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Presidential Documents

Title 3—

The President

Presidential Determination No. 87–4 of December 11, 1986

Determination Pursuant to Section 560 of the Foreign Assistance and Related Programs Appropriations Act, 1987

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to Section 560 of the Foreign Assistance and Related Programs Appropriations Act, 1987, (as enacted in Public Law 99–500), I hereby certify that the withholding of funds to multilateral development banks and other international organizations and programs pursuant to the limitation contained therein, prohibiting the obligation of funds appropriated by the Act to finance indirectly any assistance or reparations to certain specified countries, is contrary to the national interest.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, December 11, 1986.

[FR Doc. 86–28531
Filed 12–16–86; 4:01 pm]
Billing code 3195–01–M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Regulations Governing Allocations of Sugar Import Quotas; Other Specified Countries or Areas

AGENCY: Office of the Secretary, USDA.

ACTION: Interim rule.

SUMMARY: This rule modifies the allocation provisions governing sugar import quotas for those countries or areas which are designated as "Other Specified Countries or Areas" (more commonly known as the "basket category"). This rule modifies the maximum quota allocated to each basket country. Each country in the basket category will receive an annual quota equal to its pro rata share of the percentage quota for the basket, or 7,500 short tons, whichever is greater.

EFFECTIVE DATES: January 1, 1987. In order to be assured of consideration, comments must be received no later than February 17, 1987.

ADDRESS: Mail comments to Sugar Group, Foreign Agricultural Service, Department of Agriculture, Room 6095-South, 14th and Independence Avenue SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Carol Brick-Turin, Sugar Group, Foreign Agricultural Service, Department of Agriculture, Room 6095-South, 14th and Independence Avenue SW., Washington, DC 20250. Telephone: (202) 447-6939.

SUPPLEMENTARY INFORMATION: This rule involves a foreign affairs function of the United States. Accordingly, the provisions of 5 U.S.C. 553 do not apply and no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major" since the rule does not have any of the effects specified in those documents.

Presidential Proclamation 4941 of May 5, 1982 (47 FR 19661) established a country-by-country quota system for the importation of sugar into the United States. Under the import quota allocation provisions established under the Proclamation, each country was allocated a specific percentage allocation of the quota if that allocation was one percent or greater. The remaining countries were classified as "Other Specified Countries or Areas" (more commonly known as the "basket category"). Their percentage allocations were pooled and they competed on a first-come-first-serve basis for the entire pool. These terms were modified in an interim rule (47 FR 34769) which provided that each country in the basket category would have a specific annual quota. Under that interim rule, each country received a quota allocation equal to its pro rata share of the percentage allocation for the basket, or 16,500 short tons, whichever is greater.

The interim rule was adotped as a final rule on December 6, 1985 with a modification (50 FR 49919). The maximum level allocated to individual basket countries was modified. Each country received a quota allocation equal to its pro rata share of the percentage allocation for the basket, or 12,500 short tons, whichever is greater.

This interim rule modifies the maximum quota allocated to each basket country by revising the amount each country will receive to a level equal to its pro rata share of the percentage allocation for the basket, or 7,500 short tons, whichever is greater.

After consultation with the United States Trade Representative, the Department of State and the Department of the Treasury, the Secretary of Agriculture has determined that this rule is necessary and appropriate to provide countries in the basket category with reasonable access to the U.S. sugar market. It has also been determined that these provisions are necessary and appropriate to carry out U.S. obligations under the General Agreement on Tariffs and Trade.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Foreign trade, Imports, Quotas, Sugar.

PART 6—[AMENDED]

Accordingly, 7 CFR Part 6 Subpart—Sugar Import Quotas (§§ 6.90 through 6.93) is amended as follows:

1. The authority citation for Subpart—Sugar Import Quotas (§§ 6.90 through 6.93) continues to read as follows:

Authority: Sec. 201, Trade Expansion Act of 1962 (19 U.S.C. 1821); Presidential Proclamation 4941, May 5, 1982 (47 FR 19661); Headnotes 2 and 3, Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202).

2. Section 6.91(a)(2) is revised to read as follows:

§ 6.91 Allocation of individual import quotas.

(a) * * *
(1) * * *
(2) 7,500 short tons, raw value.

* * * * *

Signed at Washington, DC on December 15, 1986.

Peter C. Myers,
Acting Secretary of Agriculture.

[FR Doc. 86-28386 Filed 12-15-86; 3:25 pm]

BILLING CODE 3410-10-M

Federal Crop Insurance Corporation

7 CFR Parts 403, 405, 409, 411, 413, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 446, 447, 448, 450 and 451

[Docket No. 0106A]

Peach, Apple, Arizona-California Citrus, Grape, Texas Citrus, Forage Production, Pea, Sugarcane, Wheat, Barley, Grain Sorghum, Cotton, Potato, Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar Beet, Soybean, Corn, Dry Bean, Tobacco Quota Plan, Tobacco Guaranteed Plan, Canning and Freezing Sweet Corn, Canning and Processing Tomato, Almond, Walnut, Popcorn, ELS Cotton, Prune and Canning and Processing Peach Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby adopts, as a final rule, an interim rule which was published in the **Federal Register** on Friday, August 15, 1986 (51 FR 29205). The interim rule amended the Peach, Apple, Grape, Forage Production, Pea, Wheat, Barley, Grain Sorghum, Cotton, Potato (all states except Florida and certain California counties), Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar Beet (all states except Arizona and California), Soybean, Corn, Dry Bean, Tobacco Quota Plan, Tobacco Guaranteed Plan, Canning and Freezing Sweet Corn, Canning and Processing Tomato, Almond, Walnut, Popcorn, ELS Cotton, Prune and Canning and Processing Peach Crop Insurance Regulations (7 CFR Parts 403, 405, 411, 415, 416, 418, 419, 420, 421, 422, 423, 424, 425, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 446, 447, 448, 450 and 451 respectively), effective for the 1987 and succeeding crop years, and the Arizona California Citrus, Texas Citrus, Sugarcane, Potato (the remaining California counties and Florida), and Sugar Beet (Arizona and California only) Crop Insurance Regulations (7 CFR Parts 409, 413, 417, 422, and 430 respectively), effective for the 1988 and succeeding crop years by removing the effect of the provision which cancels the policy for failure to furnish production records. The intended effect of this rule is to provide for an alternative insurance offer in lieu of cancellation for failure to furnish production records to determine guarantee. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 18, 1986.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations remains unchanged and has been previously published for each regulation.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

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

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

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

On Friday, August 15, 1986, FCIC published an interim rule, effective upon publication in the **Federal Register** at 51 FR 29205, amending the Peach, Apple, Grape, Forage Production, Pea, Wheat, Barley, Grain Sorghum, Cotton, Potato (all states except Florida and certain California counties), Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar Beet (all states except Arizona and California), Soybean, Corn, Dry Bean, Tobacco Quota Plan, Tobacco Guaranteed Plan, Canning and Freezing Sweet Corn, Canning and Processing Tomato, Almond, Walnut, Popcorn, ELS Cotton, Prune and Canning and Processing Peach Crop Insurance Regulations (7 CFR Parts 403, 405, 411, 415, 416, 418, 419, 420, 421, 422, 423, 424, 425, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 446, 447, 448, 450 and 451 respectively), effective for the 1987 and succeeding crop years, and the Arizona-California Citrus, Texas Citrus, Sugarcane, Potato (the remaining California counties and Florida), and Sugar Beet (Arizona and California only) Crop Insurance Regulations (7 CFR Parts 409, 413, 417, 422, and 430 respectively), effective for the 1988 and succeeding crop years by removing the effect of the provision which cancels the policy for failure to furnish production records and providing for an alternative insurance offer in lieu of cancellation for failure to furnish production records to determine guarantee.

Written comments on the interim rule were solicited by FCIC for 60 days after publication of the rule in the **Federal Register**, and the rule was scheduled for review so that any amendments made necessary by public comment could be published in the **Federal Register** as soon as possible. No comments were received. Therefore, the interim rule is hereby adopted as final.

List of Subjects in 7 CFR Parts 403, 405, 409, 411, 413, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 446, 447, 448, 450 and 451

Crop insurance—Peach, Apple, Arizona-California citrus, Grape, Texas citrus, Forage production, Pea, Sugarcane, Wheat, Barley, Grain sorghum, Cotton, Potato, Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar beet, Soybean, Corn, Dry bean, Tobacco quota plan, Tobacco guaranteed plan, Canning and freezing sweet corn, Canning and processing tomato, Almond, Walnut, Popcorn, ELS cotton, Prune and canning and processing peach respectively

Final Rule

Accordingly, the Interim Rule published in the **Federal Register** on Friday, August 15, 1986, at 51 FR 29205, is hereby adopted as final.

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

Done in Washington, DC, on October 29, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-28318 Filed 12-17-86; 8:45 am]

BILLING CODE 3410-08-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R-0577]

Truth in Lending; Right of Rescission

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule revising Regulation Z, its regulation implementing the Truth in Lending Act. The rule modifies the existing provision that exempts original creditors from providing the right of rescission in certain refinancings secured by the consumer's principal dwelling. The regulation provides that

the right of rescission will not apply if the original creditor finances nonfinance charges such as attorney's fees, title examination fees, and insurance premiums.

The Board has decided not to amend Regulation Z to exclude certain transactions by a creditor other than the original creditor from the right of rescission. An earlier proposal would have excluded from the right of rescission extensions of credit that replace a transaction secured by the consumer's principal dwelling where (1) no new advances of money are made to the consumer, (2) the annual percentage rate on the new obligation is not subject to increase after consummation and is the same as or lower than the annual percentage rate on the obligation being replaced, and (3) the new transaction does not have a balloon payment feature.

In light of significant concerns expressed by a number of persons commenting on the proposal, including significant consumer opposition to any expansion of the rescission exemptions, dissatisfaction with the limited nature of the proposed exemption, the complexity associated with a rule that might accommodate all interests, and the statutory concerns accompanying any attempt to accommodate those interests, the Board has decided not to create a new rescission exemption for nonoriginal creditors.

EFFECTIVE DATE: December 6, 1986, but reliance optional until October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Adrienne Hurt or Leonard Chanin, Staff Attorneys, (202) 452-3867 or (202) 452-3667, Division of Consumer and Community Affairs, or for the hearing impaired *only*, Telecommunications Device for the Deaf (TDD) Earnestine Hill or Dorothea Thompson, at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) Background

Section 125 of the Truth in Lending Act (TILA) provides that consumers have the right to rescind certain credit transactions in which a security interest is taken in the consumer's principal dwelling. The right of rescission was established to provide consumers an opportunity to reexamine their credit contracts and cost disclosures in order to reconsider their decision to place an important asset—the home—at risk by offering it as security for the credit extension. The rescission period runs for three business days ending on midnight of the third business day following consummation, delivery of material Truth in Lending disclosures, or delivery to the consumer of the notice of the right to rescind, whichever occurs last. Under § 226.23 of Regulation Z, which implements the act's rescission provision, a creditor is prohibited from performing services or disbursing funds, other than in escrow, during the rescission period. A consumer may waive the right to rescind where the consumer has a bona fide personal financial emergency.

Currently, both the act and Regulation Z provide that refinancings [1] by the same creditor of credit already secured by the consumer's principal dwelling are exempt from the right of rescission where no "new money" is advanced to the consumer. The regulation treats as new money the difference between the new "amount financed" and the unpaid principal balance plus any earned unpaid finance charges on the obligation being refinanced. Under this rule, nonfinance charges, such as attorney's fees, title examination fees and insurance premiums, if financed by the creditor, are added to the old debt to arrive at the new amount financed. The provisions in existing § 226.23 (f)(2) provide that the transaction is rescindable to the extent of these charges.

In light of the substantial increase in consumer applications to refinance residential mortgage loans, the Board received a number of inquiries and complaints about the applicability of the rescission rules to refinancings. As a result of consumer and creditor concerns, the Board published for public comment on August 6, 1986 (51 FR 28245) a proposal to create a new exemption from the right of rescission for transactions involving the nonoriginal creditor, and to revise the definition of new money for purposes of the current exemption for original creditors. The Board received approximately 165 comments on the proposed amendments. The Board has decided not to create a new exemption for nonoriginal creditors, but has decided to revise its definition of new money for purposes of the existing exemption from the rescission right for original creditors.

(2) Proposal To Exempt "Refinancings" by the Nonoriginal Creditor

Section 125(e) of the TILA exempts from rescission only refinancings by the original creditor where no new advances of money are made. The proposed amendment to Regulation Z would have expanded the class of transactions exempt from the rescission provisions to include certain types of refinancings by creditors other than the original creditor. The expansion of the rescission exemption to exempt certain additional types of refinancings was based on the idea that it would benefit both consumers (in allowing for immediate access to credit) and creditors (in relieving some compliance costs) and, if limited, would be consistent with congressional intent in creating the right of rescission. In an effort to ensure that transactions remain subject to the right of rescission where the consumer arguably needs the right, and in view of the existing statutory exemption applicable to the original creditor only, the proposal would have limited the types of refinancings offered by a new creditor that could be exempt from the right of rescission. Under the proposal, a refinancing by a new creditor would have qualified for the exemption only if:

(1) No new advances of money were obtained by the consumer,

(2) The annual percentage rate (APR) on the new transaction was not subject to increase after consummation and was the same as or lower than the APR on the obligation being refinanced, and

(3) The new transaction did not have a balloon payment feature.

