	2,543,432	2,543,432	125,446
Michigan	3,836	1	3,837	1,056,204	1,056,204	51,991
Minnesota	5,459	34	5,433	1,438,783	1,438,783	73,235
Mississippi	436	0	436	119,257	119,257	5,821
Missouri	2,126	81	2,207	538,127	538,127	29,443
Montana	142	0	142	38,384	75,000	5,000
Nebraska	701	2	703	190,518	190,518	9,378
Nevada	882	82	964	261,142	261,142	12,855
New Hampshire	363	1	370	100,225	100,225	5,000
New Jersey	3,052	252	3,304	835,402	835,402	44,076
New Mexico	553	3	556	150,594	150,594	7,413
New York	12,679	477	13,156	3,565,432	3,565,432	175,510
North Carolina	2,184	7	2,191	539,856	539,856	29,232
North Dakota	456	6	442	119,776	119,776	5,836
Ohio	3,287	35	3,322	900,350	900,350	44,319
Oklahoma	2,318	12	2,330	631,581	631,581	31,089
Oregon	4,056	7	4,063	1,101,277	1,101,277	54,210
Pennsylvania	6,052	47	6,099	2,165,054	2,165,054	108,051
Rhode Island	1,545	0	1,545	418,815	418,815	20,616
South Carolina	558	2	560	151,900	151,900	7,477
South Dakota	413	3	416	112,635	112,635	5,544
Tennessee	2,218	5	2,223	602,578	602,578	29,662
Texas	15,478	104	15,582	4,222,944	4,222,944	207,873
Utah	2,450	1	2,451	664,238	664,238	32,697
Vermont	263	0	263	71,260	75,000	5,000
Virginia	7,578	106	7,684	2,082,477	2,082,477	102,509
Washington	7,839	0	7,839	2,140,803	2,140,803	105,380
West Virginia	121	0	121	32,675	75,000	5,000
Wisconsin	1,939	10	1,949	528,272	528,272	26,004
Wyoming	60	0	60	16,300	75,000	5,000
Guam	33	0	33	8,839	75,000	5,000
Totals	221,653	3,215	224,873	\$60,945,001	\$81,211,744	3,021,042

### V. State Evidence on Refugee Population

If a State wishes ORR to reconsider its population estimate, it should submit written evidence through its ORR Regional Director. Requests will be evaluated according to a strict standard. The following is the type of evidence which would be considered appropriate:

- Documentation and discussion should be confined to the population entering during fiscal years 1982, 1983, 1984, and should clearly identify what refugee groups are being discussed.
- Evidence should include a description of the information collection system(s) used by the State, including data sources, time period covered, timeliness, and validation procedures.
- Special studies and reports can be considered only if they are submitted for review.
- An example of acceptable evidence would be a list of refugees identified by name, alien number, and case size, if appropriate.

Any State evidence on population estimates should be submitted separately from comments on the proposed allocation formula no later than 30 days from date of publication of this notice and should be addressed to: Dr. Linda W. Gordon, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street SW., Washington, D.C. 20201, Telephone: (202) 245-1967

### VI. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 13.814 Refugee Assistance State Administered Programs)

Dated: November 2, 1984.  
Phillip N. Hawkes,  
Director, Office of Refugee Resettlement.

[FR Doc. 84-29600 Filed 11-13-84; 8:45 am]  
BILLING CODE 4190-11-M

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-84-1472; FR-2036]

Criteria for Acceptability of Insured 10-Year Protection Plans (Plan): Contemplated Revisions

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

ACTION: Notice of solicitation of public comments.

SUMMARY: This notice describes contemplated revisions to Departmental criteria for acceptability of insured 10-year protection plans set forth in HUD Handbooks. HUD acceptance of these plans is a prerequisite to reduced inspection requirements for proposed construction, and to high loan/value-ratio insured financing for existing one-to four-family dwellings that are less

than one year old and were not approved by HUD or the Veterans Administration before the start of construction.

**DATE:** Comments must be received by January 14, 1985.

**ADDRESS:** Interested persons are invited to submit comments regarding this notice to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Brian Chappelle, Acting Director, Single Family Development Division, Room 9270, 451 Seventh Street SW., Washington, D.C. 20410; (202) 755-6720. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:**

#### Statutory Background

Section 310 of the Housing and Community Development Amendments of 1979 (Pub. L. 96-153, approved Dec. 21, 1979) amended section 203(b)(2) of the National Housing Act (NHA) to permit a high loan/value-ratio insured mortgage (one in excess of 90 percent of the appraised property value) for existing single family homes, where the dwelling was not approved for mortgage insurance before the beginning of construction, provided that "(iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction."

#### Statutory Implementation

The Department implemented this amendment in regulations at 24 CFR 203.18(a)(2)(iv), and in HUD Handbook 4145.1, Architectural Processing and Inspections for Home Mortgage Insurance. Paragraph 3-27b of the Handbook states that only the final inspection of a property is necessary (usually the property is inspected at three separate stages of construction) if the application designates a Protection Plan acceptable to FHA that covers the property.

#### Plan Provisions

To be acceptable, a Plan must protect the property owner for a period of ten years, and must be backed by an underwriter approved to do business in the State where the property is located.

The coverage must be non-cancellable by the underwriter, and the full costs of coverage must be borne by the builder such that transferees of the property as well as the original purchaser are covered without additional cost. The Plan must (1) warrant against all defects in workmanship and materials for one year following the commencement of coverage; (2) warrant against defects in the wiring, piping and ductwork for the first two years of coverage; (3) directly insure against structural defects that seriously affect livability during the third through the tenth year of coverage; and (4) provide a system for handling complaints that includes conciliation and, if necessary, arbitration of disputes.

Since this Handbook provision became effective in 1979, it has become evident that refinement and further explanation are needed. The present acceptability criteria lack specificity with regard to financial soundness of insurers; responsibilities of various involved parties; term of acceptance by HUD; and procedures for Plan acceptance, acceptance renewal, and acceptance termination.

#### Plan Revision

Accordingly, the Department is considering revision of the criteria, and is inviting interested persons to comment on these proposed revisions. HUD seeks information and opinion on the revisions as a whole, but particularly with respect to the criteria for assurances of financial responsibility set out in paragraph 4. All comments received will be considered before changes are adopted. Revisions of the criteria incorporated into HUD Handbooks as a result of this Notice and the Department's treatment of the public comments will be published in the Federal Register in a Notice of HUD Policy.

#### Other Matters

##### *Finding of No Significant Impact*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street SW., Washington, D.C. 20410.

##### *Paperwork Reduction Act*

The information collection requirements contained in this document have been submitted to the

Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

Accordingly, the Department publishes the following Notice for public comment.

**1. General Plan Acceptability Information.** a. The basic principle of an acceptable Plan is that it will assure that:

(i) If a builder, for any reason, fails to correct significant construction deficiencies or structural defects in a covered property during the term of its warranty or guarantee, the covering Plan must effect the corrections; and

(ii) If a Plan, for any reason, fails to effect corrections in such a situation or, if a Plan, at any time and for any reason, fails to effect corrections in accordance with other terms of its coverage, its insurance backer(s) must effect the corrections.

A Plan may be structured to combine steps in this sequence of responsibilities, but it must assure that financially responsible third parties will have ultimate legal responsibility for the correction of significant property deficiencies and structural defects, in the event that the Plan proprietor fails to perform under the terms of the Plan coverage.

b. Plans may be issued:

(i) By a builder or a warranty company with full backing of Plan performance by one or more insurance companies;

(ii) Directly by an insurance company with insurance backing of Plan performance; or

(iii) By States that guarantee the builder's responsible performance and the State's continuing financial responsibility throughout the Plan's coverage period. HUD will evaluate Plans backed by the full faith and credit of a State only to assure compliance with paragraphs 2, 3, and 5 herein.

c. Criteria for Plan acceptability apply only to coverage of residential properties that involve HUD mortgage insurance.

d. Plans are not required to assure that a covered property complies with:

(i) Original dwelling plans and specifications;

(ii) Applicable local building codes; and

(iii) Specific terms of a homeowner's contract to purchase a property.

e. Plans must assure timely resolution of homeowners' complaints and structural defects claims. Plans which include warranties must comply with the Magnuson-Moss Federal Trade Commission Improvement Act, in addition to other requirements specified herein. Determinations regarding applications for renewal of plans acceptance by HUD will be deferred if there is evidence of a Plan's failure to fulfill its obligations. Flagrant failures to correct covered homeowner problems or numerous homeowner complaints about untimely problem resolution will be cause for termination of a Plan's acceptance and may be grounds for initiation of sanctions against a Plan or insurer in accordance with 24 CFR Part 24. If acceptance is terminated, the proprietor of the Plan will be advised of the reason(s) and, if sanctions are imposed under Part 24, the procedural safeguards of that rule will apply.

f. Plan acceptance by HUD will be for a two-year period.

g. Unless renewed, Plan acceptance expires automatically on the second anniversary date of acceptance. It shall be the responsibility of the proprietor of a Plan to apply for acceptance renewal at least two months in advance of expiration to avoid automatic acceptance termination.

h. After a Plan has been accepted by HUD, there shall be no change in, or modification to, its provisions, or in its insurer(s) or insurance contract(s), without prior written HUD acceptance of such change or modification. A violation of this condition will be cause for termination of a Plan's acceptance, and may be grounds for initiation of sanctions against the proprietor of the Plan in accordance with 24 CFR Part 24.

1. Plans must comply with all criteria set forth herein.

#### 2. General Plan Acceptability

*Criteria.* a. Plan coverage must begin on the date of original conveyance of title to a property or the date of initial property occupancy, whichever first occurs;

b. The entire cost to the homeowner for Plan coverage must be prepaid by the builder or, in the case of optional coverage additional to that required herein, by either the builder or homeowner;

c. Coverage must be automatically transferred, without additional cost, to subsequent homeowners;

d. Issued Plan coverage shall be noncancellable by a Plan or its insurer(s);

e. Exclusions from Plan coverage must not compromise coverage objectives

stated herein, and shall permit normal homeowner maintenance and emergency property protection activities;

f. Unless prohibited, or more rigorously required, by provisions of applicable law, Plans must, at a minimum, stipulate that homeowner complaints and structural defects claims will be settled in the amount of their actual cost to correct or the original sales price of the property, whichever is the lesser, subject to deductibles not to exceed a total of \$250 during the first two years of coverage and a maximum of \$250 per claim during the third through tenth years of coverage, provided that recurrent claims for structural defects occasioned by a common cause shall not be subject to a deductible;

g. In the event of any dispute regarding a homeowner complaint or structural defect claim, Plans must, unless prohibited, or more rigorously required, by applicable law, provide for binding arbitration proceedings arranged through the American Arbitration Associations or a similar body. The sharing of arbitration charges shall be as determined by the accepted Plan. A Plan may contain prearbitration conciliation provisions at no cost to the homeowners, or provision for judicial resolution of disputes, but arbitration must be an assured recourse for dissatisfied compliants or claimants.

3. *Plan Coverage Criteria.* A Plan may elect to provide coverage in excess of the following minimum required-coverage criteria, either in its basic coverage or by use of a prepaid added-cost endorsement issued at the inception of original property coverage. These coverage requirements do not preclude private risk-sharing arrangements between a Plan and a builder or transfer of a Plan's financial obligation for corrections to insurance backers or reinsurers.

a. During the first year of coverage, a Plan must warrant a covered property against defects in workmanship and materials if a builder, for any reason, fails to correct them. The Plan shall be similarly obligated to correct problems with, and restore reliable function of, appliances and equipment damaged during installation or improperly installed by a builder;

b. From the effective date through the second year of coverage, a Plan must warrant a covered property against defects in the wiring, piping, and ductwork in the electrical, plumbing, heating, cooling, ventilating, and mechanical systems;

c. From the effective date through the tenth year of coverage, a Plan must

warrant a covered property against structural defects.

d. Plans shall provide for minimum building and quality performance standards for home construction acceptable to the Secretary.

4. *Insurance Backing Criteria.* a. An insurance company backing a Plan or providing reinsurance to a Plan must be a property and casualty insurance company duly licensed or approved (and with the Plan filed and approved where appropriate) to market such insurance coverage by the proper regulatory agency for each State or territory in which the Plan will operate. Any company operating under the Federal Product Liability Risk Retention Act of 1981 will be deemed to meet licensing, filing, and approval requirements of all States and territories;

b. An insurance company backing or directly writing a Plan, or reinsuring any portion of a Plan's liabilities, must have a financial size equal to or larger than Class XI as shown by the A. M. Best Company (combined loss reserves, equity in unearned premiums, and policyholders surplus of at least \$12,500,000), but with the policyholder surplus being a minimum of \$3,000,000. If an insurance company backing, directly writing, or reinsuring a Plan is not rated by the A. M. Best Company, its financial statement, no more than one year old, certified by an independent Certified Public Accountant or duly licensed Independent Public Accountant, must be submitted to evidence compliance with this financial strength criterion.

c. Where a Plan will retain liability for any portion of its covered risk, in effect becoming its own insurance backer with independent insurance or reinsurance of the remainder of its covered risk, the extent of the retained risk will be a factor that HUD will consider at the time of application for Plan acceptance. A Plan retaining any portion of its covered risk shall write no further coverage when its net written premiums (total premiums received less reinsurance premiums) exceed four times its surplus (net worth). HUD will require and accept the Plan's annual certification that the ratio of net written premiums to surplus during the forthcoming year will not exceed four to one.

5. *Homeowner Information.* A Plan must evidence how the following documents will be delivered to the homeowner at the time of closing, and how replacement copies, to be provided at no cost to the homeowner, will be furnished upon request:

a. An executed legible copy of the coverage contract or insurance binder

covering the property, issued to the homeowner;

b. Instructions for submission of construction complaints and structural defects claims to the builder and/or to the Plan and/or to the Plan's insurers;

c. Written manufacturers' warranties for appliances and equipment, with addresses of manufacturers and their local agents authorized to perform warranty corrections.

6. *Annual Plan Certification.* Plans will not be renewed unless the following information is submitted on schedule:

a. Annually, after initial acceptance of a Plan by HUD, the proprietor of the Plan must submit to HUD an audit performed by a Certified Public Accountant, or by an Independent Public Accountant, licensed by a regulatory authority of a State or other political subdivision, with the Accountant's certification attesting to the Plan's compliance with paragraphs 4a, 4b, and 4c herein during the twelve months preceding the audit. If not submitted before a Plan's alternate year request for renewal of HUD acceptance, the certification must accompany that request.

b. Where a Plan self-insures any portion of its covered risk, the proprietor of the Plan must certify annually to HUD that, for the forthcoming year, it will comply with the provisions of paragraph 4c herein.

7. *Requests for HUD Acceptance of Plans.* Requests for initial HUD acceptance or renewal of acceptance of a Plan may be made to the Deputy Assistant Secretary for Single-Family Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Requests should be accompanied by full details of Plans proposed for HUD acceptance, including evidence demonstrating compliance with each criterion for acceptability set forth herein. Acceptability of Plans will be determined by HUD Headquarters, which will notify applicants of the Department's determination. If a Plan is rejected, the applicant will be advised of the reason(s) for rejection. Each HUD field office will be advised of Plans determined to be acceptable. Requests for renewal of HUD acceptance should be submitted at least two months in advance of expiration of previous Plan acceptance. Evaluation of requests will be expedited if they are accompanied by the following:

a. A legible copy of the coverage contract the Plan will furnish to homeowners, including identification of any automatic endorsement(s).

b. A copy of any automatic endorsement to the coverage contract.

c. A copy of the endorsement(s) to be used for any optional or excess coverage a Plan may write.

d. Complete information about the Plan's structure and insurance backing.

e. Complete information about any risk retained by the Plan. If a Plan retains any portion of its covered risk, the proprietor must submit the Plan's certification described in paragraph 4c.

f. A copy of the Plan's audited financial statement, no more than one year old, accompanied by a certification from an Accountant (as described in paragraph 6a) attesting that criteria in paragraphs 4a, 4b, and 4c herein were met during the one-year period immediately preceding the financial audit. This Accountant's certification is not required when the application is for coverage not previously written by the applicant Plan.

g. A certification by the Plan that it has not and will not enter into any contractual arrangement with others that might in any way compromise the coverage objectives set forth in paragraphs 3a through 3d.

h. A certification by the proprietor of the Plan that it will comply with homeowner notification requirements set forth in paragraphs 5a through 5c.

i. A certification by the plan that it will provide annual certifications, as set forth in paragraphs 6a and 6b.

j. Before final HUD acceptance of a Plan, but not necessarily with the request for Plan acceptance, the proprietor of the Plan must submit written evidence that demonstrates that the insurer(s) accepts and will honor all provisions of the Plan's coverage contract and of any applicable coverage contract endorsements.

k. Before final acceptance of a Plan, the proprietor must submit written evidence that demonstrates compliance with paragraph 4a. Similar evidence also will be necessary if the proprietor of a Plan desires to expand the Plan's geographic marketing area. Such expansion will not affect the period for which HUD has accepted the Plan.