After careful consideration of the comment letters and further evaluation of the proposal, the Board has decided not to amend Regulation Z to create a new exemption from the right of rescission for refinancings by a new creditor. The Board's decision is based on several considerations. First, there was a strong belief among persons opposed to expanding the rescission exemptions—particularly those representing the consumer interest—that the Board's proposed amendment would eliminate an important consumer right. These commenters felt that the purpose of the right of rescission—to allow consumers time to reconsider the risks in encumbering their homes for an extension of credit—is crucial, particularly at a time when so many consumers are refinancing loans. The opponents believed that the proposal, even with its limitations aimed at exempting only loans that would pose no greater risk than the original loans, was not sufficient to ensure that consumers will have the right of rescission in all transactions when it would be desirable. In addition to the concerns about the loss of a substantive

[1] Although the term "refinancing" in § 226.23 of Regulation Z refers only to new transactions by the same creditor that had made the original extension of credit, the term in this discussion is used in a generic sense to refer to a transaction by any creditor that satisfies and replaces an existing obligation.

consumer protection, those opposing the proposed amendment often cited their belief that the Board would be exceeding its rulemaking authority under the TILA if it were to exempt transactions by a creditor other than the original creditor because the current statute expressly exempts only refinancings by the same creditor.

While most commenters generally favored expansion of the category of refinancings that would be exempt from the rescission provisions, many commenters did not favor the Board's specific proposal. A number of creditors, for example, urged the Board to adopt similar exemption rules for original and nonoriginal creditors by deleting the various qualifications from the proposed amendment. They argued that where a consumer refinances a loan, regardless of who the creditor is, the right to rescind is an unnecessary protection because there is adequate time between application and closing for reconsideration of a credit decision. They also claimed there is little support for the idea that a consumer undertakes less risk when refinancing a loan with the same creditor, or that the consumer needs the additional rescission protections only when dealing with a different creditor.

While the Congress' rationale for restricting the exception to the original creditor may be unclear, the statute unambiguously exempts refinancings only with the original creditor. It is the Board's view that adopting a broad exemption that would treat new creditors the same as original creditors would be inconsistent with the statutory intent of the rescission provisions. Any exemption would have to be tailored to ensure that the rescission provisions apply to transactions where the right of rescission is arguably a needed protection.

With regard to the exemption as proposed, many commenters urged that various modifications be made in the proposal to exempt additional transactions that they believed would impose no increased risk to consumers. For instance several commenters suggested that:

—The refinancing of a variable rate loan with no caps to a variable rate loan with caps should be exempt from the right of rescission.

—The refinancing of a fixed rate loan to a variable rate loan with a rate cap that is equal to or less than the APR (or interest rate) on the existing loan should be exempt from the right of rescission.

—Only where a balloon payment feature is added or where a balloon payment on the refinancing is higher than the balloon payment on an existing loan should the transaction remain subject to the right of rescission.

The Board believes that modifying the proposal to expand the rescission exemption to include more transactions in which additional risk is not an apparent concern would likely result in a very technical and complex rule.

Several commenters, in response to the Board's solicitation for comment as to whether additional limitations should be contained in the proposal, felt that additional conditions should be imposed before a transaction is exempt from the right of rescission. Most of those addressing the question stated that refinancings with a demand feature should be subject to the right of rescission on the ground that a demand loan is just as risky, if not more so, than a loan with a balloon payment feature. Others stated that scheduled payments on the refinancing should be lower than scheduled payments on the existing loan before the right of rescission is eliminated. Other commenters suggested additional conditions. The Board believes that drafting a rule accommodating these concerns would create a very technical regulation, and would significantly limit the number of transactions that would be covered by the amendment.

In light of the strong opposition to any expansion of the rescission exemptions from a number of commenters, the desire of many commenters to have the rescission exemption expanded beyond that which was proposed by the Board, the complexity associated with a rule to accommodate all interests, and the statutory constraints, the Board has decided *not* to adopt the proposed amendment to create a new rescission exemption regarding refinancings by a creditor other than the original creditor.

(3) New Money Proposal

In addition to proposing to amend Regulation Z to exempt certain refinancings by a nonoriginal creditor, the Board proposed to redefine what constitutes a new advance of money obtained by a consumer for purposes of the existing exemption for refinancings. The Board has decided to adopt the proposed amendment to Regulation Z that would redefine a new advance of money. Section 226.23(f)(2) currently provides that a consumer shall receive the right of rescission in a refinancing by the original creditor if the consumer receives "new money." Under this rule, new money has been treated as the difference between the new amount financed and the outstanding balance plus any earned unpaid finance charges. Because of this definition, the right of rescission often would be triggered if the consumer merely finances costs that are not finance charges, such as attorney's fees, title examination fees, and insurance premiums, even where a consumer does not get additional money for other purposes. The Board proposed for comment a revision to this rule to provide that if the new money results solely from a decision by the consumer to finance nonfinance charges such as attorney's fees, title examination fees, and insurance premiums, these costs would not trigger the right of rescission. (Under the existing rule, points and other finance charges, even if financed by the creditor, would not trigger the right of rescission since they are not part of the "amount financed.")

Over two-thirds of the commenters supported the Board's proposal to revise the definition of new money. The majority of commenters stated that most consumers ask to finance these costs when refinancing their mortgage, thus triggering the right of rescission in a large number of refinancings. While commenters varied in the estimates of these costs, it appears that these costs are generally below $1,000 or 3% or less of the principal loan amount. Most commenters stated that these costs were not significant enough to justify the consumer receiving the right of rescission solely for these charges.

Several commenters opposed to revising the definition of new money stated that costs such as attorney's fees, title examination fees, and insurance premiums can be significant, and that consumers need an opportunity to reconsider a transaction when these costs are financed by a creditor. A few commenters felt the Board should not take any action that may reduce consumer protections in the rescission area.

After careful consideration of all comments received and further examination of the proposal, the Board has decided to adopt the new money proposal. The Board believes that consumers do not need the right of rescission when refinancing with an original creditor if the only reason for receiving the right is due to a decision to finance nonfinance charge closing costs. Such amounts do not appear to be significant, in light of the principal loan amount being refinanced, and thus do not put the consumer's principal dwelling at any significantly greater risk.

The Board also believes that the requirement in § 226.4(c)(7) that common closing costs must be bona fide and reasonable to be excluded from the

finance charge should allay concerns expressed by some commenters that creditors may use this revision to add unreasonable charges to the new transaction. Furthermore, it should be noted that if the consumer rescinds a transaction involving new money, § 226.23(d) provides that the consumer is not liable to pay any amount, including the cost of the refinancing.

Minor editorial revisions have been made to the proposal so that the provision will be phrased in terms of what transactions are subject to the right of rescission rather than what transactions are covered by the exemption. These revisions were made to more clearly state the rule that, where a transaction involves new money, only the new money is rescindable.

In addition to its final rule, the Board is also publishing for public comment in this issue of the **Federal Register** a proposal to amend the official staff commentary to address issues that may arise as a result of the new rule.

(4) Regulatory Impact

The revision to the rescission provision in Regulation Z would reduce the number of transactions for which creditors would need to provide consumers with a notice of their rescission rights and an opportunity to rescind. Therefore, it appears that creditors, including small entities, would not incur any additional costs as a result of the proposed changes.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

PART 226—[AMENDED]

Pursuant to authority granted in section 105(a) of the Truth in Lending Act, 15 U.S.C. 1604(a), the Board is amending Regulation Z (12 CFR Part 226) as follows:

1. The authority citation for Part 226 continues to read as follows:

Authority: Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96-221, 945 Stat. 170 (15 U.S.C. 1604 *et seq.*).

2. 12 CFR Part 226 is amended by revising § 226.23(f)(2) to read as follows:

§ 226.23 Right of rescission.

* * * * *

(f) *Exempt transactions.* * * *

(2) A refinancing or consolidation by the same creditor of an extension of credit already secured by the consumer's principal dwelling. The right of rescission shall apply, however, to the extent the new amount financed exceeds the unpaid principal balance, any earned unpaid finance charge on the existing debt, and amounts attributed solely to the costs of the refinancing or consolidation.

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 11, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-28315 Filed 12-17-86; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster Loans

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Section 18006 of the Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272) amended the Small Business Act (15 U.S.C. 631 *et seq.*) to terminate the authority of the Small Business Administration (SBA) to make disaster assistance loans to agricultural enterprises or to any entity in response to currency fluctuations or federal action. This rule eliminates those portions of the current regulations which implemented the deleted authority. This rule also makes technical corrections by deleting dated material.

EFFECTIVE DATE: December 18, 1986.

ADDRESS: Comments should be sent to: Bernard Kulik, Deputy Associate Administrator for Disaster Assistance, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Deputy Associate Administrator for Disaster Assistance, (202) 653-6879.

SUPPLEMENTARY INFORMATION:

Federal Action and Currency Fluctuation Loans

Section 18006 of the Budget Reconciliation Act of 1985 amended section 7(b) of the Small Business Act (Act) by striking out paragraphs (3) and (4). Paragraph (3) had allowed SBA to give disaster assistance to small business concerns affected by government regulation or other action. Paragraph (4) allowed such assistance to small business concerns affected by currency fluctuations.

SBA implemented sections 7(b) (3) and (4) in 13 CFR Part 123, Subparts D and E, respectively. The statutory authority for those programs has been withdrawn. Therefore, those subparts are removed. Servicing fees affecting the above programs are permitted by § 123.6 of this part. This rule deletes the language affecting these programs.

Interest Rates

The Omnibus Budget Reconciliation Act of 1983 (Pub. L. 98-270, 98 Stat. 135, section 301) created new formulae for setting the rate of interest on disaster loans. It also required a reduction in the rate of interest on loans made in response to disasters commencing on or after October 1, 1982, which had outstanding balances after April 18, 1984.

SBA implemented these changes as they applied to Home Loans in 13 CFR 123.25(c), as they applied to Business Loans in 13 CFR 123.26(b), and as they applied to Economic Injury Loans in 13 CFR 123.41(d).

All loans are now made at the lower rates. All loans which were subject to reduced interest rates have been adjusted. Therefore, the old rates and terms implementing the adjustments are no longer needed and are deleted from §§ 123.25(c), 123.26(b), and 123.41(d).

Civil Rights Requirements

On October 11, 1985, SBA promulgated 13 CFR Part 117 to effectuate the provisions of the Age Discrimination Act of 1975, as amended. Section 123.15 of Title 13, CFR, anticipated that action and referred to its future publication. Now that section 117 has been published in final form, the contingency language is no longer required and is deleted by this rule.

Agricultural Loans

Section 18006 of the Budget Reconciliation Act of 1985 withdrew SBA's authority to make disaster assistance loans to agricultural enterprises. 13 CFR 123.41(b)(4) addressed eligibility of agricultural enterprises for economic injury loans. Since agricultural enterprises are no longer eligible, this paragraph is deleted.

El Nino

SBA was authorized by Pub. L. 98-473 to make disaster loans to small business concerns affected by El Nino-related ocean conditions occurring in 1982 and 1983. This authority was implemented in 13 CFR 123.42. This authority has expired and all applications for assistance arising out of that authority have been processed. Therefore, this section is deleted.

Executive Order 12291

These regulations are not a major rule because they will not have an annual economic effect of $100 million. In fiscal year 1986 disaster loans to agricultural

enterprises totaled $62.5 million. Nonphysical disaster loans totaled $6.2 million. The latter category includes Federal action, currency fluctuation and El Nino loans. Taken together, the total impact of these regulations will be less than $100 million annually.

Regulatory Flexibility Act

SBA is publishing these regulations in final form pursuant to 5 U.S.C. 553(b)(B). SBA finds that notice of proposed rulemaking would be impracticable and unnecessary because all of these remedies, except the deletion of § 123.42 are mandated by statute. The deletion of § 123.42 removes language which has no continuing effect due to expired deadlines. There are no alternatives to these changes which strictly follow the statute.

Paperwork Reduction Act

These regulations impose no reporting or record-keeping requirements.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs—business, Reporting and recordkeeping requirements, Small business.

PART 123—[AMENDED]

Accordingly, pursuant to section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), 13 CFR Part 123 is amended as follows:

1. The authority citation for Part 123 is revised to read as follows:

Authority: Secs. 5(b)(6), 7 (b), (c), (f) of Small Business Act, 15 U.S.C. 634(b)(6), 636 (b), (c), (f); Pub. L. 98-270, Title III; Pub. L. 99-272, Sec. 18006, unless otherwise noted.

§ 123.6 [Amended]

2. Section 123.6, paragraph (b) is amended by removing all material after the first sentence.

3. Section 123.15(a) is amended by revising the first sentence of paragraph (a) to read as follows:

§ 123.15 Civil rights requirements.

(a) * * *

Loan recipients (other than Homeowners) are subject to the civil rights requirements of Parts 112, 113 and 117 of this chapter.* * *

* * * * *

4. Section 123.25 is amended by revising paragraph (c) to read as follows:

§ 123.25 Special conditions—Home loans.

* * * * *

(c) *Interest.* Loans made to Homeowners able to secure Credit Elsewhere will bear interest at the Adjusted Treasury Rate but not to exceed 8% per annum. Loans made to Homeowners unable to obtain Credit Elsewhere will bear interest at one half the Adjusted Treasury Rate but not to exceed 4% per annum. (For prior rates see Appendix A to this part.)

* * * * *

5. Section 123.26 is amended by revising paragraph (b) to read as follows:

§ 123.26 Special conditions—Business loans.

* * * * *

(b) *Interest.* Loans made to business concerns able to obtain credit elsewhere will bear interest at a rate prescribed by the Administration (not to exceed the rate prevailing in the private market for similar loans or the maximum interest rate for loans guaranteed under section 7(a) of the Small Business Act) but not exceeding 8% per annum. Loans made to business concerns unable to obtain credit elsewhere will bear interest at a rate not to exceed 4% per annum.

* * * * *

6. Section 123.41 is amended by removing paragraph (b)(4) and renumbering paragraph (b)(5) as (b)(4).

7. Section 123.41 is further amended by revising paragraph (d)(1) to read as follows:

§ 123.41 General provisions.

* * * * *

(d) *Interest.* (1) Loans to small business concerns shall bear interest at a rate not to exceed 4 percent.

* * * * *

§ 123.42 [Removed]

8. Section 123.42 is removed.

Subparts D and E—[Removed]

9. Subparts D and E are removed.

Appendix A—[Amended]

10. Appendix A of Part 123 is amended by revising the title to read:

Appendix A—Interest Rates in Effect for Disaster Commencing Prior to April 18, 1984.

11. Appendix A of Part 123 is further amended by adding a new paragraph (9) at the end to read as follows:

(9) *Disasters commencing on or after October 1, 1982 and before April 18, 1984.* (a) *Business Loans:* Where SBA determines that the business applicant is able to obtain Credit Elsewhere, a rate not exceeding the rate prevailing in the private market for similar loans and not exceeding the maximum interest rate for loans guaranteed under section 7(a) of the Small Business Act for amounts outstanding on such loans prior to April 18, 1984, and on amounts outstanding thereafter at the rate prescribed above, but not to exceed 8%. Where SBA determines that the applicant is unable to obtain Credit Elsewhere, a rate of 8% per annum on amounts outstanding prior to April 18, 1984, and a rate not to exceed 4% per annum thereafter.

(b) *Home Loans:* Where SBA determines that the applicant is able to obtain Credit Elsewhere, the Adjusted Treasury Rate for amounts outstanding on such loans prior to April 18, 1984, and on amounts outstanding thereafter at the rate prescribed above, but not to exceed 8%. Where SBA determines that the applicant is unable to obtain Credit Elsewhere, one half the adjusted Treasury rate on amounts outstanding prior to April 18, 1984, and one half the Adjusted Treasury Rate but not to exceed 4% per annum thereafter.

Dated: November 25, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-28192 Filed 12-17-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-160-AD; Amdt. 39-5492]

Airworthiness Directives; Aerospatiale Model ATR-42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR-42 Series Airplanes, which requires modification of the engine oil cooling system. This amendment is prompted by reports of numerous failures in the engine oil cooling system. These failures have resulted in oil overheating which, on several occasions, has required engine shutdown during flight.

EFFECTIVE DATE: January 20, 1987.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Aerospatiale, 316 Route de Bayonne, 31060 Taulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy M. Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires replacement of the engine oil cooler thermostatic valve, with an improved valve, and modification of the oil cooler trailing edge angle, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on August 20, 1986 (51 FR 29659).

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

Since publication of the NPRM in the **Federal Register**, Aerospatiale has issued Service Bulletin ATR 42-79-0002, dated September 3, 1986, which describes replacement of the engine oil cooler thermostatic valve and removal of the interim installation of the oil cooler exhaust trailing edge angle, if previously completed, in accordance with Service Bulletin ATR 42-79-0001. The final rule has been revised to specify modification in accordance with Service Bulletin ATR 42-79-0002. Since this service bulletin merely describes the procedure for accomplishing the replacement proposed in the NPRM, this change does not increase the economic burden on any operator, nor does it increase the scope of the AD as proposed. The compliance date in the AD has been revised from October 15, 1986, to 10 days after the effective date of this AD, because of a delay in receiving service information on parts availability and cost.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously mentioned.

It is estimated that 5 airplanes of U.S. registry will be affected by this AD, that it will take approximately 9 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,800.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($360). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR-42 airplanes listed in Aerospatiale Service Bulletin ATR 42-79-0002 dated September 3, 1986, certificated in any category.

To ensure acceptable engine anti-icing capability, accomplish the following within 10 days after the effective date of the AD, unless previously accomplished:

A. Modify the engine oil cooler thermostatic valve system, in accordance with Aerospatiale Service Bulletin ATR 42-79-0002, dated September 3, 1986.

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

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 20, 1987.

Issued in Seattle, Washington, on December 9, 1986.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-28302 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-66-AD; Amdt. 39-5489]

Airworthiness Directives; Bellanca Models 17-30, 17-30A, 17-31, 17-31A, 17-31TC, and 17-31ATC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to all Bellanca Models 17-30, 17-31, 17-31TC airplanes, and certain Bellanca Models 17-30A, 17-31A, and 17-31ATC airplanes, which requires the installation of flush quick drain valves in the airplanes not having drain valves and a cockpit placard instructing the pilot to drain all fuel sumps daily. Accidents and incidents have occurred involving engine power loss in which water in the fuel system was determined to be the cause. Depending on the date of manufacture of the airplane and possible compliance with previous optional Bellanca service letters, the wing main and auxiliary fuel tanks on these aircraft may not currently have drain valves installed. This action will provide the means to assure adequate removal of fuel contamination from the fuel system and preclude possible power loss during flight.

EFFECTIVE DATE: December 22, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESS: A copy of the background information relating to this action is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ty Krolicki, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; Telephone (312) 694-7032.

SUPPLEMENTARY INFORMATION: According to NTSB data for the period from 1980 to 1986, four accidents of Bellanca 17-30 and 17-31 Series airplanes have occurred which are directly attributable to engine power loss resulting from fuel contamination. In addition, numerous accidents and incidents have been investigated on these airplanes in which fuel

contamination was suspected to be a contributing factor. These reports suggest that the present fuel draining provisions do not ensure that water and other contaminants are adequately eliminated from the fuel system. If the fuel system is not adequately sealed, water may contaminate the fuel any time the airplane is exposed to precipitation. Also, unless proper precautions are taken, fuel which has been contaminated during storage or handling may enter the airplane fuel system. Fuel contamination, if not removed prior to flight, can cause an engine power loss and subsequent forced landings.

The problem of contaminated fuel has occurred on other small airplane types, and the FAA has issued several ADs requiring quick drain installations to protect against loss of engine power due to fuel contamination. Improving fuel system contaminate drainage in small airplanes has been the subject of FAA regulatory action. Amendment 17 dated February 1, 1977, to FAR 23 added the requirement that fuel systems in small airplanes must have drain valves that are readily accessible and easily opened and closed. These requirements were incorporated in the FAR as a result of the FAA concern for the flight hazards associated with contaminated fuel.

On Bellanca 17-30 and 17-31 Series airplanes, the interconnected wing tank design (multiple cells comprising one tank), which affords the potential for entrapping a considerable amount of water in the fuel system, contributes to the problem. In one recent accident, a substantial quantity of water was found in the fuel system. The pilot stated that no evidence of water was noted in the fuel samples taken from the fuel strainer (gascolator) during the preflight inspection. This airplane did not have drain valves installed in the wing tanks.

Through the years, these aircraft have been offered with various fuel system configurations having total capacities ranging from 58 gallons to 92 gallons. All designs incorporate a main tank in each wing. In addition, separate auxiliary tanks (each comprised of two interconnected cells) may have been installed in the wings, and a fuselage auxiliary tank may also be present. In 1973, the size of the wing main tanks was increased from 19 gallons to 34 gallons, and wing auxiliary tanks were no longer necessary. This larger main tank is comprised of three interconnected cells.

In the most complex configuration that had been manufactured by Bellanca (having a main tank and an auxiliary tank in each wing and a fuselage auxiliary tank), the system incorporated a total of 13 fuel drain valves—four in each wing and five in the fuselage. These drain valves had petcocks which protruded below the aircraft. In April 1971, for crashworthiness considerations, Bellanca made a design change which involved removing all of the drain valves located in the wings and installing plugs. The plugs are not intended for removal during preflight inspection. Bellanca issued Service Letter No. 66, dated April 7, 1971 (revised March 21, 1972), recommending that these changes be incorporated in airplanes in service. In July 1979, Bellanca began installing one flush quick drain valve (instead of a plug) in each wing tank. By this time, the design had evolved to the point where wing auxiliary tanks were no longer used, and each wing had the large multiple cell main tank installed. Bellanca issued Service Letter No. B-102A, dated July 31, 1979 (revised April 2, 1980), recommending that a flush quick drain valve be installed in the wing main tank of aircraft manufactured previously to facilitate a more thorough preflight inspection.

Although exact records are not available, Bellanca estimates that a high percentage of affected aircraft owners complied with Service Letter No. 66 (which recommended replacement of the wing tank drain valves with plugs), but that a small percentage of the owners complied with Service Letter No. B-102A (which recommended installation of a flush quick drain valve in each wing). Consequently, many of these Bellanca airplanes manufactured prior to August 1979 may not have any wing tank drain valves (either original protruding style or flush mounted) installed.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring the installation of flush wing tank quick drain valves on all Bellanca Models 17-30, 17-31, 17-31TC airplanes, and certain Bellanca Models 17-30A, 17-31A, and 17-31ATC airplanes in each wing main tank and wing auxiliary tank which does not already have a drain valve (flush or protuding style) installed, and installation of a cockpit placard concerning daily draining of the sumps.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket at the location under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA amends § 39.13 of Part 39 of the FAR as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Bellanca: Applies to the following models and serial numbered airplanes, certificated in any category, not equipped with an FAA approved drain valve for each wing main fuel tank and each wing auxiliary fuel tank:

Model and Serial Numbers (S/N)

17-30—All
17-30A—S/Ns 30-263 thru 30-977
17-31—All
17-31A—S/Ns 32-15 thru 32-172
17-31TC—All
17-31ATC—S/Ns 31-004 thru 31-155

Note.—The serial numbers listed above may be prefixed by a two-digit number indicating the last two digits of the year of manufacture.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent engine power loss due to the accumulation of water or other contaminants in the fuel system, accomplish the following:

(a) For each wing main fuel tank and each wing auxiliary fuel tank not having an FAA

approved drain valve of any style, install a flush quick drain valve as follows:

(1) Drain the fuel tank.

(2) Remove the fuel tank drain plug, AN 932-2, from the drain boss at the bottom aft portion of the fuel tank. For tanks comprised of interconnected cells, each cell having its own drain boss, remove the drain plug from the inboard cell of the tank.

(3) Install a flush quick drain valve, P/N F391-18 or equivalent.

Note.—These pipe thread valves produced by Manufacturing Division, Inc. are available from Bellanca, Inc., Post Office Box 964, Alexandria, Minnesota 56308; Telephone (612) 762-1501.

(4) Refuel the tank and check for leaks.

(b) Fabricate and install a permanent placard in full view of the pilot, using letters with minimum 1/10 inch height, which states the following: "DRAIN ALL FUEL SUMPS BEFORE FIRST FLIGHT OF EACH DAY."

(c) The requirements of paragraph (b) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; Telephone (312) 694-7357.

This amendment becomes effective on December 22, 1986.

Issued in Kansas City, Missouri, on December 5, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-28306 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-164-AD; Amdt. 39-5494]

Airworthiness Directives; Boeing Model 747 Series Airplanes With the One-Piece Escape Slide Installed at Door No. 3

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD), applicable to certain Boeing Model 747 airplanes, that requires modification of the Door No. 3 escape slide attachment to the door. An investigation has determined that there is insufficient strength in the attachment of the escape slide pack to the door to resist vertical loads. This could lead to the slide pack becoming detached from the door during an accident. This condition, if not corrected, could prevent deployment of the escape slide, thus delaying and possibly jeopardizing successful emergency evacuation of the airplane.

EFFECTIVE DATE: January 20, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Young, Airframe Branch, ANM-120S; telephone (206) 431-1929. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require modification of the Door No. 3 escape slide attachment to the door was published in the **Federal Register** on September 2, 1986 (51 FR 31133).

The comment period for the proposal, which ended October 20, 1986, afforded interested persons an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

One commenter expressed no objection to the proposal.

The other commenter agreed with the proposal, but expressed concern that the same condition may exist for escape slides installed on the other doors on the Model 747. The FAA is currently investigating the attachment fittings on the other doors on the Model 747; those installations, however, are different from that on Door No. 3. The FAA may consider future rulemaking if it is determined that similar corrective action is necessary for the installation on the other doors.

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

It is estimated that 50 airplanes of U.S. operators will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of necessary parts is estimated at $1,840 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $108,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 747 airplanes, certificated in any category, equipped with the single-piece escape slide at Door No. 3. To ensure that the escape slide pack remains in proper position on the door in the event of a minor crash landing, accomplish the following, unless already accomplished:

A. Within twelve months after the effective date of this AD, modify the escape slide attachment in accordance with Boeing Alert Service Bulletin 747-25A2710, dated July 15, 1986, or later FAA-approved revisions.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707,

Seattle, Washington 98124-2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 20, 1987.

Issued in Seattle, Washington, on December 9, 1986.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-28304 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-162-AD; Amdt.39-5493]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires replacement of an existing 50-ampere, 3-phase circuit breaker with a 35-ampere circuit breaker on certain Boeing Model 757 airplanes. This circuit breaker provides current overload protection for the auxiliary power unit (APU) starter transformer rectifier unit (TRU). This action is prompted by reports of smoke and fumes in the aft cargo compartment and passenger deck, resulting from seizure of the APU starter motor and failure of the existing circuit breaker to open.