Depending upon its structuring, a Plan backed by the full faith and credit of a State may not require all the documentation described above to support its request for Plan acceptance.

8. *Definitions.* a. "Coverage contract" means a warranty certificate, insurance policy, or other document of similar purpose, including any endorsements, which must (1) identify the property covered along with the time at which coverage begins and the maximum limit of Plan liability; (2) name the Plan and insurer(s) with their addresses, and describe the extent of the responsibilities of each; (3) clearly state

the property coverage provided; and (4) clearly identify under what conditions, when, to whom, and to what address the homeowner should submit any construction deficiency complaints or structural defects claims.

b. "First year, second year", etc. mean the time periods after the inception of property coverage during which certain specific coverages must apply to the property.

c. "Structural defect" means a failure, fracture, or excessive deflection of one or more load-bearing elements of a structure which is of such a nature as to seriously affect the safety or livability of a property or the health of its occupants, including such defects which occur in non-loadbearing basement slabs. A structural defect may be caused by faulty or deficient design, workmanship, materials, or construction, or by on-site conditions that adversely affect the as-built structure. The term excludes damage caused by fire, flood, earthquake, tornado, and other perils usually covered by a homeowner's casualty insurance policy.

Authority: Sec. 203(b)(2) of the National Housing Act, 12 U.S.C. 1709(b)(2); sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).

Dated: November 6, 1984.

Shirley M. Wiseman,

General Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 84-29633 Filed 11-13-84; 8:45 am]

BILLING CODE: 4210-27-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[INT RMP/FEIS 84-39]

#### Availability of the Proposed Lahontan Resource Management Plan and Final Environmental Impact Statement, Carson City District, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the proposed Lahontan Resource Management Plan and Final Environmental Impact Statement, Carson City District, Nevada.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act, the Carson City District of the Bureau of Land Management has prepared a combined final environmental impact statement and proposed resource management plan for the Lahontan resource management planning area. Wilderness

recommendations in the plan are preliminary and subject to change during administrative review.

**SUPPLEMENTARY INFORMATION:** The proposed resource management plan is designed to guide future management actions within the Lahontan resource management planning area. The planning area encompasses 2.4 million acres of public land largely in Churchill County and parts of Lyon, Mineral, Nye, and Storey Counties of Nevada. The document describes the proposed resource management plan and contains written and oral comments received during the public review period and responses to those comments, and changes which were made as a result of public comment.

A 30-day public review period will end December 28. During that period any portion of the plan, with the exception of the wilderness recommendations, may be protested as outlined in 43 CFR 1610.5-2. All protests should be sent to: Director, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** M. James Phillips, Lahontan Resource Area Manager, Bureau of Land Management, 1050 E. William St., Ste. 335, Carson City, NV 89701, (702) 882-1631.

Copies of the draft document are available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, 18th and C Streets, Washington, D.C. 20240

Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno, Nevada 89520, (702) 784-5448

Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, Nevada 89801, (702) 638-4071

Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, (702) 289-4865

Bureau of Land Management, Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nevada 89102, (702) 385-6403

Bureau of Land Management, Winnemucca District Office, 705 East 4th Street, Winnemucca, Nevada 89445, (702) 623-3676

Bureau of Land Management, Carson City District Office, 1050 E. William Street, Suite 335, Carson City, Nevada 89701, (702) 882-1631

Bureau of Land Management, Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, Nevada 89820, (702) 635-5181

Carson City Library, 900 N. Roop St., Carson City, Nevada 89701

Churchill County Library, 553 South Mame Street, Fallon, Nevada 89406

Government Publications Dept., University of Nevada, Reno, Reno Library, Reno, Nevada 89557  
University of Nevada, Reno, Getchell Library, Reno, Nevada 89507  
University of Nevada, Las Vegas, James R. Dickinson Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154  
Mineral County Library, 1st and D Streets, Hawthorne, Nevada 89415  
Nevada State Library, Library Building, Carson City Nevada 89710  
Lyon County Library, 20 Nevin Way, Yerington, Nevada 89447  
Nye County Library, Tonopah, Nevada 89049

Dated: November 6, 1984.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 84-29741 Filed 11-13-84; 8:45 a.m.]

BILLING CODE 4310-HC-M

[N-1574, N-1574A]

Nevada; Classification Vacated

*Correction*

In FR Doc. 82-32909 appearing on page 54364 in the issue of Thursday, December 2, 1982, make the following correction in the middle column:

1. Under the heading *Lunar Crater*, the fourth line should read: "T. 6 N., R. 53 E.,"

2. Under the heading *Berlin Townsite*, the third line should read: "Sec. 29, NE¼, N½ SE¼."

BILLING CODE 1595-01-M

California Desert District; Emergency Closure of Vehicle Routes in the Yuha Desert Area of Imperial County, CA

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Closure notice for vehicle routes of travel on public lands in the Yuha Desert Area of Southwestern Imperial County, California.

**SUMMARY:** This closure notice affects vehicle routes under the administrative responsibility of the El Centro Resource Area, California Desert District. The affected routes are located in the eastern portion of the Yuha Desert, in September 9, 15, 22, 23, 25, and 26 of T. 16 S., R. 11 E., SBM; Sections 31, 32, and 33 of T. 16 S., R. 12 E., SBM; Sections 2, 3, 4, and 5 of T. 16 ½ S., R. 12 E., SBM; Section 2, 3, 4, 6, 7, 8, 10, and 11 of T. 17 S., R. 12 E., SBM. The affected routes are closed to public vehicular travel in order to prevent adverse impacts to wildlife, cultural, and botanical resources. Portions of the Southwest Powerlink 500 kV transmission line construction road

closed to public use by this order, as well as the Imperial Valley Substation Access Road and La Rosita 230 kV transmission line road which were closed to public use by previous orders, will remain available to San Diego Gas and Electric Company and other authorized users.

The routes affected by this notice are being closed under the authority of 43 CFR 8364.1. This closure order is effective immediately and shall remain in effect until such time as the route of travel decisions for the area are reviewed and amended in accordance with 43 CFR Part 8340 regulations. Individual closed routes will be barricaded and/or signed closed.

Maps showing the location of the closed routes affected by this and previous notices concerning the Yuha Desert are available from the El Centro Resource Area, 333 South Waterman Avenue, El Centro, California 92243. Vehicle use on the closed routes is prohibited except for official vehicles on official business or other vehicles which have been expressly authorized for use by the authorized officer of the Bureau of Land Management. Any person who knowingly or willfully violates this closure order may be subject to a fine of up to \$1000 or imprisonment of up to 12 months, or both, under authority of 43 CFR 8360.0-7.

Dated: November 5, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84-29757 Filed 11-13-84; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Development Operations Coordination Document, Champlin Petroleum Co.

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is hereby given that Champlin Petroleum Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 6209, and 6212, Blocks A-185, A-193, and A-194, High Island Area offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

**DATE:** The subject DOCD was deemed submitted on November 2, 1984.

**ADDRESSES:** A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

**FOR FURTHER INFORMATION CONTACT:** Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCD's available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: November 5, 1984.

John L. Rankin,  
Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84-29754 Filed 11-13-84; 8:45 am]  
BILLING CODE 4310-MR-M

#### National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; Meeting

**AGENCY:** Minerals Management Service, Pacific OCS Region, Interior.

**ACTION:** National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; Notice and Agenda for Meeting.

**SUMMARY:** This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463.

The Pacific Regional Technical Working Group Committee of the National OCS Advisory Board is scheduled to meet in conjunction with the Region's Information Transfer Meeting, December 11-13, 1984 to be held in Santa Barbara, California. The RTWG will meet from 8:00 a.m. to 4:00 p.m., December 14, 1984 at the Santa Barbara Inn, 435 S. Milpas Road, Santa Barbara, California.

The Agenda for the meeting covers the following topics: (a) The 5-year OCS

Scheduling Process; (b) The Status of OCS Lease Sale No. 95; (c) Computer Mapping in the Coastal Zone; (d) Source Book of Ocean Information; (e) Oil Spill Contingency Planning; (f) Environmental Studies in the State Waters off Santa Barbara County; (g) FY 86 Pacific OCS Region Study Plan; (h) Update Hawaii-Gorda Ridge Polymetallic Sulfides Proposed Lease Sales. Minutes of the meeting will be available for public inspection and copying at the following locations:

Pacific OCS Region, 1340 West Sixth Street, Room 275, Los Angeles, CA. 90017

and

Office of Offshore Information Service, Minerals Management Service, Department of the Interior, Washington, DC 20240.

Dated: November 7, 1984.

William E. Grant,  
Director, Pacific OCS Region.

[FR Doc. 84-29760 Filed 11-13-84; 8:45 am]  
BILLING CODE 4310-MR-M

#### INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 431]

#### Adoption of the Uniform Railroad Costing System for the Purposes of Determining Variable Costs in Surcharge and Jurisdictional Threshold Determinations

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Decision to hold proceeding in abeyance.

**SUMMARY:** The Commission will not, at this time, adopt the uniform railroad costing system for the purposes of determining variable costs in computing joint rate surcharges and cancellations under 49 U.S.C. 10705a or for making jurisdictional threshold determinations in rail carrier rate proceedings under 49 U.S.C. 10709. Rail Form A will continue to be used for these purposes.

**EFFECTIVE DATE:** November 14, 1984.

**FOR FURTHER INFORMATION CONTACT:** William T. Bono, 275-7354

or

Leslie J. Selzer, 275-7627.

**SUPPLEMENTARY INFORMATION:** In our decision served January 31, 1983 (48 FR 4562, February 1, 1983), we solicited comments on our proposal to adopt URCS as the exclusive costing methodology for computing variable costs in joint rate surcharges and cancellations and in making

jurisdictional threshold determinations. Comments were due October 29, 1983.

Several parties suggested that we should not and could not adopt URCS until the Railroad Accounting Principles Board (RAPB) had reviewed and approved it.

The RAPB was established by the Staggers Rail Act of 1980 (See 49 U.S.C. 11161 and 11162) and was to establish general costing principles which the Commission would implement and enforce. Congress recognized, however, that the Commission was involved in an ongoing process to develop a new costing system, and stated that it expected the Commission to continue its efforts (H.R. Rep. No. 96-1430 at 123) concurrently with the work of the RAPB. Later, Congress decided not to fund the RAPB. The Report of the House Committee on Appropriations, on the Legislative Branch Appropriation Bill, 1982 (H.R. Rep. No. 170, 97th Congress, 1st Session 37, (July 9, 1982)) explained that because the Commission was developing the URCS system, it should be given the opportunity to "achieve the necessary objectives of uniform cost accounting before initiating another effort [by RAPB] which may create confusion and redundancy." The General Accounting Office was requested to oversee the Commission's activities and report any system deficiencies to Congress.

In light of this legislative history, we believe it was perfectly consistent with Congressional intent for the Commission to proceed with URCS. However, Congress has recently passed and the President has signed (July 17, 1984) Public Law 98-367 (H.R. 5753). This legislation appropriates \$1 million to fund the RAPB for fiscal year 1985. The RAPB will be constituted shortly.

On August 27, 1984, we received a joint motion from Edison Electric Institute and Central Louisiana Electric Company, Inc. to hold Ex Parte in abeyance.

Edison's motion is based on the recent funding of the RAPB and on language contained in a Senate appropriations report (S. REP. No. 561, 98th Cong. 2d Sess. 79 (1984) which directed the Commission to delay implementation of URCS until the RAPB has had an opportunity to review URCS and report its findings.<sup>1</sup>

<sup>1</sup> The joint resolution for continuing appropriations ultimately passed by the Congress (H.J. Res. 648) incorporated the language of Senate Report 98-561. "The conferees agree that language included in House Report 98-653 or Senate Report 98-561 or 98-634 shall be controlling unless otherwise addressed in the statement of the

Continued

Edison states that it is obvious from this Congressional activity, that the Commission should not take final action in this proceeding or use URCS in individual rail rate adjudication until the RAPB has acted and until carriers and shippers have had their opportunity to comment on the RAPB evaluation.

Subsequently, on September 17, 1984 we received an opposing reply statement to the Edison motion from the Association of American Railroads (AAR).

ARR argues that by passing the Staggers Act, Congress enacted sweeping reforms to the regulatory system and placed even greater emphasis on the need for the development of an accurate costing methodology. Furthermore, AAR contends that holding this proceeding in abeyance as requested by Edison would deprive the RAPB of the very information it needs to arrive at an evaluation of URCS. AAR maintains that while the Committee Report in Senate Report No. 98-561 (p. 79) recommends withholding of URCS implementation, it does not require the Commission to discontinue development of URCS. Lastly, it finds no justification for Edison's request to deny parties the optional use of URCS in individual rail rate adjudication proceedings.

In addition to the arguments raised above, several parties stated in their comments to the proposal that they were unable to evaluate URCS' costly Generation I programs. They maintain that a complete analysis would be possible only after they had the opportunity to study the reprogrammed version (Generation II).

Despite our concerns over the continued long term use of Rail Form A as a regulatory tool, we do not believe that delay of URCS, until the RAPB has had an opportunity to review it, is unreasonable. In fact, in view of the concerns expressed by shippers and others in their comments, we believe an independent evaluation by the RAPB will be a positive development. We will therefore hold this proceeding in abeyance until the RAPB has had an opportunity to review URCS.

However, in order to give all parties the opportunity to evaluate further the (updated) URCS methodology and the usefulness of the Generation II programs we will release those programs and their accompanying data base on December 15, 1984.

managers." H.R. REP. No. 1159, 98th Cong., 2d Sess. 388 (1984). Since URCS was not addressed in the conference report, language in the Senate report delaying implementation of URCS is considered to be controlling.

#### Conclusions:

1. When this proceeding was begun, the RAPB was not funded. Those funds have since been appropriated. Therefore, we will not adopt URCS until the RAPB has had the opportunity to review it.

2. The development of URCS will continue, including the Generation II computer programs which are nearing completion. These programs will make URCS substantially more accessible as requested by the parties. The revised programs and data necessary to apply them will be released on December 15, 1984.

#### *It is Ordered*

1. That Rail Form A shall continue to be used in making variable cost determinations in surcharge proceedings under Section 10705a and for making jurisdiction threshold determinations under Section 10709.

2. This proceeding is held in abeyance until further notice.

Authority: 49 U.S.C. 10705a, 49 U.S.C. 10709.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioner Lamboley concurred in the result holding this proceeding in abeyance for the reason that the Continuing Budget Resolution (H.J. Res. 648), passed October 11, 1984, among other things, directed that the Commission withhold implementation of URCS until the RAPB has had an opportunity for its review and report.

Dated: October 30, 1984.

James H. Bayne,  
Secretary.

[FR Doc. 84-29601 Filed 11-13-84; 8:45 am]  
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 217)]

#### **Rail Carriers; Burlington Northern Railroad Co.; Abandonment in Adams, Kearney and Phelps Counties, NE; Notice of Findings**

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 35.20 mile rail line between milepost 59.70 near Roseland, and milepost 24.50 near Wilcox in Adams, Kearney and Phelps Counties, NE. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,  
Secretary.

[FR Doc. 84-29602 Filed 11-13-84; 8:45 am]  
BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### **Proposed Termination of Final Judgment; Bally Manufacturing Corp.**

Notice is hereby given that Bally Manufacturing Corporation ("Bally") has filed with the United States District Court for the Northern District of Illinois a motion to terminate the Final Judgment in *United States v. Bally Manufacturing Corporation*, Civil No. 72-C-1597; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent for at least seventy (70) days. The complaint in this case (filed June 29, 1972) alleged a conspiracy between Bally and certain of its distributors to allocate territories and customers for the resale of Bally's amusement and gaming equipment. The judgment (entered on October 2, 1972) enjoins Bally from, among other things, restricting the persons to whom or the territories in which a distributor may sell or lease Bally's amusement or gaming equipment.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, Bally's motion papers, the stipulation containing the government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone: 202-

633-2481), and at the Office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, Room 2078 Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within sixty (60) days, and will be filed with the court. Comments should be addressed to Judy Whalley, Chief, Midwest Office, Antitrust Division, Department of Justice, Room 3820, 230 South Dearborn Street, Chicago, Illinois 60604 (telephone: 312-353-7530).

Joseph H. Widmar,  
*Director of Operations, Antitrust Division.*

[FR Doc. 84-29843 Filed 11-13-84; 8:45 am]

BILLING CODE 4410-01-M

#### Proposed Termination of Final Decree; Metromedia, Inc.

Notice is hereby given that Metromedia, Incorporated ("Metromedia"), as successor to the Foster & Kleiser Company ("F&K"), has filed with the United States District Court for the Central District of California a motion to terminate the final decree in *United States v. Foster & Kleiser Company*, No. R-31-M; and the Department of Justice ("Department"), in a stipulation also filed with the Court, has consented to termination of the decree, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The petition in equity which initiated this case (filed on April 22, 1930) alleged that F&K had monopolized and attempted to monopolize the billboard advertising business in Arizona, California, Oregon, and Washington.