EFFECTIVE DATE: January 20, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth J. Schroer, Aerospace Engineer, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1943. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of an existing 50-ampere, 3-phase circuit breaker with a 35-ampere circuit breaker on certain Boeing Model 757 airplanes, was published in the **Federal Register** on August 26, 1986 (51 FR 30370). This modification will minimize the fire hazard associated with overheating of the transformer rectifier unit of the auxiliary power unit starter motor.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Due consideration has been given to the single comment received.

The commenter requested that the compliance period be extended to nine months to provide sufficient time to obtain the required circuit breaker. Inquiry by the FAA as to the availability of the circuit breaker has revealed that it would take up to 16 weeks for receipt after ordering; this substantiates the commenter's concern that compliance cannot be met in the proposed three months. After considering this information, the FAA has determined that the compliance time may be extended to seven months without significantly impacting safety.

In addition, the commenter requested that the AD be revised to permit compliance by removal of the Transformer Rectifier Unit (TRU) from the airplane. The FAA has determined that there is no approved procedure at this time for accomplishing this task. If an approved procedure is developed and can be implemented within the published compliance period, it may be approved as an alternate means of compliance in accordance with paragraph B. of the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously mentioned.

It is estimated that 28 airplanes of U.S. registry will be affected by the AD. It is estimated that 2 manhours per airplane are required to accomplish the installation, and that the average labor charge will be $40 per manhour. The cost of one 35-ampere circuit breaker per airplane is estimated to be $145 per unit. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,300.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 757 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing. Applies to the Model 757 series airplanes specified in Boeing Alert Service Bulletin 757-24A0032, dated May 16, 1986, certificated in any category.

To minimize the fire hazard associated with overheating of the transformer rectifier unit of the auxiliary power unit starter motor, accomplish the following within 7 months after the effective date of this AD, unless previously accomplished:

A. Replace the 50-ampere circuit breaker used for the auxiliary power unit starter transformer rectifier unit with a 35-ampere circuit breaker in accordance with Boeing Service Bulletin 757-24A0032, dated May 16, 1986, or later FAA-approved revision.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received copies of the appropriate service document from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 20, 1987.

Issued in Seattle, Washington, on December 9, 1986.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-28303 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-CE-27-AD; Amdt. 39-5490]

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes which requires: (1) Inspections for jamming or seizure, and replacement as necessary, of certain bearings in the flight control system, (2) installation of a dual control rod assembly in the elevator trim tab system, (3) inspections for cracks in the left elevator front spar, and (4) installation of reinforcement angles in the left elevator front spar or repair, as appropriate, to preclude excessive vibration in the elevator, aileron and/or rudder. This action is prompted by reports of four incidents of excessive vibration caused by failure or disconnection of the elevator tab rod on EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. If left uncorrected, this condition could eventually result in loss of control of the airplane.

EFFECTIVE DATE: January 22, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletins (S/B) 110-27-036, Revision 02, dated December 3, 1981; S/B 110-027-0060, Revision 02, dated July 3, 1986; and S/B 110-027-0068, Revision 02, dated April 9, 1986, applicable to this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), Post Office Box 343-CEP, 12.200, Sao Jose dos Campos, Sao Paulo, Brazil. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, ACE-120A, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspections for jamming of the control rod bearings and for cracks in the left elevator front spar and modification as necessary, replacement of malfunctioning bearings in the flight control system, and installation of dual rods in the elevator trim tab assembly on certain EMBRAER Models EMB-110P1 and EMB-110P2 airplanes was published in the **Federal Register** on August 5, 1985 (50 FR 31609). The proposal resulted from four incidents of excessive vibration caused by failure or disconnection of the elevator tab rod on EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. The failures were attributed to jamming or seizure of the rod end bearings. Also, one case of excessive free-play resulted in vibration severe enough to cause cracks on the elevator spar doubler. As a result, EMBRAER issued service information which required: (1) Inspections for jamming or seizure, and replacement as necessary, of certain bearings in the flight control system, (2) installation of a dual control rod assembly in the elevator trim tab system, (3) inspections for cracks in the left elevator front spar, and (4) installation of reinforcement angles in the left elevator front spar or repair, as appropriate, to preclude excessive vibration in the elevator, aileron and/or rudder, which could eventually result in loss of control of the airplane.

Subsequent to the notice, the manufacturer extensively revised the service bulletins relating to the installation of the dual control rod assembly to the aileron and rudder trim tab control systems, revised and added instructions, changed part numbers and airplane serial number applicability. These changes were included in Supplemental NPRM (Docket No. 85-CE-27-AD) published in the **Federal Register** on September 5, 1986 (51 FR 31779).

The Centro Technico Aeroespacial (CTA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Brazil, made these bulletins and the actions recommended therein by the manufacturer as mandatory by issuance of a foreign airworthiness directive to ensure the continued airworthiness of the affected airplanes.

On airplanes operated under Brazilian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CTA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of EMBRAER Service Bulletins 110-027-036, revision 02, dated December 3, 1981, 110-027-0060, Revision 02, July 3, 1986, and 110-027-0068, Revision 02, April 9, 1986, and the foreign directive by the CTA, and concluded that the condition addressed by the above-mentioned EMBRAER Service Bulletins and the CTA AD, was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject. Interested persons have been afforded an opportunity to comment on the proposal. One commenter, the National Transportation Safety Board (NTSB) responded to the original NPRM that was published in the **Federal Register** on August 5, 1985 (50 FR 31609). The NTSB agreed that the proposed requirements are justified by the service history of the airplane and will reduce the potential for future accidents. Therefore, the NTSB strongly urged the FAA to proceed with the issuance of an Airworthiness Directive (AD). No comments were received on the cost determination or on the Supplemental NPRM. Accordingly, the proposal is adopted without change, except for the editorial change capitalizing the name EMBRAER. The FAA has determined that this regulation involves 127 airplanes at an approximate one-time cost of $2,677 for each airplane or a total one-time fleet cost of $339,979.

The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action: (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) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Applies to Models EMB-110P1 and EMB-110P2 (Serial Numbers 110001 through 110467 inclusive) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To preclude excessive vibration in the flight control surfaces and possible loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, visually inspect for jamming or seizure of all bearings installed in the aileron trim tab bellcrank, actuator eyelets and the terminals of control rods for the elevator, rudder and aileron trim tab control systems in accordance with Section 2, "ACCOMPLISHMENT INSTRUCTIONS" of EMBRAER Service Bulletin (S/B) 110-27-036, Change 02, dated December 3, 1981. If a jammed or seized bearing is found, prior to further flight;

(1) Remove and replace the defective part with a serviceable part of the same Part Number (P/N), or

(2) Modify, inspect, replace and/or repair as required,

(i) The aileron and rudder trim tab control systems in accordance with paragraph (c)(1) of this AD, and

(ii) The elevator trim tab control system in accordance with paragraph (c)(2) of this AD.

(b) When the modifications and actions specified in paragraph (a)(2) of this AD have been accomplished, the actions required by paragraph (c) of this AD are no longer required.

(c) Within the next 250 hours TIS after the effective date of this AD,

(1) Modify the aileron and rudder trim tab control systems in accordance with Section 2. "ACCOMPLISHMENT INSTRUCTIONS" of EMBRAER S/B 110-027-0060, Change 02, dated July 3, 1986.

(2) Modify, inspect, replace and/or repair the elevator trim tab control system and elevator,

(i) On airplanes without dual control rods as described in Section 2. "ACCOMPLISHMENT INSTRUCTIONS", paragraphs 2.1 through 2.1.18 of EMBRAER S/B 110-027-0068, dated April 9, 1986, or

(ii) On airplanes with dual control rods installed as described in Section 2, "ACCOMPLISHMENT INSTRUCTIONS", paragraphs 2.2 through 2.2.10 of EMBRAER S/B 110-027-0068, dated April 9, 1986.

(d) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(e) An equivalent method of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, ACE-115A, FAA, Central Region, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7428.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Empresa Brasileira de Aeronautica S.A. (EMBRAER), Post Office Box 343-CEP 12.200 Sao Jose dos Campos, Sao Paulo, Brazil; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on January 22, 1987.

Issued in Kansas City, Missouri, on December 8, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-28305 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-32-AD; Amdt. 39-5488]

Airworthiness Directives; de Havilland Models DHC-2 Mk. I and DHC-2 Mk. III Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to de Havilland Models DHC-2 Mk. I (L-20A, YL-20, U-6 and U-6A) and DHC-2 Mk. III airplanes, which requires initial and repetitive dye penetrant inspections for cracks in the lugs of the lower attachment fork fitting of certain wing lift strut assemblies and replacement of these strut assemblies if cracked. The amendment is prompted by a report of a stress corrosion crack in a lug of a lower fork fitting on one wing lift strut during a routine inspection. If undetected, a cracked lug could progress to failure of the wing strut with resultant loss of the wing. The required inspections will detect cracks before they result in failure of the strut.

EFFECTIVE DATE: January 21, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: de Havilland Service Bulletin (S/B) No. 2/41, dated April 26, 1985, applicable to this AD may be obtained from the de Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd., Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Lester Lipsius, Airframe Branch, ANE-172, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection of the lugs of the lower attachment fork fitting of wing lift strut assemblies Part Number (P/N) C2W1103A and P/N C2W1104A (Serial Number (S/N) A071 through A0129 inclusive) and replacement if necessary, before further flight, on de Havilland DHC-2 Mk. I and DHC-2 Mk. III airplanes, was published in the **Federal Register** on August 22, 1986 (51 FR 30077). The proposal resulted from a report of a stress corrosion crack in a lug of a lower fork fitting on one wing lift strut during a routine inspection. Consequently, de Havilland issued S/B No. 2/41, dated April 26, 1985, which requires inspection for cracks of the lugs of the lower attachment fork fitting of the above wing lift struts, and replacement of the struts before further flight if the lug is found cracked.

Transport Canada, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Canada, made this service bulletin and the actions recommended therein by the manufacturer mandatory by issuance of Transport Canada AD CF-85-08 to assure the continued airworthiness of the affected airplanes. On airplanes operated under Canadian registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of Transport Canada combined with FAA review of pertinent documentation in finding compliance of the designs of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States. The FAA examined the available information related to the issuance of S/B No. 2/41, dated April 26, 1985, and the issuance of AD CF-85-08 by Transport

Canada, and concluded that the condition addressed by S/B No. 2/41 was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject.

Interested persons have been afforded an opportunity to comment on the proposal. One commenter responded with three recommendations. His first comment was that there is a single DHC-II Mk. II airplane S/N 80, and although it does not currently appear on the U.S. registry, it may one day do so. To avoid having to rewrite the AD in the event of S/N 80 showing up, he recommends the applicability statement of the AD be revised to include the S/N 80 airplane. The FAA disagrees with this comment. The de Havilland Aircraft Company of Canada was contacted on this subject and their reply was that the P/N C2W1103A/C2W1104A strut assemblies could not be fitted to the DHC-2 Mk. II airplane because: (1) The end fittings are different on Mk. II struts and the C2W1103A/C2W1104A struts, and (2) the strut lengths are different. Based on the foregoing, the applicability statement remains unchanged.

The commenter also recommended that the dye penetrant inspection as stated in paragraph (a)(2) of the AD should be conducted according to manufacturer's instructions. Service Bulletin (S/B) No. 2/41, in paragraph 3 of the ACCOMPLISHMENT INSTRUCTIONS, specifies a dye penetrant inspection in accordance with manufacturer's instructions, but no such manufacturer's instructions are given in the S/B, nor is there a reference to another document. Paragraph (a)(2) of the AD explicitly states the inspection method in accordance with standard practice and it is considered adequate as stated.

The third comment was in regard to paragraph (c) of the AD which permits the adjustment of compliance time based on submission of substantiating data by an owner or operator. The commenter recommends that this paragraph be omitted from the AD because he believes that stress corrosion cracking does not lend itself to substantiating data which could adjust the compliance time in the AD. The FAA does not concur because there is a possibility that someone could develop data which would substantiate a change to the compliance time. Paragraph (c) of the AD is normally included in an AD to allow an owner or operator the opportunity to present his data for evaluation regarding a change in compliance time. The FAA considers paragraph (c) a valid inclusion without change.

Since no comments were received on the cost determination, the proposal is adopted without change.

The FAA has determined that this regulation involves approximately 160 airplanes at an estimated cost of $120 per airplane for the inspection only, assuming only one strut per airplane is affected. If a defective strut is found, the replacement cost is $2,092 per airplane. The total cost is estimated to be $19,200 for the inspections only, and $334,720 to replace all affected struts to the private sector. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action: (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) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

De Havilland: Applies to all Models DHC-2 Mk. I (including L-20A, YL-20, U-6, and U-6A), and DHC-2 Mk. III (Turbo Beaver) (all Serial Numbers) airplanes with wing strut assemblies, P/N C2W1103A and C2W1104A (strut S/N A071 through S/N A0129 inclusive) certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To detect cracks due to stress corrosion in wing strut assemblies, accomplish the following:

(a) Within 100 hours time-in-service (TIS) or one month, whichever occurs first, after the effective date of this AD, and thereafter at intervals not to exceed 500 hours TIS or 12 months, whichever occurs first:

(1) Remove wing strut assemblies Part Number (P/N) C2W1103A and P/N C2W1104A from the aircraft in accordance with "ACCOMPLISHMENT INSTRUCTIONS" in de Havilland Service Bulletin No. 2/41, dated April 26, 1985.

(2) Conduct a dye penetrant inspection with a 10-power glass for cracks in the lugs of the lower attachment clevis fitting.

(3) If cracks are found, replace the complete strut assembly, prior to further flight, with a strut assembly of the same part number that has had the lower clevis fitting inspected by dye penetrant procedure and has been found free of cracks.

(4) If no cracks are found, prior to further flight, clean the lower clevis fitting and re-install the wing strut assembly.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where the requirements of this AD may be accomplished.

(c) Upon submission of substantiating data by an owner or operator, through a FAA Maintenance Inspector, the Manager, New York Aircraft Certification Office, FAA, New England Region, may adjust the compliance time in this AD.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to the de Havilland Aircraft Company of Canada, A Division of Boeing of Canada, Ltd., Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective January 21, 1987.

Issued in Kansas City, Missouri, on December 5, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-28307 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AEA-9]

Designation of Transition Area, Brookneal, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will designate a new 700 foot transition area at

Brookneal, VA. A new VOR/DME-A instrument approach procedure has been developed to the Brookneal/Campbell County, VA, Airport. The transition area will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Airspace and Planning Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION:

History

On November 8, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Braxton County, WV. This action was taken to provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR) (50 FR 46449). Interested parties were invited to participate in this proposed rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates a 700 foot transition area at Braxton County, Brookneal, VA. The FAA has determined that this amendment only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

2. Section 71.181 is amended as follows:

Brookneal, VA—[New]

That airspace extending upward from 700 feet above the surface within a five statute mile radius of the center (Lat. 37°08'30" W., Long. 79°00'59" W,), of the Brookneal/Campbell County, VA, Airport; and within two miles each side of the Lynchburg VORTAC 122° radial, extending from the five mile radius area to six miles northwest of the airport.

Issued in Jamaica, New York, on December 3, 1986.

Vito J. Borrello,

Acting Manager, Air Traffic Division.

[FR Doc. 86-28297 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AEA-9]

Alteration of Transition Area, Albany, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will alter the 700 foot transition area at Albany, New York. The removal of the Schenectady TVOR and use of the Hunter NDB require expansion of the transition area to provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Airspace Planning Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION:

History

On May 25, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700 foot area at Albany, NY. The intent of this action is to provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR), (49 FR 22101). Interested parties were invited to participate in this proposed rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the 700 foot transition area at Albany, NY. The FAA has determined that this amendment only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Albany, NY [Revised]

That airspace extending upward from 700 feet above the surface within the area bounded by a point on the Albany VORTAC 007° radial 23 miles north of the VORTAC, thence clockwise along the arc of a 23-mile radius circle centered on the Albany

VORTAC to its point of intersection with the Albany VORTAC 037° radial, thence southwest along the Albany VORTAC 037° radial to a point 12 miles northeast of the VORTAC, thence clockwise along the arc of a 12-mile radius circle centered on the Albany VORTAC, to its point of intersection with a line 4 miles southeast of the center (Lat. 42°51'09" N., Long. 73°56'07" W.), of Hunter NDB 207°T (22°M) bearing; within 4 miles each side of the 220°M bearing from the Hunter NDB extending from the Hunter NDB to 17.5 miles southwest of the NDB; thence clockwise along the arc of the 9-mile radius circle centered on the Hunter NDB to its point of intersection with a line 2 miles south and parallel to the extended centerline of the Schenectady County Airport Runway 28, thence west along this parallel line to its point of intersection with the arc of a 13-mile radius circle centered on the Hunter NDB, thence clockwise along the arc of this 13-mile radius circle to its point of intersection with the 342°T bearing from the Hunter NDB, thence north along a line bearing 356° from this point to the point of intersection of this line and the arc of a 19-mile radius circle centered on the Hunter NDB; thence clockwise along the arc of the 19-mile radius circle centered on the NDB to its point of intersection with the arc of a 23-mile radius circle centered on the Albany VORTAC; within 5 miles each side of the Albany VORTAC 082° radial, extending from the Albany VORTAC to 18.5 miles east of the VORTAC; within a 6.5-mile radius of the center (lat. 43°03'00" M., Long. 73°51'30" W.), of Saratoga County Airport, Saratoga Springs, NY and within 4 miles each side of the Cambridge VORTAC 279° radial, extending from 43 miles west of the Cambridge VORTAC to the 6.5 miles radius area.

Issued in Jamaica, New York, on December 3, 1986.

Vito J. Borrello,

Acting Manager, Air Traffic Division.

[FR Doc. 86-28296 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AEA-10]

Designation of Transition Area, Quinton, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will designate a 700 foot transition area at Quinton, VA. A new VOR-A instrument approach procedure has been developed to the New Kent, Quinton, VA, Airport. The transition area will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Airspace and Planning Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION:

History

On November 8, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Braxton County, WV. This action will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR) (50 FR 46451). Interested parties were invited to participate in this proposed rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates a 700 foot transition area at Braxton County, Quinton, VA. The FAA has determined that this amendment only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Quinton, VA [New]

That airspace extending upward from 700 feet above the surface within a five statute mile radius of the center (Lat. 37°33'00" W., Long. 77°08'00" W.), of the New Kent, Quinton, VA, Airport; excluding that portion which overlaps the Richmond, VA transition area.

Issued in Jamaica, New York, on December 3, 1986.

Vito J. Borrello,

Acting Manager, Air Traffic Division.

[FR Doc. 86-28298 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 399

[Docket No. 60981-6181]

Exports of Computers Under the Distribution License Procedure; Change in Processing Data Rates

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration is amending the processing data rates (PDRs) for electronic computers, classified under Export Control Commodity Number (ECCN) 1565A on the Commodity Control List (CCL), that may be exported under the Distribution License (DL) procedure. The basis on which electronic computers may be exported or considered for export is being changed from the "floating point processing data rate" to the "total processing data rate" (defined in Advisory Note 16 to ECCN 1565A), except that the base limit for countries not listed in Supplement No. 2 or 3 to 15 CFR Part 373 will remain at the floating point processing data rate of 20 million bits per second. The "total processing data rate" for computers exported to countries listed in Supplement No. 3 to 15 CFR Part 373 is established as 250 million bits per second, up from a floating point processing data rate of 60 million bits per second. Regulations are added to reflect Commerce's new policy of considering requests to export certain higher-level computers. The requests that will be considered involve computers that do not exceed a "total

processing data rate" of 500 million bits per second to approved consignees in destinations listed in Supplement No. 3 to 15 CFR Part 373, as well as requests to export computers that do not exceed a "total processing data rate" of 100 million bits per second to approved consignees in destinations not listed in Supplement Nos. 2 and 3 to 15 CFR Part 373. Specific requests to transfer higher-level computers shall be accompanied by a summary of the DL holder's or applicant's internal controls for the higher-level computers.

The new PDR levels are established for consistency with other licensing policies and take into account escalating technology levels of computers and foreign availability. Moreover, the change is consistent with the intent of Congress to periodically review multiple export licenses to increase their utilization by reducing minimum thresholds consistent with export control requirements. The changes allowing DL applicants and holders to request exceptions for higher-level computer exports reflect the view maintained by Export Administration that the ability to export up to a certain level should be based on the reliability of the DL applicant or holder and consignees, and not solely on the product and the country.

EFFECTIVE DATE: December 18, 1986, except for paragraphs (d)(4) and (1)(4)(ix) of § 373.3, which are effective February 17, 1987.

FOR FURTHER INFORMATION CONTACT: David Flynn, Special Licensing Division, Office of Export Licensing, Department of Commerce, Washington, DC 20230 (Telephone (202) 377-4196/4197.

SUPPLEMENTARY INFORMATION:

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Joan Maguire, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). However, as this rule will eliminate the need for submitting approximately 5,000 individual validated license applications a year, it will also decrease the regulatory burden on exporters. Revisions to the existing information requirements are pending approval by the Office of Management and Budget under control number 0625-0052. Persons wishing to comment on this collection of information should address their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Commerce/International Trade Administration.

List of Subjects in 15 CFR Parts 373 and 399

Exports, Reporting and recordkeeping requirements.

PARTS 373 AND 399—[AMENDED]

Accordingly, Parts 373 and 399 of the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

1. The authority citations for 15 CFR Parts 373 and 399 continue to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981, and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223, 50 U.S.C. 1701 *et seq.* E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986).

2. Section 373.3 is amended by adding paragraphs (d)(2)(iv), (d)(4) and (l)(4)(ix) to read as follows:

§ 373.3 Distribution license.

* * * * *

(d) *Documents required.* * * *

(2) * * *

(iv) See paragraph (d)(4) of this section for documents required to be submitted with a request to export electronic computers exceeding the parameters set forth in Supplement No. 1 to Part 373 under entire 1565A.

* * * * *

(4) *Processing data rate exception requests.* Applicants who wish to request authorization to export computers exceeding the parameters set forth in Supplement No. 1 to Part 373 under entry 1565A should submit the following information with their license application:

(i) A copy of those portions of the applicant's internal control program dealing with the higher-level computers, including intransit controls;

(ii) A copy of a letter to consignees who will receive the higher-level computers. This letter should describe the procedures the applicant proposes to safeguard these computers;

(iii) A listing of the computers the applicant intends to export including model numbers with their respective "total processing data rates"; and

(iv) A list of consignees, in alphabetical order by country, proposed to receive computers subject to this approval procedure. The list shall include two columns of information under each country name. The left column shall contain the three-digit consignee number. The right column shall include the consignee names and addresses, given in alphabetical order by consignee name.

Commerce will review these requests and may require actual end-user names in some instances.

* * * * * * *

(l) *Amendments of distribution licenses.* * * *

(4) * * *

(ix) *Processing data rate exception requests.* A license holder who wishes to request authorization to export computers exceeding the parameters set forth in Supplement No. 1 to Part 373 under entry 1565A must submit such a request on Form ITA-685P with an attachment providing the information requested in paragraphs (d)(4)(i) through (iv) of this section. Commerce will review these requests and may require

actual end-user names in some instances.

* * * * *

3. In Supplement No. 1 to Part 373, the first entry for 1565 (except footnotes 9 and 10) is republished, and footnote 8 is revised to read as follows:

Supplement No. 1—Commodities Excluded from Certain Special License Procedures

* * * * *

1565 [8] [9] [10] Electronic computers exceeding a floating point processing data rate of 20 million bits per second, including any device, apparatus or accessory that upgrades a computer within the limits defined above.

* * * * *

4. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), in entry 1565A, in the first note after the *G–COM Eligibility* paragraph, revise the reference to "processing data rate of 225 million bits per second" to read "total processing data rate of 1000 million bits per second" and the reference to "processing data rate of 60 million bits per second" to read "total processing data rate of 250 million bits per second".

5. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), in entry 1565A, under the heading *Nuclear Non-Proliferation Controls*, paragraph (b)(1) is amended by revising the reference to *"processing data rate of 1000 million bits per second"* to read *"total processing data rate of 1000 million bits per second"*, and paragraph (b)(2) is amended by revising the reference to *"processing data rate of 60 million bits per second"* to read *"total processing data rate of 250 million bits per second"*.

Dated: December 12, 1986.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86–28266 Filed 12–17–86; 8:45 am]

BILLING CODE 3510–OT–M

[8] Under the Distribution License procedure, electronic computers that do not exceed a "total processing data rate" of 1000 million bits per second may be exported to approved consignees in destinations listed in Supplement Nos. 2 and 8 to Part 373. Electronic computers that do not exceed a "total processing data rate" of 250 million bits per second may be exported under the Distribution License procedure to approved consignees in destinations listed in Supplement No. 3 to Part 373. This exception also applies to any device, apparatus or accessory that upgrades a computer within the limits defined above.

Commerce will consider requests to export computers that do not exceed a "total processing data rate" of 500 million bits per second to approved consignees in destinations listed in Supplement No. 3 and requests to export computers that do not exceed a "total processing data rate" of 100 million bits per second to approved consignees in destinations not listed in Supplement Nos. 2 and 3 to Part 373. See § 373.3(d)(4) and (1)(4)(ix) for instructions on submitting such requests. See Advisory Note 16 to ECCN 1565A for the definition of "total processing data rate".

[9] * * *

[10] * * *

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Final Exemption of Certain Effervescent Tablets Containing Aspirin From Child-Resistant Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final exemption.

SUMMARY: Certain aspirin-containing effervescent tablets have been exempt from the Commission's child-resistant packaging requirements of the Poison Prevention Packaging Act of 1970. The Commission is now amending that exemption to include additional such tablets.[1] The exemption is based on the Commission's finding that the additional effervescent tablets would not present an ingestion hazard to young children, even if marketed in non-child-resistant packaging.

DATES: The exemption will become effective on December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Charles M. Jacobson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Framework

The Poison Prevention Packaging Act of 1970 (PPPA, 15 U.S.C. 1471–1476) authorizes the Commission to establish standards for the "special packaging" of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance.

Special packaging is often referred to as "child-resistant packaging" and is defined as packaging that is (1) designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly. (It does not mean, however, packaging which all such children cannot open, or obtain a toxic or harmful amount from, within a reasonable time.) Under the PPPA, there are effectiveness standards for special packaging (16 CFR 1700.15), as well as a procedure for evaluating effectiveness (16 CFR 1700.20). Regulations have been issued requiring special packaging for a number of household products (16 CFR 1700.14).

2. Existing Exemption

Under the PPPA, all human oral drugs containing aspirin must be in child-resistant packaging. 16 CFR 1700.14(a)(1). However, effervescent tablets containing aspirin, other than those intended for pediatric use, are exempt from this requirement if (a) the dry tablet contains less than 10 percent aspirin; (b) the tablet has an oral LD–50 (median lethal dose) in rats of greater than five grams per kilogram of body weight; and (c) the tablet, when placed in water, releases at least 85 milliliters of carbon dioxide per grain of aspirin in the dry tablet. 16 CFR 1700.14(a)(1)(i).