The decree (entered on March 13, 1931) enjoins F&K and its successors from (1) acquiring any of its competitors or their assets in the four-state area; (2) erecting billboards that obstruct or impair the visibility of its competitors' billboards; (3) coercing its competitors to sell their billboards under terms dictated by threats of elimination from the business; (4) engaging in a variety of billboard site leasing activities aimed at excluding its competitors from billboard sites (such as paying amounts for billboard sites "in excess of their true worth," inducing property owners to cancel their leases with its competitors, and leasing billboard sites without

intending to use them); and (5) engaging in various billboard pricing and marketing practices (such as discriminatory pricing, reducing prices to induce customers to breach contracts with its competitors, making false and disparaging statements about its competitors, and giving customers free advertising, preferences, priorities, or rebates).

The Department has filed with the Court a memorandum setting forth the reasons why the Department believes that termination of the decree would serve the public interest. Copies of the petition in equity, final decree, Metromedia's motion papers, the Department's memorandum, and all further papers filed with the Court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, U.S. Department of Justice, Tenth Street and Pennsylvania Avenue, NW, Washington, DC, 20530 (Telephone: (202) 633-2481), and at the Office of the Clerk of the United States District Court for the Central District of California, United States Courthouse, 312 North Spring Street, Los Angeles, CA 90012. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within sixty days and will be filed with the Court. Comments should be addressed to P. Terry Lubeck, Assistant Chief, Intellectual Property Section, Antitrust Division, U.S. Department of Justice, Washington, DC, 20530 (Telephone: 202/724-7966).

Joseph H. Widmar,  
*Director of Operations, Antitrust Division.*

[FR Doc. 84-29844 Filed 11-13-84; 8:45 am]

BILLING CODE 4410-01-M

#### NATIONAL CREDIT UNION ADMINISTRATION

##### Agency Forms Submitted to the Office of Management and Budget for Clearance

The following are those packages submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).  
Subject: Semiannual Financial and Statistical Report, NCUA 5300 (3133-0004).

Respondents: Federally Insured Credit Unions.

Subject: 701.13 Financial and Statistical and Other Reports—The regulation requires each federally insured credit union to submit to the NCUA a completed Financial and Statistical Report NCUA 5300 for midyear and year-end.

Subject: Participating Credit Union (PCU) Sample, NCUA 5301 (3133-0001).

Respondents: A sample of federally insured credit unions.

Abstract: Credit Union Monthly Survey provides financial data that serves as a basis for estimating consumer savings and credit, growth in assets, savings, investments and to monitor trends and developments at all U.S. credit unions. The information is also used for supervisory program planning and management and for publication of industry statistics.

OMB Desk Officer: Judith McIntosh.

Copies of the above information collection clearance package can be obtained by calling the National Credit Union Administration, Special Projects Officer, on (202) 357-1065.

Written comments and recommendations for the listed information collection should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, Attn: Judith McIntosh.

Dated: November 1, 1984.

Rosemary Brady,  
*Secretary of the NCUA Board.*

[FR Doc. 84-29775 Filed 11-13-84; 8:45 am]

BILLING CODE 7535-01-M

#### NATIONAL SCIENCE FOUNDATION

##### Advisory Panel for Archaeology Physical Anthropology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Archaeology/Physical Anthropology.

Date and Time: November 29-30, 1984; 9:00 a.m.-5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Washington, DC 20550, Room 1141.

Type of Meeting: Closed.

Contact Person: Dr. John E. Yellen, Program Director for Anthropology Room 320, National Science Foundation, Washington, DC 20550 (202) 357-7804.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in archaeology.

Agenda: 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 5 U.S.C 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: November 8, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84-29341 Filed 11-13-84; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards Subcommittee on Air Systems; Meeting

The ACRS Subcommittee on Air Systems will hold a meeting on November 29, 1984, in Room 1167, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

*Thursday, November 29, 1984-8:30 a.m. until the conclusion of business.*

The Subcommittee will review the report of the NRC Working Group on Control Room Habitability.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions

with representatives of the NRC Staff, their respective consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. John O. Schiffgens (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., e.s.t. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 6, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-29337 Filed 11-13-84; 8:45 am]

BILLING CODE 7590-01-M

### Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published October 22, 1984 (49 FR 41297). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (\*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the December 1984 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

### ACRS Subcommittee Meetings

*San Onofre Nuclear Generating Station Unit 1*, November 26, 1984, Washington, DC. The Subcommittee will discuss the NRC Staff's technical basis for restart of San Onofre Nuclear Generating Station Unit 1.

*Combined Advanced Reactors and Gas Cooled Reactors*, November 27, 1984—POSTPONED.

*Decay Heat Removal Systems*, November 28, 1984—POSTPONED.

*Hope Creek Generating Station Unit 1*, November 28 and 29, 1984; Philadelphia, PA. The Subcommittee will review the operating license application of the Public Service Electric and Gas Company for the Hope Creek Generating Station.

*Emergency Core Cooling Systems*, November 28 and 29, 1984, Washington, DC. The Subcommittee will review: (1) NRC's thermal-hydraulic research programs for ACRS Report to Congress, (2) Yankee Atomic Electric's request for an exemption to Appendix K to 10 CFR 50.46, (3) analysis work performed by NRR as part of the ATWS resolution effort, (4) Westinghouse Owners Group Steam Generator Tube Rupture Program, (5) NRR review of Westinghouse and ENC EM's for Westinghouse upper plenum injection plants, and (6) status of resolution effort of USI A-43, "Containment Emergency Sump Performance", and the development of associated Regulatory Guide 1.82.

*Air Systems*, November 29, 1984, Washington, DC. The Subcommittee will review the report to the NRC Working Group on Control Room Habitability.

*Combined Reactor Radiological Effects and Waste Management*, November 30 and December 1, 1984, Washington, DC. The Subcommittee will review research programs in the areas of: chemical engineering (process control), occupational radiation protection, high- and low-level waste management, emergency planning, health effects, and meteorology and hydrology in order to formulate recommendations for the ACRS Report to the Congress on the NRC Safety Research Program for FY 1986 and 1987.

*Combined GESSAR II/Reliability and Probabilistic Assessment*, December 4 and 5, 1984, Los Angeles, CA. This will be the second in a series of meetings to review the General Electric Standard Safety Analysis Report to extend the Final Design Approval so that it will be applicable to future plants. The meeting will focus on the GESSAR II treatment of severe accidents and the Probabilistic Risk Assessment performed in connection with the GESSAR II design.

*Human Factors*, December 10, 1984, Washington, DC. The Subcommittee will review the status of Human Factors Research in preparation for the next Committee report to the Congress on reactor safety research. Also planned is further discussion of the results produced from the NRR Human Factors Program Plan.

*Braidwood Station*, December 11, 1984, Washington, DC. The Subcommittee will continue to review the Commonwealth Edison Company's application for an operating license for Braidwood.

*Maintenance Practices and Procedures*, December 11, 1984—  
POSTPONED.

*Safety Philosophy, Technology, and Criteria*, December 12, 1984, Washington, DC. The Subcommittee will discuss the NRC Staff's draft report on the use of the proposed safety goals over the trial two-year period.

*Waste Management*, December 19 and 20, 1984, Washington, DC. The Subcommittee will review NRC Staff (Waste Management) two aspects of the Nuclear Waste Policy Act: (1) Definition of High-Level Waste, and (2) activities in preparation for Site Selection and Characterization. Research needs for Waste Management will also be discussed.

*Westinghouse Water Reactors*, Date to be determined (December, tentative), Washington, DC. The Subcommittee will begin its review of the Westinghouse Advanced Pressurized Water Reactor for Preliminary Design Approval.

*Seismic Design of Piping*, Date to be determined (December), Washington, DC. The Subcommittee will review draft reports issued by the NRC Piping Review Committee on Dynamic Loads and Load Combinations and Seismic Design requirements of piping.

*Nine Mile Point Unit 2*, Date (December/January) and location to be determined. The Subcommittee will begin review of the Niagara Mohawk Power Corporation's application for an operating license for Nine Mile Point.

*Quality and Quality Assurance in Design and Construction*, Date to be determined (prior to January ACRS meeting), Washington, DC. The Subcommittee will review Regulatory Guide 1.28, "Quality Assurance Program Requirements (Design and Construction)." It is also possible that the QA Program Plan will be available for ACRS review.

*Combined Extreme External Phenomena, Structural Engineering, and Seismic Design of Piping*, Date to be determined (January/February), Los Angeles, CA. The Subcommittee will

discuss the status of the NRC Staff seismic design margins programs.

*Safeguards and Security*, February 6, 1985, Washington, DC. The Subcommittee will review design features for protection against sabotage at commercial nuclear power reactors, explore the potential consequences of successful sabotage at nonpower reactors, and hear how the NRC Staff reviews and evaluates licensees' security plans.

*Electrical Systems*, Date to be determined, Washington, DC. The Subcommittee will discuss Westinghouse Advanced Pressurized Water Reactor Integrated Control and Protection System.

*Palo Verde Nuclear Generating Station*, Date to be determined, Maricopa County, AZ. The Subcommittee will review the final reports for various construction deficiencies and the results of the preoperational testing as requested in ACRS letter dated December 15, 1981.

*Electrical Systems*, Date to be determined, Washington, DC. The Subcommittee will discuss the recent plant experience with the loss of AC power.

#### ACRS Full Committee Meeting

December 13-15, 1984: Items are tentatively scheduled.

\* *A. Hope Creek Generating Station Unit 1*—Operating license.

\* *B. Activities of NRC Office of Nuclear Material Safety and Safeguards*—Briefing by Director, NMSS.

\* *C. Yankee Nuclear Power Station*—Proposed exemption to 10 CFR 50, Appendix K—ECCS Evaluation Models.

\* *D. Recent Operating Events at Nuclear Power Stations*—Briefing of members regarding recent events at operating nuclear power plants and those under construction.

\* *E. ACRS Report on the Proposed Safety Research Program and Budget*—The members will discuss portions of their annual report to the U.S. Congress on the NRC safety research program and budget.

\* *F. Proposed NRC Rulemaking on 10 CFR 50.47, Emergency Plans and Appendix E, Emergency Planning and Preparedness for Production and Utilization Facilities*—The members will hear the report of its subcommittee regarding proposed changes in 10 CFR 50.47 and Appendix E regarding consideration of extreme events in emergency planning. Members of the NRC Staff will participate as appropriate.

\* *G. "Steam Generator" Overfill*—Discuss NRC contractor reports on the

effects of overfilling nuclear power plant "steam generators" for BWR and PWR nuclear power plants.

\* *H. San Onofre Nuclear Generating Station Unit 1*—Discuss seismic modification to upgrade this unit.

\* *I. ACRS Subcommittee Activities*—Hear and discuss reports regarding ongoing activities of assigned ACRS Subcommittees including items such as proposed revision of Regulatory Guide 1.82, Sumps of ECC and Containment Spray Systems, consideration of severe accidents in the regulatory process, ACRS policies and procedures, quality assurance in design and construction of nuclear facilities, routing of non-safety grade systems including those carrying combustible gases, and trial use of proposed NRC safety goals. Members of the NRC Staff will participate as appropriate.

\* *J. Fire Protection*—Discuss report of NRC Task Force on fire protection provisions at nuclear facilities.

\* *K. Future ACRS Activities*—Discuss anticipated ACRS Subcommittee activities and items proposed for consideration of the full Committee.

\* *L. Election of ACRS Officers*—Discuss and select ACRS officers for calendar year 1985.

January 10-12, 1985—Agenda to be announced.

February 7-9, 1985—Agenda to be announced.

Dated: November 8, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-26830 Filed 11-13-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 040-08760; License No. SMC-1377]

#### Edlow International Co., Request for Action Under 10 CFR 2.206

Notice is hereby given that, by letter dated August 29, 1984, certain citizens of East St. Louis, Illinois (Petitioners), seek removal of the Edlow International source material storage site presently located in East St. Louis, Illinois. The letter is being treated as a Petition pursuant to 10 CFR 2.206. (Any other letters received by the Nuclear Regulatory Commission which make similar requests regarding Edlow will be consolidated into this Petition.) The Petition claims that the Edlow site is currently located in a densely populated neighborhood including a number of schools with substantial student bodies. The Petition further claims that the fire occurred at the facility on December 7, 1983 and the violations disclosed as a

result of that fire indicate that the radioactive material stored at the facility poses a threat to public health and safety. Specifically, the adequacy of evacuation of citizens in the event of an emergency is questioned. Appropriate action will be taken on the Petition within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this November 6, 1984.

For the Nuclear Regulatory Commission,  
John G. Davis,  
Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 84-29833 Filed 11-13-84; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. 50-263]

### Northern States Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from requirements of 10 CFR 50.54 to Northern States Power Company, the licensee for the Monticello Nuclear Generating Plant, located in Wright County, Minnesota.

#### Environmental Assessment

**Identification of Proposed Action:** The exemption would grant an exemption to permit the shift supervisor's office to be considered part of the control room for purposes of meeting the requirements of 10 CFR 50.54. The proposed exemption is in accordance with the licensee's request for exemption dated September 29, 1983, as supplemented March 23, 1984.

**The Need for the Proposed Action:** On July 11, 1983, the Commission published a revised Section 10 CFR 50.54 regarding shift staffing requirements for nuclear power plants. Section 50.54(m)(2)(iii) of the revised rule requires that: "When a nuclear power unit is in an operational mode other than cold shutdown or refueling, as defined by the unit's technical specifications, each licensee shall have a person holding a senior operator license for the nuclear power unit in the control room at all times."

In a letter dated September 29, 1983, and supplemented by letter dated March 23, 1984, Northern States Power Company described its plans for modifying the shift supervisor's office at the Monticello plant to make it suitable to be considered as part of the control room. Northern States Power Company

requested that the Shift Supervisor's office be considered as part of the control room for the purpose of meeting the requirements of the new shift staffing rule. The proposed modifications to the office are to be accomplished during the present extended outage. The Shift Supervisor's office is a different room than the control room, and therefore operating personnel in the Shift Supervisor's office can not directly perceive the same information as is available in the control room or communicate directly with control room personnel. For this reason, we are treating this matter as an exemption request from the licensee.

Northern States Power Company stated that nine out of eleven persons holding senior operator licenses at the Monticello plant are supervisory personnel whose duties involve routine processing of work control, testing, and other documentation. Locating these persons in the control room introduces undesirable traffic into the small Monticello control room. The licensee's plans for modifying the shift supervisor's office include provision of key visual and audible information and reliable prompt access to the control room, so that use of the shift supervisor's office for senior reactor operator occupancy is considered functionally acceptable by the licensee.

**Environmental Impact of the Proposed Action:** The proposed exemption affects only the staffing requirements as related to the definition of the control room and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not differ from those determined previously, and the proposed relief does not otherwise affect facility radiological effluents, or any significant occupational exposures. Likewise, the relief does not affect plant non-radiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or non-radiological environmental impacts associated with the proposed exemption.

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives either will have no environmental impact or will have a greater environmental impact. The principal alternative to the exemption would be to require literal compliance with Section 50.54(m)(2) to 10 CFR Part 50. Such an action would not enhance the protection of the environment and would result in unnecessary staffing requirements and associated cost to the licensee.

**Alternative Use of Resources:** This action does not involve the use of resources not considered previously in connection with the Final Environmental Statement relating to this facility, *Final Environmental Statement Related to the Monticello Nuclear Generating Plant Docket No. 50-263*, (November 1972).

**Agencies and Persons Consulted:** The NRC staff 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 exemption.

Based upon the environmental assessment, we conclude 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 request for exemption dated September 29, 1983, as supplemented March 23, 1984 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Dated at Bethesda, Maryland, this 7th day of November, 1984.

For the Nuclear Regulatory Commission,  
Gus C. Linaas,  
Assistant Director for Operating Reactors,  
Division of Licensing.

[FR Doc. 29833 Filed 11-13-84; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. STN 50-483]

### Union Electric Co., Callaway Plant Unit 1; Request for Action Under 10 CFR 2.206

Notice is hereby given that letter dated September 28, 1984, the Government accountability Project, on behalf of Concerned Citizens About Callaway and others, has requested that the Commission suspend the low-power license for Callaway Unit 1 pending an investigation of the allegations set forth in the letter and the completion of any necessary reinspections of the plant as a result of problems identified during the investigation. The allegations concern primarily improper construction practices and other improper conduct by plant workers such as a drug or alcohol abuse on the site. The letter is being treated as a request for action under 10 CFR 2.206 and, accordingly, the staff will take appropriate action on the request within a reasonable time.

A copy of the petitioner's letter is available for public inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and at the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Dated in Bethesda, Maryland, this 7th day of November 1984.

For the Nuclear Regulatory Commission,  
Edson G. Case,  
*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 84-29840 Filed 11-13-84; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. 50-244]

**Rochester Gas and Electric Corp.;  
Issuance of Environmental  
Assessment and Finding of No  
Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-18 to Rochester Gas and Electric Corporation (the licensee) for the R. E. Ginna Nuclear Power Plant located in Wayne County, New York.