The exemption was based, in part, on the effervescent property of the tablets which effectively deters young children from ingesting significant numbers of them. In addition, the Food and Drug Administration was unaware, when it issued the exemption, of serious injuries or illnesses due to ingestion of effervescent tablets by young children.

3. Petition for Amended Exemption

In March 1985, Miles Laboratories, Inc. petitioned the Commission to amend the effervescent tablet exemption (Petition PP 85–1). (This petition and all other documents in the record of this proceeding are listed at the end of this notice. The numbered citations throughout this notice are to those documents.) Miles' Alka-Seltzer and Alka-Seltzer Plus products already fall within that exemption, but the petition was seeking changes that would exempt its Extra-Strength Alka-Seltzer product, as well [1].

The petition requested changes to all three portions of the exemption: (a) An increase in the permissible amount of aspirin, from less than 10 percent to 15 percent; (b) a lowering of the

[1] The amended exemption was approved by a 3–0 vote of the Commission.

permissible LD–50 from "greater than five grams per kilogram" to "five grams or greater per kilogram;" and (c) specification of the required amount of carbon dioxide in terms of the quantity released per tablet, rather than per grain of aspirin [1].

The petition asserted that the requested carbon dioxide specification is appropriate because the total amount of carbon dioxide released is the main factor that prevents accidental ingestion of the dry tablet [1]. In further support of its petition, Miles Laboratories noted that Great Britain exempts effervescent preparations containing up to 25 percent aspirin and submitted human experience and experimental data [1].

Unless noted otherwise, the information discussed in sections 4–6 below was contained in the petition.

4. Market Information

Extra-Strength Alka-Seltzer is a new effervescent pain reliever and antacid product containing 500 mg. of aspirin per tablet, compared to 324 mg. of aspirin in each tablet of Alka-Seltzer and Alka-Seltzer Plus. It has been marketed thus far only in limited test markets.

Extra-Strength Alka-Seltzer will be marketed in foil packs, with two tablets per pack. The foil packs will be sold in cartons of a 12-tablet size and a 24-tablet size.

Some 75 billion Alka-Seltzer tablets have been produced in the U.S. since 1931. Over four billion Alka-Seltzer Plus tablets have been produced in the U.S. since 1969.

5. Toxicity

According to the commission's health sciences staff, the mean lethal dose of aspirin in adult humans is 20 to 30 grams, while toxic effects may occur when 10 or more grams are ingested over a period of 12–24 hours [2,6]. Toxic symptoms include emesis, tinnitis (ringing in the ear), headaches, hyperpnea (abnormally deep and rapid breathing), confusion or mania, and general convulsions [2,7]. Death is usually due to respiratory failure or cardiovascular collapse [2,7].

According to the petition, each tablet of Extra-Strength Alka-Seltzer contains 500 mg., or 14.33 percent, of aspirin. When placed in water, 561 milliliters (ml) of carbon dioxide are released, which is 72.7 ml. per grain of aspirin [1]. In comparison, a tablet of regular Alka-Seltzer contains 324 mg. and releases 511 ml. of carbon dioxide [1].

Miles Laboratories conducted acute oral toxicity tests in rats using pure aspirin, regular Alka-Seltzer, and three variations of 500 mg. effervescent tablets with aspirin concentrations ranging from 13.87 to 14.54 percent. The results showed an LD–50 of 1.425 grams/kilogram for the pure aspirin and 5.000 grams/kilogram or greater for the three extra-strength formulations [1].

6. Human Experience

The formulation of effervescent tablets makes unlikely serious injuries to children from their ingestion. They are designed to be ingested only after completion of the chemical reaction between the tablet and water. (The chemical reaction produces the carbon dioxide characteristic of effervescent products.) Being hygroscopic (attracting water), the dry tablet will immediately react with saliva when placed in the mouth. This produces a burning sensation and a foaming action that tends to promote gagging and limits further ingestion. Since the tablets are large, a child would have to chew the tablet in order to swallow it. Such chewing action, however, would increase the effervescent reaction and unpleasant sensation. Any particles swallowed would produce carbon dioxide in the stomach and cause repeated belching.

A child would be unlikely to ingest a large number of effervescent tablets dissolved in water because of the time element and the large quantity of water necessary to dissolve them. It is chemically impossible to dissolve a large number of tablets in a small amount of water. Ingestion of a large amount of concentrated solution of effervescent tablets would result in nausea and vomiting due to the salinity of the solution. In addition, taste studies conducted in children under five have confirmed that the children were unwilling to consume significant amounts of effervescent potassium supplement preparations (the tests supported the 1979 exemption from child-resistant packaging for those preparations) [2].

Literature reviews by the petitioner and Commission staff revealed no evidence of toxic effects from ingestion of effervescent products by children under age five [1,2]. While no human ingestion data exist for Extra-Strength Alka-Seltzer, the available data on other Alka-Seltzer products and other effervescent preparations are consistent with the factors inhibiting serious child ingestions [1,2].

Data from the National Poison Center Network (NPCN) cover approximately 50–60 percent of the U.S. population. For the years from 1979 through part of 1982, NPCN data show 23,430 accidental ingestions of all aspirin and acetaminophen products by children under age five [1]. Of these, 34 cases involved regular Alka-Seltzer and 14 involved Alka-Seltzer Plus, none of which resulted in hospitalization or death [1].

Data from the National Clearinghouse for Poison Control Centers (NCPCC), for the years 1972 through 1976, show 12 ingestions of effervescent acetaminophen preparations. 46 FR 13501, February 23, 1981 (the Commission cited these data in its exemption of effervescent acetaminophen preparations from special packaging). One of those ingestions reported lethargy as a symptom and resulted in hospitalization. NCPCC data for 1978–1983 show 52 reported ingestions by children under age five of Alka-Seltzer, and 12 of Alka-Seltzer Plus [2]. The Commission's own Children and Poisonings (CAP) data for 1978 through May 1985 show one case of an Alka-Seltzer ingestion in which the victim was treated in a hospital emergency room and released [2].

B. Proposed Exemption

Based on the above information, the Commission proposed to amend the PPPA exemption on effervescent tablets containing aspirin [8]. However, as discussed below, the Commission's proposal differed from what Miles Laboratories' petition requested:

The petition requested three changes to the existing effervescent tablet exemption to permit the marketing of the Extra-Strength Alka-Seltzer tablets. One was a modification in the permissible LD–50 from "greater than five grams" to "five grams or greater." The Commission recognizes that the LD–50 value is statistically derived from experimental animal data and is most appropriately expressed within the limitations of its 95 percent confidence limits. Therefore, the "true" LD–50 value of Extra-Strength Alka-Seltzer could lie anywhere between 3.774 and 6.625 grams per kilogram of body weight. Since the requested change has no practical or biological significance and would not compromise the safety of young children accidentally exposed to Extra-Strength Alka-Seltzer [2], it was proposed as an amendment to the effervescent tablet exemption.

A second requested change concerned the extent of carbon dioxide release, and whether it is appropriately expressed in terms of the total dose per tablet or per grain of aspirin contained in the product. The Commission, after reviewing the existing requirement and the petition's proposed change, no longer believes that any quantification of carbon dioxide release is necessary to assure that the exempted tablets will

not pose an ingestion hazard to young children.

Such quantification is unnecessary in view of the degree of effervescence necessary to achieve a tablet that will rapidly dissolve in water with sufficient effervescence to be marketed as an effervescent tablet [2]. No such quantification is imposed on effervescent potassium supplements for exemption from the Commission's prescription drug child-resistant packaging requirement. 47 FR 10201, March 10, 1982. In addition, the Food and Drug Administration exempted effervescent aspirin preparations from the required drug warning label "Keep out of reach of children" over 30 years ago without regard to quantification of the degree of effervescence. 21 CFR 3.509.

The third change requested by the petition was to increase the permissible aspirin content to 15 percent per tablet. Since effervescent dosage forms effectively deter accidental ingestion, the Commission does not believe that this increased level of aspirin would pose any additional risk to young children.

The Commission essentially agreed with the three changes sought by the petition and proposed an exemption to provide the requested relief. In the interest of fairness to all firms and conservation of Commission resources, the Commission followed its usual policy of proposing exemptions in generic form.

C. Public Comments

The Commission received no public comments on its June 1986 proposed exemption. In addition, the staff has no information available from any other source to suggest that the data, reasoning, or conclusions supporting that proposal are invalid.

D. Regulatory Flexibility Certification

Before the Commission proposed the effervescent tablet amendment in June 1986, its economics staff had concluded that there would be no economic impact on the market of final issuance of the proposed amendment [3]. Therefore, using the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601(3), the Commission certified that the exemption would not, if issued, have a significant economic impact on a substantial number of small entities [8].

E. Environmental Considerations

Rules requiring poison prevention packaging of products and exemptions from such rules normally have little or no potential for affecting the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required. *See* 16 CFR 1021.5(c)(3). In issuing the June 1986 proposed exemption, the Commission concluded that it would, if issued, have no significant effects on the environment [8].

F. Effective Date

The PPPA provides that, except for good cause, no regulation establishing a special packaging standard shall take effect sooner than 180 days or later than one year from its date of issuance. A lead time of six months to a year provides firms with time to "gear up" to child-resistant packaging.

However, an exemption from PPPA requirements is not covered by these time restrictions because it does not establish a special packaging standard, and no lead time is necessary. The Administrative Procedure Act does not require a 30-day lead time for a rule "which grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1). Therefore, the amended exemption is being made effective immediately upon its publication in final form in the **Federal Register.**

G. Conclusion

Based on the available information, the Commission finds that Extra-Strength Alka-Seltzer tablets present no serious ingestion hazard to young children and need not be marketed in child-resistant packaging. Historically, effervescent tablets have not been involved in serious injury or illness in young children. Compared to all ingestions of aspirin and acetaminophen products by young children, the number of ingestions of such effervescent tablets as Alka-Seltzer and Alka-Seltzer Plus by young children has been quite small. For the reasons discussed in sections A4, A5, and A6 above, the Commission would expect any child ingestions of Extra-Strength Alka-Seltzer to be rare and lacking in seriousness.

After considering all relevant and available information, the Commission finds that special packaging is not required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting the effervescent tablets described below (in generic form). Based on this finding, the Commission concludes that a special packaging exemption for them should be issued (as an amendment to the exemption that now exists).

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601; secs. 2(4), 3, 5; 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under the authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573; sec. 30(a); 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends Part 1700 of Subchapter E of Chapter II of Title 16 as follows:

PART 1700—[AMENDED]

1. The authority citation for 16 CFR Part 1700 is revised to read as follows:

Authority: Secs. 1–9, 84 Stat. 1670–74, 15 U.S.C. 1471–76. § 1700.1 also issued under Pub. L. 92–573, sec. 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a); § 1700.14 also issued under Pub. L. 91–601, secs. 2(4), 3, 5, 84 Stat. 1670–1672, 15 U.S.C. 1471(4), 1474; Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a); § 1700.15 also named under secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474.

2. Section 1700.14(a)(1)(i) is revised to read as follows (although unchanged, the introductory text of paragraph (a)(1) is included for context):

§ 1700.14 Substances requiring special packaging.

(a) * * *

(1) *Aspirin.* Any aspirin-containing preparation for human use in a dosage form intended for oral administration shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except the following:

(i) Effervescent tablets containing aspirin, other than those intended for pediatric use, provided the dry tablet contains not more than 15 percent aspirin and has an oral LD–50 in rats of 5 grams or more per kilogram of body weight.

* * * * *

Dated: December 15, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

List of Documents in the Record

1. Petition (PP 85–1) from Miles Laboratories, Inc.; March 25, 1985.

2. Memorandum from Jane McCaulley, HSPS, concerning PP 85–1; October 3, 1985.

3. Memorandum from Elizabeth W. Leland, ECCS, concerning PP 85–1; March 6, 1986 [RESTRICTED].

4. Garnier, R., Riboulet-Delmas, G., Efthmiou, M.L.; Intoxications Augues Par Le Paracetamol Soluble. Etude Retrospective des Donnes du Centre Anti-Poisons de Paris 1974–1981. Sem. Hop. Paris (1982); 58:435–439.

5. Garnier, R., Riboulet-Delmas, G., Efthmiou, M.L.; Intoxications Augues Par Une Aspirine Vitaminic C Tamponnee Effervescent. Etude Retrospective des Donnes du Centre Anti-Poisons de Paris 1974–1981. Sem. Hop. Paris (1983); 59:1313–1316.

6. Gilman, A.G., Goodman, L.S., Gilman, A. Goodman and Gilman's Pharmacological Basis of Therapeutics. The MacMillan Publishing Co., Inc., New York, 6th ed., 688–698.

7. Gosselin, R.E., Hodges, H.C., Smith, R.P., Gleason, M.N. Clinical Toxicology of Commercial Products. Williams and Wilkins Co., Balt., Md., 4th ed., 368–375.

8. Federal Register document proposing exemption. 51 FR 21925–21927; (June 17, 1986).

[FR Doc. 86–28399 Filed 12–17–86; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB 67]

Staff Accounting Bulletin No. 67

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: The interpretations in this staff accounting bulletin express certain views of the staff regarding the appropriate income statement presentation of restructuring charges.

DATE: December 8, 1986.

FOR FURTHER INFORMATION CONTACT: John A. Heyman, Office of the Chief Accountant (202–272–2130), or Howard P. Hodges, Jr. Division of Corporation Finance (202–272–2553), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal Securities laws.