*Identification of Proposed Action:* The amendment would consist of changes to the operating license and Technical Specifications (TS) and would authorize an increase of the storage capacity of the spent fuel pool (SFP) from 595 fuel assemblies to 1016 fuel assemblies with average enrichments no greater than 4.25 weight percent U-235.

The amendment to the TS is responsive to the licensee's application dated April 2, 1984 and supplemented June 12, 1984. The NRC staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment By the Office of Nuclear Reactor Regulation Relating to the Second Modification of the Spent Fuel Storage Pool, Provisional Operating License No. DPR-18, Rochester Gas and Electric Corporation, R. E. Gina Nuclear Power Plant, Docket No. 50-244" dated November 8, 1984.

*Summary of Environmental Assessment:* The Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG-0575) concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying

spent fuel storage. Because of the differences in SFP designs, the FGEIS recommended licensing SFP expansion on a case-by-case basis.

For Ginna the expansion of the storage capacity of the SFP will not create any significant additional radiological effects or measurable nonradiological environmental impacts. The additional whole body dose that might be received by an individual at the site boundary is less than 0.1 millirem per year; the estimated dose to the population within a 50-mile radius is estimated to be less than 0.1 man-rem per year. These doses are small compared to the fluctuations in the annual dose this population receives from exposure to background radiation. The occupational radiation dose to workers during the modification of the storage racks is estimated by the licensee to be 78 man-rems. This is a small fraction of the total man-rems from occupational dose at the plant. The small increase in radiation dose should not affect the licensee's ability to maintain individual occupational dose within the limits of 10 CFR Part 20, and as low as reasonably achievable.

*Finding of No Significant Impact:* The staff has reviewed this proposed facility modification relative to the requirements set forth in 10 CFR Part 51. Based upon the environmental assessment, the staff concluded that there are no significant radiological or nonradiological impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see: (1) The application for amendment to the TS dated April 2, 1984 as supplemented June 12, 1984, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG-0575), (3) the Final Environmental Statement for Ginna issued December 1973, (4) the Environmental Evaluation for Ginna issued June 17, 1983, and (5) the Environmental Assessment dated November 8, 1984. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., 20555 and at the Local Public Document Room at the Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,  
*Assistant Director for Safety Assessment,  
Division of Licensing, Office of Nuclear  
Reactor Regulation.*

[FR Doc. 84-29867 Filed 11-13-84; 8:45 am]  
BILLING CODE 7590-01-M

**OFFICE OF SCIENCE AND  
TECHNOLOGY POLICY**

**Executive Office of the President;  
OSTP Advisory Committee on  
Scientific Communication; Meeting**

The Office of Science and Technology Policy (OSTP) Advisory Committee on Scientific Communication, the purpose of which is to advise the Director, OSTP, will meet on November 30, 1984, in Room 5104, New Executive Office Building. The meeting will begin at 10:00 a.m. Following is the proposed agenda for the meeting:

(1) Review by OSTP of purpose of the Interagency Working Group on Export Controls and Scientific Communication, and its activities to date.

(2) Discussion of the content and wording of proposed recommendations in the revision to the Export Administration Regulations on scientific communication.

Portions of the November 30 meeting will be closed to the public.

The discussion of the proposed recommendations on the revision of the Export Administration Regulations on Scientific Communication will involve proposals, which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These sections of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(9)(B).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Polly Thompson at (202) 395-3961, prior to 3:00 p.m. on November 28. Mrs. Thompson is also available to provide further information regarding this meeting.

Dated: November 6, 1984.

Jerry D. Jennings,  
*Executive Director, Office of Science and  
Technology Policy.*

[FR Doc. 84-29755 Filed 11-13-84; 8:45 am]  
BILLING CODE 3170-01-M

**PENSION BENEFIT GUARANTY CORPORATION****Pendency of Requests for Exemption From Bond/Escrow and Sale-Contract Requirements Relating to Sale of Assets by an Employer That Contributes to Multiemployer Plans; Lansfam, Inc. and Raleigh Stores Corp.****AGENCY:** Pension Benefit Guaranty Corporation.**ACTION:** Notice of pendency of requests.

**SUMMARY:** This notice advises interested persons that the Pension Benefit Guaranty Corporation has received requests from Lansfam, Inc. and Raleigh Stores Corporation for exemptions from the bond/escrow and sale-contract requirements of section 4204(a)(1) (B) and (C) of the Employee Retirement Income Security Act of 1974, as amended. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for a five-plan-year period beginning after the sale. Another condition is that the contract of sale provide that if the purchaser withdraws from the plan within the first five plan years after the sale and does not pay its withdrawal liability the seller will be secondarily liable for the withdrawal liability. The PBGC is authorized to grant individual and class exemptions from these requirements. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The purpose of this notice is to advise interested persons of these exemption requests and to solicit their views on them.

**DATE:** Comments must be submitted on or before December 14, 1984.

**ADDRESSES:** All written comments (at three copies) should be addressed to Director, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington D.C. 20006. The requests for exemptions and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Steven Rothenberg, Attorney, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW.,

Washington, D.C. 20006 (202) 254-4860 (202-254-8010 for TTY and TDD). (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:****Background**

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, (ERISA), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1) (A)-(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the sale-contract requirement of section 4204(a)(1)(C) when warranted. The legislative history of section 4204 indicates a

Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under the PBGC's regulation on variances for sales of assets (29 CFR Part 2643) the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the Federal Register, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

**The Request**

The PBGC has received joint requests from Lansfam, Inc. (Seller) and Raleigh Stores Corporation (Buyer), (Collectively referred to as the "Parties") for exemptions from the requirements of section 4204(a)(1) (B) and (C) as they apply to two plans affected by the transaction. In the information submitted in support of the requests, the parties represent, among other things, that:

1. On April 20, 1984, Lansfam, Inc. sold substantially all of its assets to Raleigh Stores Corporation, an unrelated party.

2. As a result of the sale, on April 20, 1984, the Seller ceased to have an obligation to contribute to the Warehouse Employees Union Local 730 Pension Plan (Local 730 Plan) and the Retirement Plan of the Amalgamated Insurance Fund (Insurance Fund).

3. The Buyer has assumed the obligation to contribute to both plans for all of the Seller's covered operations.

4. The Seller has agreed to be secondarily liable for its withdrawal liability to both plans should the Buyer withdraw from either plan and fail to pay its withdrawal liability within five plan years after the date of the sale.

5. The Seller's estimated potential withdrawal liability to the Insurance Fund is approximately \$1,131,000. The Seller is estimated to have no potential

withdrawal liability to the Local 730 Plan.

6. The amount of the bond/escrow that would be required of the Buyer under section 4204(a)(1)(B) for the Insurance Fund is \$337,473.84 (200 percent of the annual contribution the Seller made to the Fund for the plan year preceding the plan year in which the sale of assets occurred). The plan was in reorganization in the plan year in which the sale of assets occurred). The amount of the bond/escrow that would be required of the Buyer under section 4204(a)(1)(B) for the Local 730 Plan is \$13,347.49 (the annual contribution the Seller made to the Plan for the plan year preceding the plan year in which the sale of assets occurred).

7 The Buyer was incorporated shortly prior to the date of sale and has no financial statements for fiscal years ending prior to the date of sale. The Buyer did submit a balance sheet as of July 31, 1984. While the Buyer has asked for confidential treatment of its balance sheet, it has agreed to disclose that its net tangible assets were in excess of \$10,000,000 on April 28, 1984, the date closest to the date on which the Seller ceased to have an obligation to contribute for these operations for which that figure is available.

8. Buyer intends to continue Seller's prior business, retaining its assets, operating its stores in the same locations, in the same manner, with the same management employees, with substantially the same other employees and with a substantial number of Seller's pre-sale corporate operating officers.

9. A copy of the request, excluding Buyer's balance sheet, relating to the Local 730 Plan was sent to the Local 730 Plan and the collective bargaining representative from the Warehouse Employees Union Local 730, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. A copy of the request, excluding Buyer's balance sheet, relating to the Insurance Fund was sent to the Insurance Fund and collective bargaining representatives from the Baltimore Regional Joint Board, Amalgamated Clothing and Textile Workers Union, AFL-CIO.

**Comments**

All interested persons are invited to submit written comments on the pending exemption requests to the above address, on or before December 14, 1984. All comments will be made a part of the record. Comments received, as well as the relevant non-confidential

information submitted in support of the applications for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 7th day of November 1984.

C.C. Tharp,  
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-29847 Filed 11-13-84; 8:45 am]  
BILLING CODE 7708-01-M

**SECURITIES AND EXCHANGE COMMISSION**

[70-7035; Rel. No. 23469]

**Cities Service Oil and Gas Corp. and Occidental Petroleum Corp., Application for Order**

November 7, 1984.

Cities Service Oil and Gas Corporation ("CSOG"), 110 West Seventh Street, Tulsa, Oklahoma 74119, a Delaware Corporation and Occidental Petroleum Corp., ("Occidental"), 10889 Wilshire Boulevard, Los Angeles, California 90024, a California corporation, have filed with this Commission an application requesting an order declaring CSOG and Cities Service Company ("Cities") not to be "gas utility companies" under section 2(a)(4) of the Public Utility Holding Company Act of 1935 ("Act").

Occidental, *inter alia*, explores for, develops, produces, trades in, and markets energy resources, principally crude oil, natural gas and natural gas liquids. Occidental acquired 45% of the outstanding common stock of Cities Service Company on September 10, 1982, and acquired the balance of such stock on December 3, 1982, pursuant to a merger whereby Cities become a direct wholly-owned subsidiary of Occidental. On February 1, 1983, Cities transferred substantially all of its domestic oil and gas exploration and production to its then wholly-owned subsidiary CSOG, which is now an indirect wholly-owned subsidiary of Occidental.

In 1983, CSOG's consolidated assets were valued at \$4,216,728,000. CSOG's 1983 revenue from all sources totalled \$2,094,695,000, with natural gas sales revenues totalling \$406,763,000. In 1983 CSOG natural gas sales included the following:

Kentucky (Statutory) .....	\$217,206
West Virginia and Kentucky (Right-of-Way) .....	36,818
Kansas and Oklahoma (Irrigation purposes) .....	636,540
<b>Total .....</b>	<b>890,564</b>

These sales constituted just over 0.2% of CSOG's 1983 natural gas sales revenue and less than 0.059% of its total revenue. The Kentucky (Statutory) sales were pursuant to Kentucky law under which property owners whose property and point of desired services is located within one-half air mile of a Company's producing gas well or gas gathering pipelines have the right to obtain gas service at rates and minimum monthly charges determined by the Public Service Commission of Kentucky. The West Virginia and Kentucky (Right-of-Way) sales represent sales made to landowners along the right-of-way of CSOG's gas-gathering pipelines running from remote wellheads to regular gas transmission pipelines, pursuant to the terms of easements. The Kansas and Oklahoma sales are made pursuant or in relation to CSOG's leases with landowners, the gas is sold prior to leaving the leasehold and entering the pipeline and is used by the lessors solely for irrigation purposes.

CSOG and Occidental, based upon the foregoing, has requested that the Commission issue an order declaring that neither Cities nor CSOG is or, since at least September 10, 1982, has been a "gas utility company" within the meaning of September 2(a)(4) of the Act.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 30, 1984, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact and/or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shurley E. Hollis,  
Acting Secretary.

[FR Doc. 84-29820 Filed 11-13-84; 8:45 am]  
BILLING CODE 8010-01-M

[70-7032; Rel. No. 23471]

**The Columbia Gas System, Inc.; Notice of Proposal To Purchase Common Stock of Subsidiary Company**

November 7, 1984.

Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19897 a registered holding company, proposes a transaction subject to sections 9 and 10 of the Public Utility Holding Company Act of 1935.

Columbia proposes to purchase seven shares of common stock of its subsidiary Big Marsh from the Union National Trust of Pittsburgh ("Union National"), trustee under the will of Alvin A. Schlegel. The purpose of this stock purchase is to reduce, and eventually eliminate the number of minority shares outstanding. Columbia owns 666, or approximately 74.5% of the 894 shares of Big Marsh common stock outstanding. The remaining 229 shares of Big Marsh common stock are held by 40 minority shareholders. Columbia purchased 640 shares of Big Marsh common stock from a subsidiary in 1939 and acquired the remaining 26 shares in a piecemeal fashion through 1967. Columbia offered to purchase these seven shares for \$1,950 per share, and Union National has accepted the offer.

The determination of purchase price was based on the current value of the company's assets. Big Marsh had 2,545 MMcf of proved reserves of natural gas (306 MMcf were undeveloped) remaining at December 31, 1983, based on an evaluation by Ralph E. Davis Associates Inc., independent petroleum and natural gas consultants. Of the total reserves, 1,3999 MMcf are classified as NGPA Section 104 gas with a maximum lawful price at year-end 1983 of 47.7¢ per MMBtu, and 1,146 MMcf are classified as NGPA Section 108 gas with a maximum lawful price at year-end 1983 of \$3.818 per MMBtu. Section 108 gas in Appalachia is currently selling for less than the maximum lawful price. The present value of these remaining reserves was determined using a discounted cash flow analysis. Prices of 47.7¢ per MMBtu for NGPA Section 104 gas and \$3.00 per MMBtu for the Section 108 gas were used to estimate total revenues of \$5,065,000. Deducting estimated lifting costs and development costs of \$625,000 produced net pre-tax revenues of \$4,440,000. Adjusting for estimated income taxes produces estimated after-tax revenues of \$2,423,000 which, when discounted at 15%, produces a net present value of reserves of \$1,194,000, or \$1,336 per share. The proposed purchase price also

includes a proportionate share of the net current assets of Big Marsh (\$546,638, or \$611 per share). A total purchase price per share of \$1,947 is derived by the above analysis, which has been rounded to the proposed \$1,950 per share.

Big Marsh's net worth at June 30, 1984 was \$916,495, or \$1,025 per common share. During the 12 months ended June 30, 1984, Big Marsh earned \$117,492, or \$131.42 per share, and paid dividends of \$84,036, or \$94 per share.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 4, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
*Acting Secretary.*

[FR Doc. 84-29619 Filed 11-13-84; 8:45 am]  
BILLING CODE 8010-01-M

[31-804; Rel. No. 23472]

**Enserch Gas Transmission Co.; Application for Order**

November 7, 1984.

Enserch Gas Transmission Company ("Transmission") 301 S. Harwood Street, Dallas, Texas 75201, a Texas corporation and a wholly-owned subsidiary of ENSERCH Corporation ("ENSERCH"), has filed with this Commission an application for an order declaring that Transmission will not be, if the transactions described in its application are consummated, a "gas utility company" under section 2(a)(4) of the Public Utility Holding Company Act of 1935 ("Act").

ENSERCH is a diversified corporation, its major businesses including: petroleum exploration and production; oil field services; engineering and construction; and natural gas transmission and distribution. In 1983 ENSERCH had revenues of \$3.5 billion and operating income of \$214 million. ENSERCH conducts its public utility operations through Lone Star Gas Company ("Lone Star"), an ENSERCH division.

Lone Star presently serves some 1.2 million residential, commercial, industrial, and electric generation customers in over 580 cities and towns throughout the state of Texas and in southern Oklahoma. In 1983 Lone Star's Gulf Coast Division ("Gulf Coast") with its headquarters and the center of operations in Houston had the following natural gas sales:

	Mcf	Amount	Percent	Number of customers
Industrial	15,530,438	\$85,463,197	74.8005	66
Dump and special sales	4,479,124	19,103,781	21.8237	2
Sales for resale	650,821	2,767,120	3.1618	4
Agricultural irrigation	51,047	152,770	.1745	21
Commercial	6,434	25,036	.0286	15
Residential	798	5,102	.0053	16
<b>Total</b>	<b>20,723,722</b>	<b>87,517,006</b>	<b>100.0000</b>	<b>124</b>

Industrial customers generally use gas in relatively large quantities to provide heat or generate electricity used in plant processes. Some industrial customers from the Gulf Coast Division also use gas as feedstock. Dump and special sales are large volume, short-term sales generally to a large industrial customer or to a pipeline company. Sales for resale are normally made intrastate at wholesale to pipeline companies or to local utilities that distribute the gas to the ultimate customers. Agricultural

irrigation customers use gas in internal combustion engines that power pumps. Residential and commercial customers use gas for domestic uses. Gulf Coast's Agricultural, Commercial, and Residential gas sales were approximately two percent of its 1983 total gas sales. In addition to making these sales, Gulf Coast transports gas from the Gulf Coast region to Lone Star's primary pipeline system through an interconnection west of Houston.

ENSERCH plans on transferring to Transmission, currently an inactive subsidiary, holding no assets and conducting no activities, the pipelines and related properties presently operated by Gulf Coast. Franchises currently held by Lone Star will be assigned to Transmission to permit Transmission to continue to operate the facilities in public easements.

Initially, Transmission will operate almost exclusively as a transportation company. Following the transfer, all of Lone Star's customers presently served by Gulf Coast will continue their contractual relationship with Lone Star and Lone Star will retain its supply contracts and reserves. As Lone Star's contracts with its present customers expire, Transmission will compete for its industrial customers. Transmission will also develop a new industrial customer base, and will purchase supply revenues as appropriate to handle those accounts. Transmission will not solicit or serve any new residential, commercial, or agricultural irrigation sales contracts, except that it may enter into new contracts in one or more of these categories in connection with the negotiation for new easements or to comply with the terms of existing pipeline easements. Transmission does not expect gas delivered to these categories of customers to exceed 2%, by volume, of gas transported and delivered by its system.

Transmission states that on the basis of the facts stated in its application and summarized herein that it is entitled to an order that it will not be a "gas utility company" within the meaning of Section 2(a)(4) of the Act and that by reason of the small amount of natural gas that will be distributed through its facilities at retail, it is not necessary in the public interest or for the protection of investors that it be considered a gas utility for purposes of the Act.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 3, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact and/or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or

order issued in this matter. After said date, the application, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
*Acting Secretary.*

[FR Doc. 84-29818 Filed 11-13-84; 8:45 am]  
BILLING CODE 8010-01-M

[31-803; Rel. No. 23470]

#### Milliken & Co., Application for Exemption

November 7, 1984.

Milliken & Company ("Milliken"), P.O. Box 1927 Spartanburg, South Carolina 29304, an exempt holding company pursuant to section 3(a)(1) of the Public Utility Holding Company Act of 1935 ("Act"), has filed with this Commission an application requesting an order exempting it under section 3(a)(3) of the Act.

Milliken, a Delaware Corporation, is primarily engaged in the manufacture of textiles and related products, including packaging materials and chemicals used in the textile manufacturing process. It carries on its business throughout the United States, Canada, and Europe and has annual sales exceeding \$300,000,000.

Milliken owns all of the securities of Lockhart Power Company ("Lockhart"), a public utility company. Lockhart was developed, financed, and owned by Milliken's predecessor companies, Lockhart Mills and Monarch Mills, and has a long tradition of electrical service to some of the South Carolina mills, now owned by Milliken, and to a small section of northwestern South Carolina. Most of this latter service territory is within Union County, with service also provided to small parts of Chester, Cherokee, Spartanburg, and York County.

Lockhart owns a conventional hydroelectric plant with a total generating capacity of 12.3 MW. It also purchases power from Duke Power Company. Its gross electric sales in the twelve months ending July 31, 1984 were \$10,249,209. Over 60% of these sales were to Milliken plants and its one wholesale customer, the City of Union.

Milliken states that on the basis of the facts stated in its application and summarized herein, that it is entitled to an exemption under section 3(a)(3) of the Act and that the public interest will not be adversely affected by exempting it from the provisions of the Act.

The application and any amendments thereto are available for public inspection through the commission's

Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 30, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact and/or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
*Acting Secretary.*

[FR Doc. 84-29817 Filed 11-13-84; 8:45 am]  
BILLING CODE 8010-01-M

[812-5906; Rel. No. 14229]

#### Norwest Mortgage Conventional Housing 1, Inc.; Application for an Order

November 7, 1984.

Notice is hereby given that Norwest Mortgage Conventional Housing 1, Inc. ("Applicant") 400 Galaxy Building 330 Second Avenue South, Minneapolis, Minnesota 55440, filed an application on July 30, 1984, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable provisions thereof.

According to the application, Applicant is a newly-formed Delaware corporation which is a wholly-owned, limited purpose financing subsidiary of Norwest Mortgage, Inc. ("Norwest"), which is a wholly-owned subsidiary of Norwest Corporation, a bank holding company under the Bank Holding Company Act of 1956, as amended.

Applicant states that it has been organized for the limited purpose of facilitating the financing of long-term residential mortgage and deed of trust loans secured by first liens on one- to four-family residential properties constructed by builders located

throughout the United States (the "Builders"). Applicant states that it will not engage in any other unrelated business or investment activities.

Applicant proposes to issue, in series, mortgage collateralized obligation ("Bonds"). Applicant states that each series of Bonds will be separately secured principally by first mortgage or deed of trust loans (together with payments thereon) secured by first liens on one- to four-family residential properties constructed and sold by the Builders and payments due under certain private mortgage insurance and hazard insurance policies with respect thereto (collectively, "Pledged Mortgage Loans"), and one or more cash or cash equivalent reserve funds as may be required in connection with the rating for a series of Bonds. Applicant further states that each series of Bonds will be issued pursuant to an indenture ("Indenture") between the Applicant and an independent trustee ("Trustee") which may be supplemented from time to time by one or more supplemental indentures. The Pledged Mortgage Loans will have original maturities (and amortization schedules) of not more than 30 years.

Applicant states that the Bonds will be sold either to institutional or publicly to retail investors through one or more investment banking firms. Applicant contemplates that certain series of Bonds will be registered under the Securities Act of 1933, while other series may be sold in private placement. Applicant represents that Indentures for public offerings will be subject to the provisions of the Trust Indenture Act of 1939.

Applicant states that the proceeds of the sale of each series will be loaned to wholly-owned subsidiaries of the Builders (each, a "Subsidiary") pursuant to funding agreements ("Funding Agreements"). Applicant states that loans to the Subsidiaries will be on a non-recourse basis ("Builder Loans"). Applicant further states that each Subsidiary will be a limited purpose corporation or partnership formed by a Builder to acquire complete beneficial ownership of purchase money first lien mortgage or deed of trust loans from, or originate such mortgage or deed of trust loans on behalf of, its parent Builder. Applicant represents that the Pledged Mortgage Loans will be pledge and assigned to the Applicant as security for the Builder Loans, and Applicant will in turn assign all of its right, title and interest in the Pledged Mortgage Loans to the Trustee. Applicant further represents that such Subsidiary will engage in no other business or investment activity.

Applicant represents that each Subsidiary will distribute its Builder Loan proceeds to its Builder parent, or use the proceeds of its Builder Loan itself. Applicant further states that, in all cases, the proceeds of the Builder Loans will be used to repay, in whole or in part, indebtedness to lenders or others and costs incurred in connection with the origination, funding or acquisition of Pledged Mortgage Loans owned by the Subsidiary on homes constructed primarily by its parent Builder.

Applicant represents that with respect to each series of Bonds, (a) payments on the Pledged Mortgage Loans on one- to four-family residential properties constructed by the Builders will be the primary source of funds for payments of principal and interest on the Bonds; (b) the Bonds will be secured by Pledged Mortgage Loan collateral consisting of the first mortgage or deed of trust loans on one- to four-family residential properties constructed primarily by the Builders; (c) the Pledged Mortgage Loans will be pledged in their entirety by the Subsidiaries to the Applicant and by Applicant to the Trustee; and (d) Norwest, as the servicer, will have the right and obligation, on behalf and for the benefit of the Applicant, to foreclose against the mortgaged properties, liquidate the properties, collect prepayments of principal, and collect any and all insurance proceeds with respect to the Pledged Mortgage Loans. Applicant states that funds so collected by Norwest as servicer of the Pledged Mortgage Loans will be paid directly to, and then applied by, the Trustee pursuant to the Funding Agreements and the Indenture.

Applicant represents that full repayment of the Bonds will be provided out of the payments on and proceeds of the Pledged Mortgage Loans securing that series. Applicant further represents that the principal amount of the Bonds of a series will not exceed the principal amount of the Pledged Mortgage Loans for that Series. Applicant states that it is not permitted to reinvest or trade in Pledged Mortgage Loans and under no circumstances will it be permitted to substitute Funding Agreements. Applicant further states that the Trustee is permitted to invest and reinvest cash proceeds of Pledged Mortgage Loans or reserve funds established for a series of Bonds only in U.S. government securities and other cash equivalents, and only for the limited period of time between receipt of such proceeds and payment Bondholders.

Applicant asserts that the activities proposed to be engaged in by Applicant could be conducted directly by each

Builder Subsidiary without the requirement of registration under the Act, since each Subsidiary should be exempt under Section 3(c)(5)(C) of the Act. Applicant further asserts that there is no public policy reason to require it to register merely because it is facilitating the financing efforts of smaller builders to achieve the economies of size which larger builders directly achieve. Although Applicant believes that it does not fall within the definition of the investment company as set forth in the Act, its principal assets will be evidences of indebtedness of the Subsidiaries. Applicant states that the application has been filed to eliminate any possible ambiguity concerning the applicability of the Act to Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 3, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis.

Acting Secretary.

[FR Doc. 84-25622 Filed 11-13-84; 8:45 am]

BILLING CODE 8010-1-M

[Rel. No. 34-21453; File No. SR-BSE-84-4]

**Self-Regulatory Organizations;  
Proposed Change by Boston Stock  
Exchange, Inc.; Relating to the  
Establishment of Procedures  
Concerning Specialist Stock  
Reallocation**

Pursuant to Section 19(b)(1) of the Securities Exchange Commission the proposed changes as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The Boston Stock Exchange ("BSE") proposes to amend Chapter XV of its Rules as follows: (i) to implement on a one-year pilot basis a Specialist Performance Evaluation and Improvement Program ("pilot program"); (ii) to adopt section .02 of § 2155<sup>1</sup> ("Specialist Stock Reallocation") under Chapter XV of the BSE rules to authorize the Market Performance Committee, ("MPC") upon notice and an opportunity to be heard, to withdraw Exchange approval of a member's registration as a specialist in one or more stocks if the specialist has consistently received performance evaluations which are below a minimum level of acceptable performance pursuant to the policies of the Exchange's pilot program; and (iii) to adopt Section .03 of § 2155 ("Limiting Protected Stocks") to authorize the MPC, upon notice and an opportunity to be heard, to reduce the number of stocks that can be protected by a specialist from acquisition by new specialists when the member's specialist performance is below acceptable performance levels as established by the MPC.<sup>2</sup>

According to the BSE, the pilot program, designed to measure the relative performance of Exchange specialists in all areas of their responsibilities, is comprised of two elements—the Specialist Performance Evaluation Questionnaire (SPEQ) and comparative quotations data. Each element counts for 50% of the Specialist's overall grade. The SPEQ is composed of 12 questions, focusing on the key areas of a specialist's responsibilities, and is completed three times per year by all floor members, who will be asked to evaluate only those specialists handling ITS stocks. A specialist will receive a grade ranging from 5 (highest) to 1 (lowest). A specialist's overall grade will be obtained by adding together his average scores and dividing by the total number of graded questions. The overall grades for specialists will then be ranked from highest to lowest.

The second element of the program measures the quality of quotations disseminated through the Consolidated

Quotation System. According to the BSE, for each specialist's six most active ITS issues, the BSE bid and offer will be compared with the previous bid and offer in the primary market. The frequency with which the BSE bid (offer) is the same or better than that displayed in the primary market is expressed as a percentage of the total BSE bids (offers) examined for each stock. Since BSE has determined that, on average, BSE specialists enter matching or better bids and offers than the primary market 25% of the time, any specialist equalling or bettering this percentage will be credited with 100% for this part of the program, with lower percentages being expressed relative to that score. For example, a specialist matching or bettering the consolidated quotation 15% of the time would receive an adjusted relative score of 60%; a specialist matching or bettering 5% of the time would receive a score of 20%. These adjusted scores will then be ranked from highest to lowest to determine the comparative performance of specialists for this performance measure.

The BSE will then calculate an overall performance grade for each specialist by weighing the SPEQ and quotations scores as 50% each. These grades will then be ranked from highest to lowest to reflect the comparative overall performance of each specialist.

The BSE plans to separately employ the SPEQ, quotation performance and overall weighted grades to determine where performance improvement action is most needed. If a specialist falls below the minimal grade for any one of these measures, a meeting with the Performance Improvement Action Subcommittee ("Subcommittee") will be warranted. Conditions warranting a meeting with the Subcommittee include (1) an overall SPEQ grade below 3 for one review period; (2) an average grade below 3 on half of the SPEQ questions for one review period; (3) a grade below 3 for the same question for 3 successive review periods; (4) quotation performance in the bottom 15% of all specialists for one review period; or (5) an overall weighted grade in the bottom 15% of all specialists for one review period.

The Exchange will apprise the full MPC when a specialist has met conditions warranting meeting with the Subcommittee on two occasions within three successive review periods. The MPC may then implement proceedings under section .02 of § 2155 to consider a stock reallocation, and/or under section .03 of § 2155 to limit the number of stocks that can be protected by the

specialist from acquisition by new specialists developing a book. The MPC, upon consideration of any mitigating circumstances, may determine not to implement proceedings under Rule 2155, or may determine to take such other action as it deems appropriate.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements governing the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the place specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

#### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule change is to establish procedures whereby the Market Performance Committee may withdraw one or more stocks from a specialist who is below performance levels established by the Committee. The proposed amendment also grants a member the opportunity to be heard before the Market Performance Committee and to have the Board of Governors review the decision of the Committee.

(b) The statutory basis for the rule change is section 6(b)(5) of the Securities Exchange Act of 1934, which, among other things requires Exchange rules to be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

#### (B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed amendment imposes an burden on competition.

<sup>1</sup> Paragraph references are to the Boston Stock Exchange Guide Published by Commerce Clearing House, Inc. (CCH).

<sup>2</sup> Under the proposed rule, all specialists are obligated to reserve 10% of their specialty stocks for acquisition by new specialists developing a book. A specialist whose performance is below acceptable levels may be required by the MPC to further limit the number of stocks that can be protected.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

All specialists were notified by memorandum of the recommendation of the Market Performance Committee and no comments were received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed new rule that are filed with the Commission, all written communication relating to the proposed new rule between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All Submissions should refer to the file number in the caption above and should be submitted on or before December 5, 1984. For the Commission by the Division of Market Regulatory pursuant to delegated authority.

Dated: November 2, 1984.

Shirley E. Hollis,  
*Acting Secretary.*

[FR Doc. 84-23821 Filed 11-13-84; 8:45 am]  
BILLING CODE 8010-01-M

**DEPARTMENT OF STATE**

[CM-8/787]

**Advisory Committee on International Investment, Technology, and Development; Meeting**

The Department of State will hold a meeting of the Advisory Committee on International Investment, Technology, and Development on December 7, 1984 from 9:30 a.m. to 1:00 p.m. The meeting will be in the Loy Henderson Conference Room of the Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

The meeting will be held to discuss, among other topics, developments in the Committee on International Investment and Multinational Enterprises (CIME) of the OECD, and its working groups; promotion of OECD Guidelines on Multinational Enterprises; developments in the UN system; the status of the U.S. Bilateral Investment Treaty (BIT) program; and the formation of a new subcommittee pursuant to the President's initiative on combatting hunger in developing countries. There will also be reports by the Committee's Working Groups.

Members of the public wishing to attend the meeting should notify the Office of Investment Affairs [(202) 632-2728] in advance. The Department of State is a controlled building with public access to meetings limited to the C Street entrance. Please contact the Office of Investment Affairs, Robert Luke (632-2728), from the main desk for authorization for admittance.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public at the meeting.

Dated: October 26, 1984.

Walter B. Lockwood, Jr.,  
*Executive Secretary.*

[FR Doc. 84-23823 Filed 11-13-84; 8:45 am]  
BILLING CODE 4710-07-M

[CM-8/786]

**Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting**

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on December 7, 1984 at 9:30 a.m. in the IRAC Conference Room 1605, Herbert C. Hoover Building, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Study Group 1 deals with matters

relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting is to review progress to date in the preparations for the meeting of international Study Group 1 in 1985.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: November 6, 1984.

Richard E. Shrum,  
*Chairman, U.S. CCIR National Committee.*

[FR Doc. 84-23823 Filed 11-13-84; 8:45 am]  
BILLING CODE 4710-07-M

[CM-8/785]

**Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting**

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 30, 1984 at the U.S. Naval Observatory, Council Room, Building 1, 34th and Massachusetts Avenue, N.W., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting is to review the progress of work in preparation for the international meeting of Study Group 7 in October, 1985.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520 (telephone (202) 632-2592).

Dated: October 29, 1984.

Richard E. Shrum,  
*Chairman, U.S. CCIR National Committee*

[FR Doc. 84-23827 Filed 11-13-84; 8:45 am]  
BILLING CODE 4710-07-M

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Deadline for Submission of Preapplications for Airport Grant Funds Under the Airport Improvement Program for Fiscal Year 1985**

Section 509(e) of the Airport and Airway Improvement Act of 1982 (AAIA) provides that the sponsor of each airport to which entitlement funds are apportioned shall notify the Secretary, by such time and in a form as prescribed by the Secretary, of the sponsor's intent to apply for entitlement funds. Notification of the sponsor's intent to apply during fiscal year 1985 for any of its entitlement funds, including those unused from prior years shall be in the form of a project preapplication or application (SF 424 and FAA Forms 5100-30 or 5100-100, as appropriate) submitted to the FAA field office no later than January 31, 1985. Approval of preapplications or applications received after that date may be deferred by the FAA until the following fiscal year. FAA field offices, in developing their regional programs, may request sponsors' input at an earlier date. Every effort should be made to meet these regional deadlines.