Jonathan G. Katz,

Secretary.

December 8, 1986.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 67 to the table found in Subpart B.

Staff Accounting Bulletin No. 67

The staff hereby adds section P to Topic 5 of the staff accounting bulletin series. Section P discusses the staff's views on the appropriate income statement presentation of what are commonly referred to as "restructuring charges."

Topic 5: Miscellaneous Accounting

* * * * *

P. Income Statement Presentation of Restructuring Charges

Facts: The staff has noted a recent increase in the number of registrants recording what are commonly referred to as "restructuring charges." While the events or transactions triggering the recognition of such provisions vary, they typically result from the consolidation and/or relocation of operations, the abandonment of operations or productive assets, or the impairment of the carrying value of productive or other long-lived assets. The components of these charges also vary, but generally include the reduction in the carrying value of long-lived assets and provisions for the termination and/or relocation of operations and employees.

Because the charges typically do not relate to "a single separate major line of business or class of customer",[1] they do not qualify for presentation as losses on the disposal of a discontinued operation. Additionally, since the charges are not both unusual *and* infrequent [2] they are not presented in the income statement as extraordinary items.

Question 1: May such restructuring charges be presented in the income statement [3] as a separate caption after income from continuing operations before income taxes (i.e., preceding income taxes and/or discontinued operations)?

Interpretive Responses: No. Paragraph 26 of Accounting Principles Opinion (APB) No. 30 states that items that do not meet the criteria for classification as an extraordinary item should be reported as a component of income from continuing operations.[4] Neither APB No. 30 nor Rule 5–03 of Regulation S–X contemplate a category in between continuing and discontinued operations. Accordingly, the staff believes that restructuring charges should be presented as a component of income from continuing operations, separately disclosed if material. Furthermore, the staff believes that a separately presented restructuring charge should not be preceded by a sub-total representing "income from continuing operations before restructuring charge" (whether or not it is so captioned). Such a presentation would be inconsistent with the intent of APB No. 30.

Question 2: Some registrants utilize a classifed or "two-step" income statement format (i.e., one which presents operating revenues, expenses and income followed by other income and expense items). May a charge which relates to assets or activities for which the associated revenues and expenses have historically been included in operating income be presented as an item of "other expense" in such an income statement?

Interpretive Response: No. The staff believes that the proper classification of a restructuring charge depends on the nature of the charge and the assets and operations to which it relates. Therefore, charges which relate to activities for which the revenues and expenses have historically been included in operating income should generally be classified as an operating expense, separately disclosed if material. Futhermore, when a restructuring charge is classified as an operating expense, the staff believes that it is generally inappropriate to present a preceding subtotal captioned or representing operating income before restructuring charges. Such an amount does not represent a measurement of operating results under generally accepted accounting principles.

Conversely, charges relating to activities previously included under "other income and expenses" should be similarly classified, also separately disclosed if material.

Question 3: Is it permissible to disclose the effect on net income and earnings per share of such a restructuring charge or, alternatively, to indicate what net income and earnings per share would have been without the charge?

Interpretive Response: Discussions in management's discussion and analysis (MD&A) and elsewhere which quantify the effects of unusual or infrequent items on net income and earnings per share are beneficial to a reader's understanding of the financial statements and are therefore acceptable. However, discussions and/or graphic presentations which focus solely on pre-charge amounts or which intimate that pre-charge amounts are a more meaningful indicator of the results of operations are inappropriate.

MD&A also should discuss the events and decisions which gave rise to the restructuring, the nature of the charge and the expected impact of the restructuring on future results of operations, liquidity and sources and uses of capital resources.

While these discussions are appropriate in the context of MD&A, pre-charge earnings or earnings per share, or the per share effect of the charge, should not be presented on the face of the income statement or in selected financial data or other summaries of financial data.

[FR Doc. 86–28359 Filed 12–17–86; 8:45 am]

BILLING CODE 8010-01-M

[1] See APB No. 30, paragraph 13.

[2] See APB No. 30, paragraph 20.

[3] The guidance in this Staff Accounting Bulletin should also be applied in the preparation of industry segment information disclosed pursuant to Statement of Financial Accounting Standards (SFAS) No. 14. Accordingly, charges treated as operating expenses in the income statement should, in the staff's view, also be treated as an operating expense of the related industry segment under paragraph 10(d) of SFAS No. 14.

[4] Paragraph 26 of APB No. 30 further provides that such items should not be reported on the income statement net of income taxes or in any manner that implies that they are similar to discontinued operations or extraordinary items.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 85F-0440]

Indirect Food Additives; Polymers

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 olefin terpolymers from ethylene, hexene-1, and either propylene or butene-1, as articles or components of articles intended for use in contact with food. This action responds to a petition filed by Union Carbide Corp.

DATES: Effective December 18, 1986; objections by January 20, 1987.

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: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), 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 October 8, 1985 (50 FR 41027), FDA announced that a petition (FAP 5B3880) had been filed by Union Carbide Corp., P.O. Box 870, Bound Brook, NJ 08805, proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for the safe use of olefin terpolymers derived from ethylene, either hexene-1 or 4-methylpentene-1, and either propylene or butene-1, as articles or components of articles intended for use in contact with food. Subsequent to the publication of the notice of filing, the petitioner requested that 4-methylpentene-1 be deleted from the petition. Therefore, the original submission has been modified to include only olefin terpolymers derived from ethylene, hexene-1, and either propylene or butene-1.

FDA has evaluated the data in the petition and other relevant material. The agency 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. Under FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25), an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before January 20, 1987, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 177.1520 by amending paragraph (a)(3)(i)(*b*) by removing the word "and" at the end of the paragraph, and in paragraph (a)(3)(i)(*c*) by removing the word "or" at the end of the paragraph, and by adding new paragraph (a)(3)(i)(*d*) to read as follows:

§ 177.1520 Olefin polymers.

* * * * *

(a) * * *

(3) * * *

(i) * * *

(*d*) Olefin basic terpolymers manufactured by the catalytic copolymerization of ethylene, hexene-1, and either propylene or butene-1, shall contain not less than 85 weight percent polymer units derived from ethylene.

* * * * *

Dated: December 10, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-28333 Filed 12-17-86; 8:45 am]

BILLING CODE 4160-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits in Single-Employer Plans, 29 CFR Part 2619, by adding a new table, Table I-87, to Appendix D. Table I-87 is to be used for valuing early retirement benefits during 1987. The table is needed to determine an expected retirement age for plan participants in terminating pension plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended, that provide for an early retirement benefit. The expected retirement age is needed to compute the value of the early

retirement benefit and, thus, the total value of benefits under the plan.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: John Foster, Attorney, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone 202-778-8850 (202-778-8810 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC") regulation on the valuation of plan benefits in single-employer plans (29 CFR Part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Although the amendments to Title IV effected by the Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") change significantly the rules for terminating single-employer plans, the valuation rules are much the same. Under amended ERISA section 4041(c), plans wishing to terminate in a distress termination (like insufficient plans under prior law) generally must value guaranteed benefits and (new under SEPPAA) benefits commitments under the plan using formulas set forth in Part 2619. Plans terminating in a standard termination also may, for purposes of the notice to the PBGC, use the formulas in Part 2619 to value benefit commitments, although this is not required. (Such plans may value benefit commitments that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Under § 2619.46, early retirement benefits are valued according to the annuity starting date, if a retirement date has been selected, or according to the expected retirement age, if the annuity starting date is not known on the valuation date. Subpart D of Part 2619 sets forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendices D and E of Part 2619 contain tables and examples to be used in determining the expected early retirement ages.

In Appendix D, there are currently two sets of tables. The first set, Selection of Retirement Rate Category (I-79 through I-86), is used to determine whether a participant has a low, medium, or high probability of retiring early. The second set of tables, Expected Retirement Ages for Individuals in the Low/Medium/High Categories (II-A, II-B, and II-C), is used to determine the expected retirement age after the probability of early retirement has been determined.

The first set of tables determines the probability of early retirement based on the year a participant would reach normal retirement age and the participant's monthly benefit at normal retirement age. The second set of tables establishes, by probability category, the expected retirement age based on both the earliest age a participant could retire unde the plan and the normal retirement age under the plan. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

The first set of tables in Appendix D, as published in the 1986 edition of 29 CFR (I-79 through I-86), established a retirement rate category for each of the calendar years 1979 through 1986. Each table applies only to plans with a valuation date in that particular year, and a table normally remains in effect only for a calendar year. This rule amends Appendix D to add Table I-87 in order to update the correlation between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I-87 will be used to value benefits in plans with a valuation date that occurs during calendar year 1987.

The PBGC has determined that notice of a public comment on this rule are impracticable and contrary to the public interest. This determination is based on the need to issue the table promptly so the appendix will accurately reflect the relationship between a participant's benefit and the probability of early retirement. The PBGC has found that the public interest is best served by issuing this table without an opportunity for notice and comment so that plan administrators can more accurately estimate the value of plan benefits before initiating the plan termination process. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans with valuation dates on or after January 1, 1987, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291 because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity or innovation.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Appendix D to Part 2619 of Chapter XXVI of Title 29, Code of Federal Regulations is hereby amended as follows:

1. The authority citation for Part 2619 continues to read as follows:

Authority: Secs. 4002(b)(3), 4041 (b) and (c), 4044, 4062 (b) and (c), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025, 1029, as amended by secs. 403(1), 403(d), 402(a)(7), Pub. L. 96-364, 94 Stat. 1302, 1301, 1299, and by secs. 11007-110009, 11011, Pub. L. 99-272, 100 Stat. 244, 248, 253 (29 U.S.C. 1302, 1341, 1344, 1362).

2. Appendix D to Part 2619 is amended by adding Table I-87, as follows:

Appendix D—Tables Used to Determine Expected Retirement Age

* * * * *

TABLE I-87.—SELECTION OF RETIREMENT RATE CATEGORY

[For plans with a valuation date after Dec. 31, 1986 and before Jan. 1, 1988]

Participant reaches NRA in year—	Participant's retirement rate category is—			
	Low [1] if monthly benefit at NRA is less than—	Medium [2] if monthly benefit at NRA is		High [3] if monthly benefit at NRA is greater than—
		From	To—	
1988	297	297	1,251	1,251
1989	308	308	1,297	1,297
1990	318	318	1,340	1,340
1991	327	327	1,377	1,377
1992	334	334	1,406	1,406
1993	341	341	1,436	1,436
1994	348	348	1,466	1,466
1995	356	356	1,497	1,497
1996	363	363	1,528	1,528
1997 or later	371	371	1,560	1,560

[1] Table II-A.
[2] Table II-B.
[3] Table II-C.

Issued at Washington, D.C., this 12th day of December, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-28372 Filed 12-17-86; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2621

Limitation on Guaranteed Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the Limitation on Guaranteed Benefits regulation contains the maximum guaranteeable pension benefit that may be paid by the Pension Benefit Guaranty Corporation under Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") to a plan participant in a covered single-employer pension plan that terminates in 1987. section 4022(b)(3) of ERISA provides that the maximum benefit guaranteeable by the PBGC is based on the contribution and benefit base determined under section 230 of the Social Security Act. An increase in the contribution and benefit base increases the dollar amount of the maximum guaranteeable benefit. This amendment is needed to include the dollar amount of the increased maximum guaranteeable benefit for 1987 in the regulation.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202-778-8850 (202-778-8859 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's regulation entitled Limitation on Guaranteed Benefits (29 CFR Part 2621) describes the limitations on benefits guaranteed by the PBGC in terminating single-employer pension plans covered under Title IV of the Employee Retirement Income Security Act of 1974, *as amended.* One of the limitations, set forth in section 4022(b)(3) of ERISA, is a dollar ceiling on the amount of monthly benefit that may be paid by the PBGC. The Single-Employer Pension Plan Amendments Act of 1986 amended Title IV to change significantly the rules governing the termination of single-employer plans; however, the rules establishing the maximum monthly guaranteeable benefit were unchanged.

Section 4022(b)(3) provides that the amount of monthly benefit payable in the form of a life annuity beginning at age 65 shall not exceed "$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974." As set forth in § 2621.3(a)(2) of the PBGC's Limitation on Guaranteed Benefits regulation, the Social Security contribution and benefit base in effect in calendar year 1974, the denominator in the fraction, is $13,200. The contribution and benefit base determined under section 230 of the Social Security Act at the date of termination of the plan, the numerator in the fraction, normally increases each year.

In the Social Security Amendments of 1977, special increases were added to the contribution and benefit base. However, the amended Social Security Act specifically states that, for the purpose of section 4022(b)(3) of ERISA, the contribution and benefit base for each year after 1976 will be the base that would have been determined for each year if the law in effect immediately before the amendment had remained in effect without change. 42 U.S.C. 430(d) (1982).

The PBGC has been notified by the Social Security Administration that the contribution and benefit base for 1987 that is to be used to calculate the PBGC maximum guaranteeable benefit is $32,700. Accordingly, the formula under section 4022(b)(3) of ERISA and 29 CFR 2621.3(a)(2) is: $750 multiplied by $32,700/$13,200. Thus, the maximum benefit guaranteeable by the PBGC in 1987 will be $1,857.95 per month in the form of a life annuity commencing at age 65. If a benefit is payable in a different form or begins at a different age, the maximum guaranteeable amount will be the actuarial equivalent of $1,8547.95 per month.