The FAA also recommends that all other airports or planning agencies expecting to apply for airport grant funds do so early in the fiscal year. Such prospective applicants should contact the appropriate FAA field office for information on that office's deadlines. These offices will assist in the preparation of preapplications/ applications and provide procedural information as needed.

Prompt submission of complete requests will allow earlier funding decisions by the FAA. This in turn may be an advantage to sponsors in competing for available funds and in maximizing construction during a construction season.

This notice submitted by Mr. John Sekman, APP-520, on (202) 426-8590.

Issued in Washington, D.C., on November 8, 1984.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

[FR Doc. 84-29747 Filed 11-13-84; 8:45 am]

BILLING CODE 4910-13-M

**National Airspace Review; Meeting**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) 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 Executive Steering Committee of the Federal Aviation Administration National Airspace Review Advisory Committee. The agenda for this meeting is as follows:

**Opening Remarks**

Presentation of Task Group Staff Studies, including recommendations:

- Task Group 2-3.1 Part 91—Subpart B Evaluation
- Task Group 2-3.2 Part 77 Rewrite
- Task Group 2-3.4 Medium Altitude Communication Areas
- Task Group 2-4.4 Helicopter Instrument Approach Procedures
- Task Group 3-1.3 Airman's Information Manual—Format/Structure
- Task Group 3-1.4 Airport Information Service
- Task Group 3-1.5 Airman's Information Manual—Organization
- Task Group 3-1.6 Airport Operations—Procedures Covering Runway Surface Conditions
- Task Group 3-1.7 Airman's Information Manual—Content
- Task Group 3-3.1 FAAH 7110.10—Flight Services
- Task Group 3-4.3 FAAH 7610.4—Special Military Operations Unfinished business

**DATE:** December 4, 1984, convenes at 10 a.m.

**ADDRESS:** The meeting will be held at the Federal Aviation Administration, room 1010, 800 Independence Avenue, SW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., AAT-30, Washington, D.C. 20591, 202-426-3560. Attendance is open to the interested public, but limited to the space available. To ensure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by November 27, 1984. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statement.

Issued in Washington, D.C., on November 5, 1984.

R.J. Van Vuren,  
Executive Director, NARAC.

[FR Doc. 84-29748 Filed 11-13-84; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF THE TREASURY****Public Information Collection Requirements Submitted to OMB for Review**

Date: November 7, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

**Internal Revenue Service**

OMB No.: 1545-0010

Form No.: W-4

Type of Review: Extension

Title: Employee's Withholding

Allowance Certificate

Clearance Officer: Garrick Shear (202) 566-6254, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

**Financial Management Service**

OMB No.: 1510-0018

Form No.: TFS 1133C

Type of Review: Extension

Title: Claims Against the U.S. for the Proceeds for Government Check or Checks

Clearance Officer: Doug Lewis (202) 287-4500, Financial Management Service, Room 163, Liberty Loan Building, 401 14th Street, NW., Washington, D.C. 20228

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

**Bureau of the Public Debt**

OMB No.: 1535-0022

Form No.: PD 4144, 4144-, 4144-2, 4144-3

Type of Review: Extension

Title: Subscription for Purchase and Issue of U.S. Treasury Securities—State and Local Government Series (plus: Schedule 1 for Certificates of Indebtedness, Schedule 2 for Notes, Schedule 3 for Bonds)

Clearance Officer: Paula Spedden (202)  
634-5295, Bureau of the Public Debt,  
Room 420, Vanguard Building, 1111 -  
20th Street, NW., Washington, D.C.  
20226

OMB Reviewer: Norman Frumkin (202)  
395-6880, Office of Management and  
Budget, Room 3208, New Executive  
Office Building, Washington, D.C.  
20503

**Comptroller of the Currency**

*OMB No.* New

*Form No.* Schedule EC

*Type of Review:* New

*Title:* Special Energy Call Report

Clearance Officer: Eric Thompson (202)  
447-1177, Comptroller of the Currency,  
6th Floor, L'Enfant Plaza, Washington,  
D.C. 20219

OMB Reviewer: Judy McIntosh (202)  
395-6880, Office of Management and  
Budget, Room 3208, New Executive  
Office Building, Washington, D.C.  
20503

**Bureau of Alcohol, Tobacco, and  
Firearms**

*OMB No.:* 1512-0129

*Form No.* ATF F 4473 (5300.9)

*Type of Review:* Revision

*Title:* Firearms Transaction Record, Part

I—Intra State Over the Counter

Clearance Officer: Howard Hood (202)  
566-7077, Bureau of Alcohol, Tobacco  
and Firearms, Room 2228, Federal  
Building, 1200 Pennsylvania Avenue,  
NW., Washington, D.C. 20226

OMB Reviewer: Milo Sunderhauf (202)  
395-6880, Office of Management and  
Budget, Room 3208, New Executive  
Office Building, Washington, D.C.  
20503

Joseph F. Maty,

*Departmental Reports, Management Office.*

[FR Doc. 84-29758 Filed 11-13-84; 8:45 am]

BILLING CODE 4810-25-M

**Office of the Secretary**

[Supplement to Department Circular Public  
Debt Series—No. 33-84]

**Treasury Notes; Series Q-1987**

Washington, November 6, 1984.

The Secretary announced on  
November 5, 1984, that the interest rate  
on the notes designated Series Q-1987,  
described in Department Circular—  
Public Debt Series—No. 33-84 dated  
November 1, 1984, will be 11 percent.  
Interest on the notes will be payable at  
the rate of 11 percent per annum.

Gerald Murphy,

*Acting Fiscal Assistant Secretary.*

[FR Doc. 84-29755 Filed 11-13-84; 8:45 am]

BILLING CODE 4810-10-M

# Sunshine Act Meetings

Federal Register

Vol. 49, No. 221

Wednesday, November 14, 1984

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).

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### CONSUMER PRODUCT SAFETY COMMISSION

**LOCATION:** Third Floor Hearing Room, 1111-18th Street, NW., Washington, DC.

**TIME AND DATE:** Commission Meeting, Wednesday, November 14, 1984, See Times Below.

**STATUS:** Open to the Public—8:30 a.m.

#### MATTERS TO BE CONSIDERED:

##### 1. Commission Staff Briefing

The staff will brief the Commission on various matters.

*Open to the Public 10:00 a.m.*

##### 2. NAS Fire Toxicity Briefing

The staff and representatives of the National Research Council (NRC), National Academy of Sciences, Federal Aviation Administration, Department of Transportation, and U.S. Navy will brief the Commission on the NRC combustion toxicity project and its relationship to their programs.

##### 3. First Aid Labeling

The staff will brief the Commission on issues related to first aid labeling of hazardous household substances.

##### 4. FHSA Conspicuousness Labeling Rule: Final

The staff will brief the Commission on amendments to the type size, placement, and conspicuousness requirements for labeling under the Federal Hazardous Substances Act.

For a recorded message containing the latest agenda information, call: 301-492-5709

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sheldon D. Butts, Office

of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800

November 9, 1984.

Sheldon D. Butts,  
*Deputy Secretary.*

[FR Doc. 84-29804 Filed 11-9-84; 12:11 pm]

BILLING CODE 6355-01-M

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### FEDERAL DEPOSIT INSURANCE CORPORATION

#### Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, November 19, 1984, to consider the following matters:

**Summary Agenda:** No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

**Disposition of minutes previous meetings.**  
**Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:**

Case No. 46,136, Public Bank, Detroit, Michigan

#### Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:  
**Summary Audit Report re: Legal Support System Development Project (Memo dated September 19, 1984)**  
**Summary Audit Report re: Summary of Four Liquidation Site Audits (Memo dated November 2, 1984)**

#### Discussion Agenda:

Memorandum and resolution re: Final amendments to Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks," in accordance with the International Banking Act of 1978, which (1) amend the amount of the asset pledge requirement and eliminate the allowance of a credit for any other pledge-

like transaction to a State or the Comptroller of the Currency; (2) replace the existing asset maintenance requirement with a minimum capital equivalency ledger account evidencing funding of a branch by the parent bank; (3) require adjustments to the capital equivalency ledger account for certificates of deposit without a valid waiver of offset agreement and exclude such certificates of deposit from the asset pledge; and (4) limit concentrations of transfer risk to any one country by an insured branch.

Memorandum and resolution re: Final amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe or Unsound Banking Practices," which (1) defines bona fide subsidiary, (2) limits an insured nonmember bank's permissible direct and indirect investments in its securities subsidiary or subsidiaries, (3) requires notice of intent to invest in a securities subsidiary, (4) limits the permissible securities activities of insured nonmember bank subsidiaries, and (5) places certain other restrictions on loans, extensions of credit, and other transactions between insured nonmember banks and their subsidiaries or affiliates that engage in securities activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 500-17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 9, 1984.

Federal Deposit Insurance Corporation.  
Hoyle L. Robinson,  
*Executive Secretary.*

[FR Doc. 84-29881 Filed 11-9-84; 3:23 pm]

BILLING CODE 6714-01-M

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### FEDERAL DEPOSIT INSURANCE CORPORATION

#### Notice of Agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 19, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

#### Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 9, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,  
Executive Secretary.

[FR Doc. 84-29382 Filed 11-9-84; 3:23 pm]

BILLING CODE 6714-01-M

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### FEDERAL ENERGY REGULATORY COMMISSION NOTICE

November 8, 1984.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5, U.S.C. 552b:

**ACTION HOLDING MEETING:** Federal Energy Regulatory Commission

**TIME AND DATE:** November 15, 1984; 10:00 a.m.

**PLACE:** 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda: However, all public documents may be examined in the division of public information.

#### Consent Power Agenda

802nd Meeting—November 15, 1984 Regular Meeting (10:00 a.m.)

- CAP-1. Project No. 7477-000, Burt Dam Associates
- CAP-2. Project No. 3492-003, City of Haines, Oregon
- CAP-3. Project No. 2828-015, 007, 008 and 009, Alabama Power Company
- CAP-4. Project No. 6707-002, Graves, Arkoosh, and Arkoosh
- CAP-5. Project No. 7592-002, Faulkner Land and Livestock Company, Inc.
- CAP-6. Project No. 7269-003, James B. Boyd and Janet A. Boyd
- CAP-7. Project No. 6597-001, Monadnock Paper Mills, Inc.
- CAP-8. (A) Project No. 8154-001, City of Yakima, Washington  
(B) Project No. 8040-001, Cook Electric, Inc.
- CAP-9. Project No. 2905-004, Vermont Public Power Supply Authority
- CAP-10. Docket Nos. ER84-578-001 and 002, Wisconsin Power and Light Company
- CAP-11. Docket No. ER84-579-001, AEP Generating Company
- CAP-12. Docket No. ER84-560-001, Union Electric Company
- CAP-13. Docket Nos. ER84-568-002 and 003, Gulf States Utilities Company
- CAP-14. Docket No. ER84-707-000, AEP Generating Company, Appalachian Power Company, Indiana & Michigan Electric Company and Virginia Electric and Power Company
- Docket No. ER84-579-000, AEP Generating Company
- CAP-15. Docket No. ER84-687-000, Pacific Power and Light Company
- CAP-16. Docket No. ER84-568-000, Electric Energy, Inc.
- CAP-17. Docket No. ER84-705-000, Boston Edison Company
- CAP-18. Docket No. ER84-690-000, Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin) and Lake Superior District Power Company
- Consent Miscellaneous Agenda
- CAM-1. Docket No. RM80-36-001, 002 and 003, Generic Determination of Rate of Return on Common Equity for Electric Utilities
- CAM-2. Docket No. RM84-16-003, Methodology for Sales of Electric Power to Bonneville Power Administration
- CAM-3. Docket No. GP82-56-002, Amoco Production Company

CAM-4. Docket No. PO81-66-000, Corpus Christi Management Company, Texcellere Corporation and Petrotex Holding Company

#### Consent Gas Agenda

- CAG-1. Docket No. TA85-1-42-002, Transwestern Pipeline Company
- CAG-2. Docket Nos. RP82-125-012 and 013, Tennessee Gas Pipeline Company, A Division of Tenneco Inc.
- CAG-3. Docket No. TA85-1-35-000 and 001, West Texas Gas, Inc.
- CAG-4. Docket No. TA85-1-53-000 and 001 (PGA85-1), KN Energy, Inc.
- CAG-5. Docket No. RP85-5-000, Northwest Alaskan Pipeline Company
- CAG-6. Docket No. RP85-6-000, Northwest Alaskan Pipeline Company
- CAG-7. Docket No. RP85-8-000, Canyon Creek Compression Company
- CAG-8. Docket No. CP83-508-000, Equitable Gas Company, A Division of Equitable Resources, Inc.
- CAG-9. Docket No. TA84-2-28-004 (PGA84-4a), Panhandle Eastern Pipe Line Company
- CAG-10. Docket No. TA84-2-30-003 (PGA84-2a), Trunkline Gas Company
- CAG-11. Docket Nos. TA84-2-26-003 (PGA84-2a) and RP84-145-000, Natural Gas Pipeline Company of America
- CAG-12. Docket No. TA84-2-61-000, Bayou Interstate Pipeline Corporation
- CAG-13. Docket No. RP84-83-000, Transwestern Pipeline Company
- Docket No. RP84-89-000, Texas Eastern Transmission Corporation
- CAG-14. Docket Nos. TA84-2-21-000, 003 and TA82-1-21-000, et al. (Consolidated), Columbia Gas Transmission Corporation
- CAG-15. Docket Nos. TA84-2-22-002 and 003, Consolidated Gas Transmission Corporation
- CAG-16. Docket Nos. TA-84-2-30-002 and RP83-93-005, et al., Trunkline Gas Company
- CAG-17. Docket No. RP84-99-001, Texas Eastern Transmission Corporation
- CAG-18. Docket Nos. RP79-10-014, 015, 016, RP80-134-016, 017 and 018, Great Lakes Gas Transmission Company
- CAG-19. Docket Nos. TA84-2-23-003, RP84-103-001 and TA84-1-28-007, Panhandle Eastern Pipe Line Company
- CAG-20. Docket No. RP84-59-000, Northwest Pipeline Corporation v. Colorado Interstate Gas Company
- CAG-21. Docket No. ST81-412-002, Pantera Energy Corporation
- CAG-22. Docket No. ST83-134-001, Liberty Natural Gas Company
- CAG-23. Docket No. SP84-12-000, Association of Oil Pipelines
- CAG-24. Docket No. CI78-93-002, Pennzoil Oil & Gas, Inc.
- CAG-25. Docket No. CI84-487-001, Pennzoil Producing Company
- CAG-26. Docket Nos. RI74-188-041 and RI75-21-037, Independent Oil & Gas Association of West Virginia
- CAG-27. Docket Nos. CI83-263-000 and CI83-269-024 through 034, Tenneco Oil Company, Houston Oil & Minerals Corporation, Tenneco Exploration, Ltd.,

- Tenneco Exploration II, Ltd., Tinco, Ltd., and Tenneco West, Inc.  
 Docket Nos. RP83-11-027 through 035 and RP83-30-023 through 031, Transcontinental Gas Pipe Line Corporation  
 Docket Nos. CP83-279-018 through 025, Producer-Suppliers of Transcontinental Gas Pipe Line Corporation  
 Docket Nos. CP83-340-018 through 025, Producer-Suppliers of Transco Gas Supply Company  
 Docket Nos. CP83-428-026 through 033, Producer-Suppliers of Transco Supply Company and Transcontinental Gas Pipe Line Corporation  
 Docket Nos. CP83-452-000 and CP83-452-017 through 027, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company  
 Docket Nos. CP83-502-015 through 021, Tennessee Gas Pipe Line Company, a Division of Tenneco Inc.  
 Docket Nos. CP83-333-019 through 026, Panmark Gas Company  
 Docket Nos. CP83-342-002 and 003, Truckline Gas Company  
 Docket Nos. CP83-343-003 and 004, Panhandle Eastern Pipe Line Company  
 Docket Nos. CP83-354-021, Truckline Gas Company and Panmark Gas Company  
 Docket Nos. CP83-355-002, Panhandle Eastern Pipe Line Corporation and Panmark Gas Company  
 Docket Nos. CP84-244-002 through 008, Texas Eastern Transmission Corporation and Producer-Suppliers of Texas Eastern Transmission Corporation  
 Docket Nos. CI84-332-004 through 012, Cities Service Oil and Gas Corporation, Cites Offshore Production Company and OXY Petroleum, Inc.  
 Docket Nos. CI84-374-003 through 001, TXP Operating Company  
 Docket Nos. CI84-485-003 through 013, Amoco Production Company  
 Docket Nos. CP84-539-003 through 011, El Paso Natural Gas Company  
 CAG-28. Docket No. CP82-342-001, Consolidated Gas Company of Florida, Inc. v. Florida Gas Transmission Company  
 CAG-29. Docket No. CP83-284-001, Southwest Gas Transmission Company  
 Docket No. CP83-376-001, El Paso Natural Gas Company  
 CAG-30. Docket No. CP74-314-013, et al., El Paso Natural Gas Company  
 CAG-31. Docket Nos. CP81-107-000, 016, 017, 018, 019, 020, 021, 022 and 023, Boundary Gas, Inc., et al.  
 CAG-32. Docket No. CP79-161-005, Midwestern Gas Transmission Company  
 Docket No. CP79-141-002, Great Lakes Gas Transmission Company  
 Docket No. CP79-169-012, ANR Pipeline Company  
 CAG-33. Docket Nos. CP83-203-000, 001 and 002, Transcontinental Gas Pipe Line Corporation  
 CAG-34. Docket No. CP84-538-000, Florida Gas Transmission Company  
 CAG-35. Docket Nos. CP82-317-000 and 001, Sea Robin Pipeline Company  
 CAG-36. Docket No. CP84-322-000, Lone Star Gas Company, A division of Enserch Corporation  
 CAG-37. Docket No. CP83-140-002, K N Energy, Inc.  
 CAG-38. Docket Nos. CP77-17-016, 017, CP77-92-005, 006, CP77-533-006 and 007, Panhandle Eastern Pipe Line Company and Trunkline Gas Company  
 CAG-39. Docket No. CI85-4-000, Shell Offshore Inc. and Shell Western E & P Inc.  
 CAG-40. Docket No. CP84-699-000, Colorado Interstate Gas Company  
 CAG-41. Docket No. CP84-700-000, Colorado Interstate Gas Company  
 CAG-42. Docket Nos. RP77-101-001 through 049 and CP84-588-000 through CP84-594-000, Columbia Gas Transmission Corporation  
 CAG-43. Docket No. CP84-566-000, Webster Brck Company, Inc. v. Columbia Gas Transmission Corporation  
 CAG-44. (A) Docket No. RP83-65-006, Alabama-Tennessee Natural Company  
 Docket Nos. TA84-2-4-001, CP84-50-003 and 004, Granite State Gas Transmission, Inc.  
 Docket Nos. TA84-2-40-001, 002, TA85-1-40-000, 001 and 002, Raton Natural gas Company  
 Docket Nos. RP79-28-005, RP83-69-001 and 002, High Island Offshore System  
 Docket Nos. RP82-80-018, RP83-1-003, RP83-140-002 and CP82-542-007, ANR Pipeline Company  
 Docket No. TA84-2-37-003, Northwest Pipeline Corporation  
 Docket Nos. CP70-80-006 and CP79-80-033, Wyoming Interstate Company  
 Docket No. ITA85-1-52-002, Western Gas Interstate Corporation  
 Docket Nos. TA84-2-16-001, 002, RP82-87-000 and RP84-95-001, National Fuel Gas Supply Corporation  
 (B) Docket Nos. RP84-61-001 and 003, National Fuel Gas Supply Corporation  
 CAG-45. Docket No. TA85-1-33-002, TA82-2-33-000, TA83-1-33-000, TA83-2-33-000, TA84-1-33-000, TA84-2-33-000 and TA85-1-33-000, El Paso Natural Gas Company  
 CAG-46. Docket Nos. RP83-14-002, 003, 004, 005, 006, RP83-81-015, 016, 017, 018, CP83-254-029, 030, 031, 032, CP83-335-032, 033, 034 and 035, Montana-Dakota Utilities Company  
 I. Licensed Project Matters  
 P-1. Project No. 2971-000, Allegheny Electric Cooperative, Inc.  
 Project No. 2988-000, Ohio Edison Company  
 Project No. 3219-000, Duquesne Light Company  
 Project No. 3490-002, Potter Township, Pennsylvania  
 II. Electric Rate Matters  
 ER-1. Omitted  
 ER-2. Docket No. QF83-175-003, James A. Drake and Miller's Plant Farm--Foliage and Chrysanthemum Division of Dustin, Oklahoma, Inc.  
 Miscellaneous Agenda  
 M-1. Reserved  
 M-2. Reserved  
 M-3. Docket No. RM84-14-000, Deregulation and other pricing changes on January 1, 1985, under the Natural Gas Policy Act  
 M-4. Docket Nos. Rm4-6-003, 004, 005 and 006, Refunds Resulting from BTU Measurement Adjustments  
 I. Pipeline Rate Matters  
 RP-1. Docket No. RP83-8-000, Columbia Gas Transmission Corporation v. Tennessee Gas Pipeline Company  
 Docket No. RP83-19-000, Tennessee Gas Pipeline Company v. Columbia Gas Transmission Corporation  
 Docket No. RP83-10-000, The Inland Gas Company, Inc. v. Tennessee Gas Pipeline Company  
 Docket No. RP83-20-000, Tennessee Gas Pipeline Company v. The Inland Gas Company, Inc.  
 Docket No. RP84-17-000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.  
 II. Producers Matters  
 CI-1. Reserved  
 III. Pipeline Certificate Matters  
 CP-1. Docket Nos. CP82-487-000, 001 and 002, Williston Basin Interstate Pipeline Company and Montana-Dakota Utilities Company  
 Docket No. CP84-504-000, Montana-Dakota Utilities Company  
 Docket No. RP84-62-000, Montana-Dakota Utilities Company  
 Docket No. SA84-19-000, Williston Basin Interstate Pipeline Company  
 Docket No. TA84-2-49-000, Montana-Dakota Utilities Company  
 Docket No. RP84-93-000, Montana-Dakota Utilities Company  
 Docket Nos. TA85-1-49-000 and 001, Montana-Dakota Utilities Company  
 Kenneth F. Plumb,  
 Secretary.  
 [FR Doc. 84-29358 Filed 11-8-84; 4:39 pm]  
 BILLING CODE 6717-01-M

## 5

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 7, 1984.

TIME AND DATE: 10:00 a.m., November 14, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Old Ben Coal Company, Docket No. LAKE 83-50-R, (Issues include whether the administrative law judge erred in dismissing the operator's notice of contest of a citation on the grounds that the operator had paid the civil penalty proposed for the cited violation.) Any person intending to attend this meeting who requires special accessibility features and/or any auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR § 150(a) (3) and § 160(e), ensure access for any

handicapped person who gives reasonable advance notice

**CONTACT PERSON FOR MORE**

**INFORMATION:** Jean Ellen (202) 635-5629.

Jean H. Ellen,  
*Agenda Clerk.*

[FR Doc. 84-29884 Filed 11-9-84; 11:09 am]  
BILLING CODE 6735-01-M

6.

**FEDERAL RESERVE SYSTEM**

Board of Governors of the Federal Reserve System

**TIME AND DATE:** 11:00 a.m., Monday, November 19, 1984.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a meeting on October 24, 1984.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 9, 1984,

James McAfee,  
*Associate Secretary of the Board.*

[FR Doc. 84-29883 Filed 11-9-84; 3:48 pm]  
BILLING CODE 6210-01-M

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**NUCLEAR REGULATORY COMMISSION**

**DATE:** Weeks of November 12, 19, 26, and December 3, 1984.

**PLACE:** Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

**STATUS:** Open and closed.

**MATTERS TO BE CONSIDERED:**

Week of November 12

*Tuesday, November 13*

10:00 a.m.—Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Meeting on the Hearing Process—*postponed.*

2:00 p.m.—ANS Report on Source Term (Public Meeting)

*Wednesday, November 14*

Meeting on Material False Statements—*Postponed.*

*Thursday, November 15*

11:00 a.m.—Meeting with Advisory Panel on TMI-2 Cleanup (Public Meeting)

2:00 p.m.—Status Report on High Level Waste Program (Public Meeting)

3:30 p.m.—Affirmation Meeting (Public Meeting)

- a. Aamodt Motion for Investigation of Radioactive Releases During the TMI-2 Accident (Postponed from 11/8)

Week of November 19—Tentative

*Monday, November 19*

1:30 p.m.—Discussion of Legal and Related Policy issues in Operation of San Onofre Unit 1 (Public Meeting)

*Tuesday, November 20*

10:00 a.m.—Briefing and Discussion on the Hearing Process (Public Meeting)

*Wednesday, November 21*

10:00 a.m.—Affirmation Meeting (Public Meeting) (if needed)

Week of November 26—Tentative

*Monday, November 26*

10:00 a.m.—Semi-Annual Briefing on Appraisal of Operating Experience (Public Meeting)

*Wednesday, November 28*

10:00 a.m.—Affirmation Meeting (Public Meeting) (if needed)

Week of December 3—Tentative

*Monday, December 3*

2:00 p.m.—Discussion/Possible Vote on Severe Accident Policy Statement (Public Meeting)

*Wednesday, December 5*

10:00 a.m.—Discussion of Indian Point Order (Public Meeting) (if needed)

2:00 p.m.—Discussion of Criteria for Important to Safety and Safety Related (Public Meeting)

*Thursday, December 6*

2:00 p.m.—Affirmation Meeting (Public Meeting) (if needed)

To verify the Status of Meetings call (recording)—(202) 634-1493.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Julia Corrado (202) 634-1410.

George T. Mazuzan,  
*Office of the Secretary.*

[FR Doc. 84-29883 Filed 11-9-84; 3:50 pm]  
BILLING CODE 7590-01-M



**12 CFR Part 8**

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Wednesday  
November 14, 1984

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**Part II**

**Department of the  
Treasury**

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**Comptroller of the Currency**

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**12 CFR Part 8  
Assessment of Fees; National Banks;  
District of Columbia Banks; Proposed  
Rule**

## DEPARTMENT OF THE TREASURY

## Comptroller of the Currency

## 12 CFR Part 8

[Docket No. 84-36]

Assessment of Fees; National Banks;  
District of Columbia BanksAGENCY: Comptroller of the Currency,  
Treasury.

ACTION: Notice of Proposed Rulemaking.

**SUMMARY:** The Office of the Comptroller of the Currency ("Office") is seeking public comment on a proposed revision of the semiannual assessment schedule for national banks, District of Columbia banks, and federally licensed branches and agencies. The proposal reaffirms this Office's philosophy that the assessments paid by a bank should reflect the costs of supervising it to the extent possible under existing statutory provisions. On a per-dollar-of-assets basis, those costs decline as bank size increases. Therefore, in the proposed schedule, like the present one, the marginal assessment rate of an individual bank decreases as its asset size increases. In addition, the Office proposes to offset declines in the overall average assessment rate due solely to inflationary growth in bank assets by indexing the schedule annually to changes in the general price level. This proposal, if adopted, will supplant the 12 percent increase in the current assessment schedule applicable to payments due January 31, 1985, and will replace the current assessment schedule for future assessments.

**DATE:** All comments should be received by the Office no later than December 14, 1984.

**ADDRESS:** Comments should be directed to Docket No. 84-36, Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., 3rd Floor, Washington, D.C. 20219, Attention: Lynnette Carter. Telephone (202) 447-1800. Comments will be available for inspection and photocopying at the same location.

**FOR FURTHER INFORMATION CONTACT:** Roger Tufts, Financial Economist, Economic and Policy Analysis Division (202) 447-1924, or Jonathan Rushdoony, Attorney, Legal Advisory Services Division (202) 447-1880.

**SUPPLEMENTARY INFORMATION:** The Office of the Comptroller of the Currency was created by Federal legislation for the purpose of regulating the national banking system. Under the National Bank Act, 12 U.S.C. 1 *et seq.*, it has a responsibility to take every

necessary and appropriate step to ensure that all national banks are in compliance with the various laws enacted by Congress and the States.

This Office is authorized by 12 U.S.C. 482 and 12 U.S.C. 3102 to assess national banks, District of Columbia banks, and Federal branches and agencies of foreign banks to recover its examination costs. Section 482 requires that these be made in proportion to bank assets or resources and that the rate of such assessments be the same for all banks. The statute also provides that the general assessment shall be made to recover the costs of up to two examinations of national banks per year.

Assessment Schedule Tied To  
Examination Costs

The bank examination process is characterized by economies of scale. That is, the cost per dollar of assets examined declines as bank size increases. There are several reasons for this result. Fixed costs of examinations, such as basic preparatory tasks, do not vary markedly from small to large banks. Further, statistical techniques used extensively in the examination process permit larger institutions to be examined with proportionately fewer resources. For example, an examiner in a small bank must sample a larger proportion of the portfolio to judge the quality of assets than must an examiner in a larger bank.

The current assessment schedule reflects those economies of scale. Under it, the marginal assessment rate of an individual bank declines as its assets rise. This schedule, implemented in 1976, was adopted so that the assessment levied on each bank would more closely reflect the cost of examination. The philosophy forming the basis for such a schedule is the relative cost coverage principle, whereby banks are assessed in relation to the costs attributable to examining them. This principle is incorporated by the assessment schedule to the extent permissible under 12 U.S.C. 482, as interpreted by *First National Bank of Milaca v. Heimann*, 572 F.2d 1244 8th Cir., 1978). That case held that this Office had fulfilled the two requirements of section 482 with its assessment schedule. The first requirement of section 482 is that assessments must be "in proportion to" the assets of a bank. This protects small banks from having to pay more than larger banks. Assets size is in fact the determining factor in this type of an assessment schedule. Larger banks do pay more than small banks under the schedule. Thus, the *Milaca* case held that the first requirement of section 482

was fulfilled by the Office's assessment schedule. *Id.* at 1249-50.

The second requirement of 12 U.S.C. 482 is that the rate of assessment be the same for all banks. This protects individual banks of whatever size from discrimination in the matter of charges. Under the current assessment schedule, banks of the same asset size are assessed uniform fees. The *Milaca* case recognized that the current schedule also fulfills this second requirement, since the assessment rate charged by it is uniform across the country with respect to banks of the same asset size. *Id.*

As noted above, Section 482 requires the assessment schedule to recover the costs of the first two examinations of national banks in a single year. Commenters on the 12 percent increase in the present assessment schedule (49 FR 26204 June 27, 1984) suggested that this requires well-run banks to pay some of the cost of special supervisory attention given to problem banks. The Office is aware of this situation; however, as 12 U.S.C. 482 currently reads, the Office is not authorized to charge higher assessments to banks that are experiencing difficulties.

The proposed revisions change none of the current schedule's basic characteristics, *i.e.*, the use of asset-size brackets, the use of asset size to determine the amount assessed, and the use of a marginal assessment rate that decreases as the asset size of a bank increases. The revision more closely implements the Office's relative cost coverage philosophy and addresses the problems caused by unavoidable increased Office expenses and inflation experienced since 1976.

Despite successful efforts to control costs, Office expenses have been rising at a faster rate than Office revenues. Indeed, since the last assessment schedule revision in 1976, expenses have increased 91 percent while assessment revenues have increased 67 percent. Moreover, this Office believes that the current schedule will be inadequate to meet the Office's resource requirements in the future. This situation is attributable to two factors: inflation and the Office's increased responsibilities.

Inflation Has Distorted the Assessment  
Receipts

The primary factor leading to the revenue shortfall has been inflation. Because the current assessment schedule provides for declining marginal assessment rates, growth in bank assets generates proportionately smaller increases in Office revenue. When such growth is caused by inflation, the

economies of scale in the examination process are not realized. This is demonstrated by the following hypothetical example:

Assume:

(i) A bank has \$50 million in assets in year one and the bank's assessments exactly cover the cost of its examination.

(ii) The general price level doubles in 10 years.

(iii) The nominal value of the bank's assets doubles along with the general price level to \$100 million in year 10 (*i.e.*, all asset growth is the result of inflation).

(iv) Under the current type of schedule, assessments paid by the bank will have increased, but will not have doubled. (Under the current schedule the bank's assessment would have risen from \$11,850 to \$17,850 a year, a 51 percent increase.)

(v) There is no change in examination techniques. The cost of examining the bank will, therefore, have doubled with the general price level.

Thus, the assessment paid by this hypothetical bank would no longer cover the costs of its examination, thereby contributing to an Office operating deficit.

In point of fact, the late 1970's were characterized by historically high inflation. That inflation was reflected in the growth of national bank assets. Between 1976 and 1984, national bank assets rose 98 percent. Over the same period the general price level rose 67 percent. Thus, real growth in national bank assets was only 31 percent. Because economies of scale are realized only with real growth in assets, assessments covered a decreasing portion of examination costs.

#### Greater Supervisory Responsibility Has Increased Costs

The second motivation for changing the assessment schedule stems from the increased supervisory responsibilities of the Office:

- First, since 1976, new responsibilities have been mandated by the Community Reinvestment Act (12 U.S.C. §§ 2901-2905), Financial Institutions Regulatory and Interest Rate Control Act (Pub. L. 95-630, 92 Stat. 3641), International Banking Act of 1978 (Pub. L. 95-369, 92 Stat. 607), Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221, 94 Stat. 132), the Garn-St. Germain Depository Institutions Act (Pub. L. 97-320, 96 Stat. 1469), and the International Lending Supervision Act of 1983.

- Second, the number of newly chartered national banks and banks

within the regulatory purview of this Office have increased.

- Third, the number of national banks requiring special supervisory attention has risen sharply.

- Fourth, the deregulation of depository institutions, the entry of banks into new financial activities, the entry of non-banks into traditional banking markets, and generally the emergence of a rapidly growing financial services industry, have created a more complex banking environment requiring new skills on the part of the Office's staff.

To meet its increased regulatory requirements, the Office found it necessary to increase its staff. Staff grew from 2,874 in 1976 to 3,234 in 1980. As a result of a strategic planning exercise conducted after the Office experienced an operating deficit in 1980, the Office concluded it would not continue to meet the expanding supervisory requirements simply by increasing staff. In light of cost constraints, the Office has achieved gains in productivity by emphasizing computerized techniques that enhance bank supervision. In fact, the size of Office staff in 1984 has decreased and is expected to continue to decrease.

#### Office Initiatives Have Minimized Cost Increases

In addition, Office operations have been restructured to produce more efficient resource utilization. Two key strategies, developed in 1981, are aimed at achieving the Office's mission of ensuring a safe and sound national banking system with fewer personnel: (1) Moving toward more off-site, and therefore more capital intensive, monitoring of bank performance and away from labor intensive on-site examinations of all banks; and (2) focusing on-site examinations less on small, well-run banks and more on larger and/or special supervisory banks.

To this end, the Office has modified its examination priority scheduling policy in the last few years, introducing annual reviews and targeted examinations of smaller banks between full-scale examinations. Off-site computer monitoring techniques were developed to focus on areas of known or suspected weaknesses in a bank's condition. These areas are then examined closely in a targeted examination. Also, the field structure of the Office was reorganized to make the most efficient use of these techniques and the key supervisory strategies.

Those efforts have reduced supervision resource requirements significantly. For example, the supervision policy in effect in 1981

would have required nearly 600 field examiners, at a minimum, for banks under \$100 million in 1985. The revised policy of off-site examinations of national bank activities will permit the same level of supervision to be accomplished with 350 field examiners. Since it costs the Office approximately \$45,000 a year to place an examiner in the field (this includes salaries, benefits, travel, and training), these efforts will result in savings to the Office of over \$11 million.

These revisions in supervisory policy have reduced required examination resources and enabled the Office to meet its supervisory mandate by operating more efficiently. Nevertheless, even with those changes, Office expenses have increased. This increase reflected the Office's decision in 1981 to introduce a compensation plan designed to maintain parity with the banking industry, and thereby enhance the Office's ability to attract and retain highly qualified personnel. Overhead and other Office expenses have also increased since 1976, in part because the Office has invested heavily to upgrade its data processing systems and to improve its off-site examination capabilities.

#### Office Proposes Two Changes in the Schedule

Because of those factors, the Office experienced a \$7.5 million deficit in 1983. The temporary 12 percent assessment surcharge has prevented an \$8.3 million deficit for 1984. With the surcharge expiring in 1985, the Office faces increasing deficits in the future. The Office is, therefore, proposing two revisions to its current assessment schedule to avoid those projected deficits and to improve the implementation of the relative cost coverage principle.

First, the Office proposes to implement an indexing procedure that will insulate the schedule from inflation. Indexing will generate revenues needed to maintain the current level of operations in the face of inflation. It will not, however, accommodate any future expansion of operations that may be dictated by Congress or other Office cost increases.

To offset the inflation that occurred from 1976 to 1984, the asset-size brackets in the current schedule will be multiplied by the ratio of the June 1984 GNP implicit price deflator to the 1976 GNP implicit price deflator. This ratio is 1.67 for that period. (The GNP implicit price deflator is compiled and released by the Bureau of Economic Analysis in the U.S. Commerce Department.) After

this change has been made, the brackets will be rounded to the nearest \$5 million (with the exception of the smallest asset-size bracket, which will be rounded to the nearest \$.1 million). Subsequently, the brackets will be adjusted each December to reflect June-to-June price level changes (with rounding as described above). The annual GNP implicit price deflator ratio and subsequent adjustment of asset brackets will be published in a Banking Circular, "Notice of Comptroller of the Currency Fees", to be published on the first working day in December of each year and distributed to the Chief Executive Officer of every national bank and to all interested parties.

Second, the Office proposes to revise the marginal assessment rates set forth in the 1976 schedule to generate assessments more closely aligned with the imputed average cost of a 1984 examination. Under the relative cost coverage philosophy a bank should pay an assessment in relation to the costs of examination attributable to that bank. In fact, banks with less than \$500 million in assets are not paying their share of Office expenditures under the current assessment schedule. Under the current schedule, banks with over \$500 million in assets have, in effect, been subsidizing the examination costs of banks with less than \$500 million in assets (see Table 1).

TABLE 1.—RELATIVE COST COVERAGE  
[Current assessment schedule]

Bank size (millions)	Index *	Number of banks
0 to \$10.....	.33	348
\$10 to \$50.....	.41	2,284
\$50 to \$100.....	.63	1,082
\$100 to \$500.....	.95	935
\$500 to \$1,000.....	1.21	101
\$1,000 to \$3,000.....	1.23	106
\$3,000 to \$10,000.....	2.11	54
\$10,000 to \$20,000.....	1.83	6
Over \$20,000.....	3.63	10

\* The index represents 1984 relative cost coverage by bank size. The index shows the revenue this Office receives from banks relative to the examination costs attributable to those banks. An index value of less than one indicates that banks are paying less than their proportional share of Office costs. For instance, assessments paid by banks in the \$10-\$50 million range cover approximately 41 percent of the Office costs related to examining and supervising those banks as well as statutory constraints.

The proposal would adjust marginal rates to reflect costs more closely. The subsidization of small banks by large banks will not be totally eliminated, however, due to the adverse effect such action would have on small banks.

In summary, to assure a sound fiscal footing for the future, the Office proposes to amend the current assessment schedule. If adopted, the Office budget will be balanced and the assessment schedule will better reflect the expenses incurred by the Office in

examining banks of various sizes. This will be accomplished by: (1) Adjusting the asset-size brackets to account for inflation since 1976 and implementing a plan to insulate future OCC assessment revenue from inflation by indexing annually the ten asset-size brackets to the GNP implicit price deflator; and (2) adjusting the marginal rates for each bracket to reflect better the relative costs of examination. The effective date of this proposed amendment to 12 CFR 8.2 would be for the semiannual assessment period, January 1, 1985, through June 30, 1985, with the semiannual assessment due on or before January 31, 1985. The assessment schedule the Office proposes to adopt for the semiannual assessment period beginning on January 1, 1985, would assess the following fees on national banks and federally licensed branches and agencies (see Table 2).

TABLE 2.—PROPOSAL FOR SEMI-ANNUAL ASSESSMENT SCHEDULE FOR JANUARY 1985

If the bank's total assets (consolidated domestic and foreign subsidiaries) are—			The semi-annual assessment is—	
Over— (million)	But not over— (million)	This amount—	Plus	Of excess over— (million)
0	\$1.7	0	0.001000	0
\$1.7	15	\$700	.000125	\$1.7
15	85	3,363	.000100	15
85	165	10,363	.000065	85
165	835	15,563	.000055	165
835	1,670	52,413	.000045	835
1,670	5,010	89,988	.000040	1,670
5,010	16,695	223,568	.000034	5,010
16,695	33,390	620,878	.000032	16,695
33,390		1,155,118	.000021	33,390

Special Studies

Executive Order 12291

The aggregate effect of the proposed rule on the economy is estimated to be \$15 million in 1985. This amount represents the difference in expected assessment revenues between the current and proposed schedules. The aggregate amount will be spread among all national banks, and Federal branches and agencies, some 4,900 institutions. Because of this distribution, the expected impact of the proposed rule on those banks' after-tax earnings, as measured by return on assets, ranges from 3.06 to .02 basis points. Institutions of similar size will face the same impact. Thus, the effect of the proposed revision is unlikely to put competing institutions at a disadvantage with one another or with other competing suppliers of financial services. Finally, the proposed rule is not envisioned as having significant adverse impacts on the ability of U.S.-domiciled national banks to compete with foreign competitors. This is due to the fact that, generally,

only the largest of institutions in the national banking system compete directly with foreign banks, and the effect of the proposed rule on their earnings is slight, less than one-tenth of one percent.

Accordingly, this Office has concluded that the proposed rule does not meet any of the conditions set forth in Executive Order 12291 for designation as a major rule. Consequently, a regulatory impact statement has not been prepared.

Regulatory Flexibility Act

This Office is sensitive to the impact of the proposed rule on small entities. Therefore, pursuant to the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612, an initial regulatory flexibility analysis has been prepared. Copies of the analysis may be obtained by writing to: Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., 3rd Floor, Washington, D.C. 20219. Telephone (202) 447-1800.

This Office has endorsed the principle of relative cost coverage whereby a bank will be assessed in relation to the costs of examination attributable to that bank. Banks with under \$500 million in assets are currently not assessed a sufficient amount to recover the cost of their examination, regulation, and supervision. Assessments on banks with over \$500 million in assets have, in effect, been providing a cost subsidy for the examination of those smaller banks. In order to reduce this subsidy and to further the Office's relative cost coverage principle, the Office's proposal to revise the schedule moves smaller-sized banks closer to 100 percent relative cost coverage (see Table 3).

TABLE 3.—Relative Cost Coverage  
[Current vs. proposed assessment schedule]

Bank size (millions)	Index* current	Index* proposed	Number of banks
0 to \$10.....	.33	.38	348
\$10 to \$50.....	.41	.43	2,284
\$50 to \$100.....	.63	.67	1,082
\$100 to \$500.....	.95	1.01	935
\$500 to \$1,000.....	1.21	1.23	101
\$1,000 to \$3,000.....	1.23	1.20	106
\$3,000 to \$10,000.....	2.11	1.98	54
\$10,000 to \$20,000.....	1.83	1.66	6
Over \$20,000.....	3.63	3.44	10

\* The indices represent the 1984 relative cost coverage under alternative assessment schedules. The index is defined as the revenue the Office recovers from banks divided by the examination costs attributable to those banks. An index value of less than one indicates that banks are paying less than their proportional share of Office costs.

The current revision is not designed to achieve 100 percent relative cost coverage because of the greater impact that would have on banks with less than \$100 million in assets, and because of

statutory constraints. In addition, although the potential impact of this proposal on bank earnings is greater for small banks, the reduction in earnings, in absolute terms, is minimal (see Table

4). Thus, the proposal only minimally reduces the earnings of smaller banks, and the proposal is necessary to realize more closely the Office's relative cost coverage principle.

deflator, will be calculated for each June-to-June period and used to revise the bracket endpoints. However, for the assessment due on January 31, 1985, the brackets will be indexed to reflect changes in the GNP implicit price deflator from 1976 through June 1984. After this adjustment has been made, the bracket endpoints will be rounded to the nearest \$5 million (with the exception of the smallest asset-size bracket, which will be rounded to the nearest \$.1 million).

TABLE 4.—PROPOSED ASSESSMENT INCREASES FOR SELECTED BANK SIZES

(Bank size—dollars in millions)

	\$2	\$10	\$50	\$100	\$500
<b>Semi-Annual Assessment</b>					
Proposed	\$1,738	\$2,738	\$8,863	\$11,329	\$33,638
Current	1,125	2,125	5,925	8,925	28,925
Change	613	613	338	2,413	5,663
Percent increase	54	29	18	27	18
Impact on ROA (basis points)	-3.065	- .613	-.183	-.241	-.101

(Bank size—dollars in million)

	\$1,000	\$5,000	\$10,000	\$20,000	\$100,000
<b>Semi-Annual Assessment</b>					
Proposed	\$59,638	\$223,188	\$330,248	\$726,638	\$2,530,928
Current	51,425	199,425	269,425	629,425	2,329,425
Change	8,413	23,763	23,823	37,213	184,503
Percent increase	16	12	6	5	8
Impact on ROA (basis points)	-.084	-.049	-.024	-.019	-.018

NOTE.—Impact on Return on Assets (ROA)—Change in Assessment/Total Assets; assumes a 50-percent tax rate

List of Subjects in 12 CFR Part 8

National banks, Assessment of fees.

PART 8—[AMENDED]

For the reasons set forth above, it is proposed to amend 12 CFR Part 8 as follows:

1. The authority citation for 12 CFR Part 8 is:

Authority: R.S. 5240, as amended, 12 U.S.C. 481, 482, 12 U.S.C. 3103, and in Section 3, 47 Stat. 1566, 26 D.C. Code 102.

2. By revising the text of § 8.2(a) to read:

§ 8.2 Semiannual assessment.

(a) Each national bank and each district bank shall pay to the Comptroller of the Currency on or before January 31 and July 31 of each year a semiannual assessment fee for the six-month period beginning thirty days before each payment date. The amount of the semiannual assessment

paid by each bank is computed as follows:

If the bank's total assets (consolidated domestic and foreign subsidiaries) are—		The semi-annual assessment is—		
Over col. A (million)	But not over col. B (million)	This amount—col. C	Plus col. D	Of excess over col. E (million)
\$0	\$X <sub>1</sub>	0	.031000	0
\$X <sub>1</sub>	\$X <sub>2</sub>	5Y <sub>1</sub>	.000125	\$X <sub>2</sub>
\$X <sub>2</sub>	\$X <sub>3</sub>	5Y <sub>2</sub>	.030100	\$X <sub>3</sub>
\$X <sub>3</sub>	\$X <sub>4</sub>	5Y <sub>3</sub>	.030070	\$X <sub>4</sub>
\$X <sub>4</sub>	\$X <sub>5</sub>	5Y <sub>4</sub>	.000015	\$X <sub>5</sub>
\$X <sub>5</sub>	\$X <sub>6</sub>	5Y <sub>5</sub>	.030045	\$X <sub>6</sub>
\$X <sub>6</sub>	\$X <sub>7</sub>	5Y <sub>6</sub>	.000040	\$X <sub>7</sub>
\$X <sub>7</sub>	\$X <sub>8</sub>	5Y <sub>7</sub>	.000025	\$X <sub>8</sub>
\$X <sub>8</sub>	\$X <sub>9</sub>	5Y <sub>8</sub>	.000022	\$X <sub>9</sub>
\$X <sub>9</sub>	\$X <sub>10</sub>	5Y <sub>9</sub>	.000021	\$X <sub>10</sub>

Each national bank falls into one of the ten asset-size brackets denoted by columns A and B. The lower (column A) and upper (column B) endpoints of each bracket will be indexed each year to reflect changes in the GNP implicit price deflator. The percentage change in the level of prices, as measured by the

(1) A bank's semiannual assessment is composed of two parts. The first portion is an assessment on the assets of the bank up to the lower endpoint (column A) of the bracket in which it falls; this portion of the assessment is shown in column C. The second portion is an assessment on the remaining assets of the bank, which are assessed at the rate shown in column D. This rate is applied only to the assets in excess of the lower endpoint of the bracket. The total semiannual assessment is the sum of the bank's assets in excess of column E times the rate in column D, plus the amount in column C.

(2) The specific asset-size brackets and complete assessment schedule will be published in a Banking Circular, "Notice of Comptroller of the Currency Fees" provided for at 12 CFR 8.8. Each semiannual assessment is based upon the total assets shown in the bank's "Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries)" most recently preceding the payment date. The assessment shall be computed in the manner and on the form provided by the Comptroller of the Currency. Each bank subject to the jurisdiction of the Comptroller of the Currency on the date of the second or fourth quarterly reports of condition required by the Office under 12 U.S.C. 161 is subject to the full assessment for the next six-month period without proration for any reason.

Dated: November 2, 1984.

C.T. Conover,  
Comptroller of the Currency.

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**LIST OF PUBLIC LAWS**

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List November 6, 1984.

## Correction

The table published in the Reader Aids section in the issue of Thursday, November 1, 1984, contained two errors. Under the heading "60 days after publication," the 13th and 14th entries which read "January 21" should have read "January 22"

The corrected table is republished below for the convenience of the reader.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—NOVEMBER 1984

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
November 1	November 16	December 3	December 17	December 31	January 30
November 2	November 19	December 3	December 17	January 2	January 31
November 5	November 20	December 5	December 20	January 4	February 4
November 6	November 21	December 6	December 21	January 7	February 4
November 7	November 23	December 7	December 24	January 7	February 5
November 8	November 23	December 10	December 24	January 7	February 6
November 9	November 26	December 10	December 24	January 8	February 7
November 13	November 28	December 13	December 28	January 14	February 11
November 14	November 29	December 14	December 31	January 14	February 12
November 15	November 30	December 17	December 31	January 14	February 13
November 16	December 3	December 17	December 31	January 15	February 14
November 19	December 4	December 19	January 3	January 18	February 19
November 20	December 5	December 20	January 4	January 22	February 19
November 21	December 6	December 21	January 7	January 22	February 19
November 23	December 10	December 24	January 7	January 22	February 21
November 26	December 11	December 26	January 10	January 25	February 25
November 27	December 12	December 27	January 11	January 28	February 25
November 28	December 13	December 28	January 14	January 28	February 26
November 29	December 14	December 31	January 14	January 28	February 27
November 30	December 17	December 31	January 14	January 29	February 28