Appendix A to Part 2621, as published in the 1986 edition of 29 CFR, lists the maximum guaranteeable benefit payable by the PBGC to participants in single-employer plans that have terminated each year from 1974, when ERISA went into effect, through 1986. This amendment updates Appendix A for plans that terminate in 1987.

Because the maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3) of ERISA, and this amendment makes no change in its method of calculation but simply lists the 1987 maximum guaranteeable benefit amount for the public's knowledge, general notice of proposed rulemaking is not required. Moreover, because the 1987 maximum guaranteeable benefit is effective, under the statute, at the time that the Social Security contribution and benefit base is effective, *i.e.,* January 1, 1987, and is not dependent on the issuance of this regulation, the PBGC finds that good cause exists for making this amendment effective less than 30 days after publication (5 U.S.C. 553).

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2621

Employee benefit plans, Pension, insurance, Pensions.

In consideration of the foregoing, Part 2621 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2621—LIMITATION ON GUARANTEED BENEFITS

1. The authority citation for Part 2621 is revised to read as follows:

Authority: Secs. 4002(b)(3), 4022(b), 4022B, Pub. L. 93-406, 88 Stat. 829, 1004, 1016, as amended by secs. 403(1), 403(c), 102, Pub. L. 96-364, 94 Stat. 1208, 1302, 1300, 1215 and by sec. 11016(c)(8), Pub. L. 99-272, 100 Stat. 237, 274 (29 U.S.C. 1302, 1322, 1322b).

2. Appendix A to Part 2621 is amended by adding a new entry to read as follows. The introductory text is shown for the convenience of the reader and remains unchanged.

Appendix A to Part 2621—Maximum Guaranteeable Monthly Benefit

The following table lists by year the maximum guaranteeable monthly benefit payable in the form of a life annuity commencing at age 65 as described by § 2621.3(a)(2) to a participant in a plan that terminated in that year:

Year	Maximum guaranteeable monthly benefit
* * * * *	
1987	1,857.95

Issued at Washington, D.C. this 12th day of December, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-28373 Filed 12-17-86; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-86-026]

Drawbridge Operations; Sparrows Point, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from drawbridge regulations for bridge across Bear Creek, at Sparrows Point, Maryland.

SUMMARY: The Coast Guard has granted a temporary deviation from the regulations for the railroad bridge across Bear Creek at mile 2.3, at Sparrows Point, Maryland. The purpose of this deviation from the regulations is to allow the project contractor for CSX Transportation, Inc., the owner of the bridge, to repair the bridge. The repairs are scheduled to begin on January 5, 1987, and are expected to be completed by March 5, 1987.

DATES: This temporary deviation from the regulations becomes effective on January 5, 1987, and terminates on March 5, 1987, or earlier if bridge repairs are completed ahead of schedule.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, or telephone number (804) 398-6222.

Drafting Information

The drafters of this notice are Linda L. Gilliam, project officer, and CDR Robert J. Reining, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Deviation From Drawbridge Regulations

In consideration of the foregoing, the regulations in § 117.5 of Title 33, Code of Federal Regulations, do not apply to the bridge across Bear Creek, mile 2.3, at Sparrows Point, Maryland.

From January 5, 1987, until March 5, 1987, or earlier if bridge repairs are completed ahead of schedule, the bridge may remain closed to vessels.

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g), 117.35(d).

Dated: December 5, 1986.

B.F. Hollingsworth,

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

[FR Doc. 86-28387 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 10

Initiation of Express Mail International Service to India

AGENCY: Postal Service.

ACTION: Final action on express mail international service to India.

SUMMARY: Pursuant to an agreement with the postal administration of India, the Postal Service intends to begin Express Mail International Service with India at the postage rates indicated in the tables below. Service is scheduled to begin on January 17, 1987.

EFFECTIVE DATE: January 17, 1987.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268-2673.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on August 13, 1986 [51 FR 28958], the Postal Service announced that it was proposing to begin Express Mail International Service to India. In a subsequent notice published in the **Federal Register** on September 18, 1986 [51 FR 33041], the Postal Service announced a delay in the proposed commencement of service to India at the request of the Indian Postal Administration. The Postal Service has been informed by the Indian Postal Administration that service to India can commence. Comments were invited on published rate tables, which are proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which are to become effective on the date service begins.

No comments were received. Accordingly, the Postal Service states that it intends to begin Express Mail International Service with India on January 17, 1987 at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408.

INDIA—EXPRESS MAIL INTERNATIONAL SERVICE

Customs designed service [1 2]		On demand service [2]	
Up to and including		Up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	36.90	2	28.90
3	42.80	3	34.80
4	48.70	4	40.70
5	54.60	5	46.60
6	60.50	6	52.50
7	66.40	7	58.40
8	72.30	8	64.30
9	78.20	9	70.20
10	84.10	10	76.10
11	90.00	11	82.00
12	95.90	12	87.90
13	101.80	13	93.80
14	107.70	14	99.70
15	113.60	15	105.60
16	119.50	16	111.50
17	125.40	17	117.40
18	131.30	18	123.30
19	137.20	19	129.20
20	143.10	20	135.10
21	149.00	21	141.00
22	154.90	22	146.90
23	160.80	23	152.80
24	166.70	24	158.70
25	172.60	25	164.60
26	178.50	26	170.50
27	184.40	27	176.40
28	190.30	28	182.30
29	196.20	29	188.20
30	202.10	30	194.10
31	208.00	31	200.00
32	213.90	32	205.90
33	219.80	33	211.80
34	225.70	34	217.70
35	231.60	35	223.60
36	237.50	36	229.50
37	243.40	37	235.40
38	249.30	39	241.30
39	255.20	39	247.20
40	261.10	40	253.10
41	267.00	41	259.00
42	272.90	42	264.90
43	278.80	43	270.80
44	284.70	44	276.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR

10.3 and will be transmitted to subscribers automatically.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-28376 Filed 12-17-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-5-FRL-3129-9]

Designation of Areas for Air Planning Purposes, Attainment Status Designations; Minnesota

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

ACTION: Final rulemaking.

SUMMARY: USEPA is revising the carbon monoxide (CO) designations for the City of Duluth (Duluth) and the City of Rochester (Rochester), Minnesota from nonattainment to attainment of the National Ambient Air Quality Standards (NAAQS) for CO. These revisions to the attainment status for Duluth and Rochester are based on a request from the State to redesignate these areas and on the supporting data the State submitted. (Under the Clean Air Act, designations can be changed if data are available to warrant such changes.)

EFFECTIVE DATE: This final rulemaking becomes effective on January 20, 1987.

ADDRESSES: Copies of the redesignation requests, technical support documents and the supporting air quality data are available at the following addresses: (It is recommended that you contact Steven D. Griffin, at (312) 353-3849 before visiting the Region V office.)

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

Minnesota Pollution Control Agency, Division of Air Quality, 1935 West County Road B-2, Roseville, Minnesota 55113

FOR FURTHER INFORMATION CONTACT: Steven D. Griffin, (312) 353-3849.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act (Act), the Administrator of USEPA has promulgated the attainment status for the NAAQS for each area of every state. See 43 FR 8962 (March 3, 1978) and 40 CFR Part 81. These area designations may be revised whenever monitoring and supportive data are submitted to USEPA. The primary NAAQS for carbon monoxide (CO), which is set forth at 40 CFR 50.8, is violated if, more than once in a calendar year, CO concentrations exceed either: (a) The maximum allowable 8-hour concentration of 9 parts per million (ppm); or (b) the maximum allowable 1-hour concentration of 35 ppm.

USEPA's criteria for approving redesignation requests, as they pertain to CO, are discussed in a **Federal Register** notice of January 22, 1981 (46 FR 7182), and in the following USEPA memoranda:

1. April 21, 1983, from Sheldon Meyers to Directors of Air Management Divisions, Subject: Section 107 Designation Policy Summary.
2. December 23, 1983, from G.T. Helms to Chiefs of Air Programs Branches, Region I-X, Subject: Section 107 Questions and Answers.

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

1. Generally, all available data relative to the attainment status of an area must be reviewed. These data must include the most recent 8 consecutive quarters of quality assured, representative air quality data plus evidence of an implemented control strategy that USEPA has fully approved. The ambient air quality data must show no violations of the NAAQS to support a redesignation from nonattainment to attainment.
2. Supplemental information, including available modeling data, should also be considered to determine if the monitoring data accurately characterize the "worst case" air quality in the area.
3. In special situations, an attainment designation can be supported using the most recent 4 quarters of exceedances-free ambient data if an acceptable state-of-the-art modeling analysis is provided showing that actual enforceable emission reductions are responsible for the observed air quality improvements.

On March 3, 1978 (43 FR 9006), USEPA designated Duluth and Rochester, Minnesota as nonattainment for CO. From July 3, 1979, to July 27, 1979, Minnesota submitted to USEPA proposed revisions to the State Implementation Plan (SIP) for CO pursuant to Part D of the Act. On June 16, 1980 (45 FR 40579), USEPA approved the CO SIP revisions for Duluth and Rochester. The CO SIP consisted of control strategies based on the Federal Motor Vehicle Control Program (FMVCP) and a transportation control plan (TCP) for each city and called for a compliance deadline of December 31, 1982, for attainment of the CO NAAQS. The FMVCP provides for emissions reductions derived from pollution controls on late-model vehicles. The majority of creditable emissions reductions result from implementation of the FMVCP. Relatively minimal reductions result from TCP implementation.

On June 13, 1985, the Minnesota Pollution Control Agency (MPCA) requested that USEPA redesignate Duluth and Rochester to attainment for CO. To support their request, the State submitted 9 consecutive quarters of air monitoring data for Duluth and 8 consecutive quarters of air monitoring data for Rochester which showed no violations of the 8-hour or 1-hour standards. In addition, because the redesignation is based on evidence of implemented control strategies, MPCA also discussed the implementation status of the approved CO SIP for Duluth and Rochester.

On June 27, 1986 (51 FR 23438), USEPA proposed to approve Minnesota's request to redesignate Duluth and Rochester to attainment for the CO NAAQS. A detailed description of the monitoring data and SIP status for these cities is provided in the June 1986 notice. During the 30-day public comment period associated with this proposed action, no public comments were received.

Conclusion

USEPA is redesignating Duluth and Rochester, Minnesota from nonattainment to attainment for the CO NAAQS. USEPA believes the State has adequately supported its request to redesignate Duluth and Rochester, Minnesota to attainment for the CO NAAQS based on:

(1) Approved, implemented TCPs, including control measures necessary to attain the CO NAAQS prior to the date of the redesignation request,

(2) At least 8 quarters of ambient air quality data which show no violations of the 8-hour or 1-hour standards, and

(3) Continued implementation of the FMVCP to ensure future maintenance of the CO NAAQS.

In addition, USEPA has reviewed the most recent CO air quality data for Duluth and Rochester. The most recent data continue to show attainment of the CO NAAQS for both cities. In the case of Duluth, data through 1985 were reviewed, and in the case of Rochester, data through March 1986 were reviewed.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 17, 1987. This action

may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

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

Dated: November 12, 1986.

Lee M. Thomas,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES—INDIANA

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

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

Authority: 42 U.S.C. 7401–7642.

§ 81.324 [Amended]

2. Section 81.324 is amended by revising the entries for the City of Duluth and the City of Rochester in the Minnesota Table for Carbon Monoxide (CO) to read as follows:

§ 81.324 Minnesota.

* * * * *

MINNESOTA—CO

Designated area	Does not meet primary standards	Cannot be classified or better than National Standards
* * * * *		
City of Duluth		X
City of Rochester		X
* * * * *		

[FR Doc. 86–28380 Filed 12–17–86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-7-FRL-3129-7]

Texas; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final determination.

SUMMARY: The State of Texas has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed the Texas application and has made a determination subject to public review and comment, that Texas' hazardous waste program revision satisfied all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Texas' hazardous waste program revisions. The Texas application for program revision is available for public review and comment.

DATES: Final authorization for Texas shall be effective February 17, 1987, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final determination. All comments on Texas' program revision application must be received by the close of business January 20, 1987.

ADDRESSES: Copies of Texas' program revision application are available from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following addresses for inspection and copying: Texas Water Commission, Library, Fifth Floor, Stephen F. Austin State Office Building, 1700 North Congress, Austin, Texas 78711, Phone (512) 463–7834; U.S. EPA Region VI, Library 27th Floor, Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270, Phone (214) 767–7341; and U.S. EPA Headquarters, Library, PM 211A, 401 M Street SW., Washington, DC 20460; Phone (202) 382–5926. Written comments should be sent to Ms. Lynn Prince, State Program Section (6H-HS), Hazardous Waste Programs Branch, U.S. EPA Region VI, 28th Floor, Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270, Phone (214) 767–0173.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Prince, State Programs Section (6H-HS), Hazardous Waste Programs Branch, U.S. EPA Region VI, 28th Floor, Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270, Phone (214) 767–0173.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(9) of RCRA, 42 U.S.C 6926(9), and later apply for final authorization for the HSWA requirements. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA s regulations in 40 CFR Parts 260–266 and 124 and 270.

B. Texas

The State of Texas initially received final authorization on December 12, 1984. Texas received authorization for revisions to its program on March 26, 1985, and January 31, 1986. On November 5, 1986, Texas submitted revisions to its entire program. Today, Texas is seeking approval of its program revisions application in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed the Texas application, and has made an immediate final decision that Texas' hazardous waste program revisions satisfied all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant authorization for the RCRA program. The public may submit written comments on EPA's immediate final decision up until January 20, 1987. Copies of the Texas application for program revisions are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

The Texas program revisions encompass the Texas Water Commission's permanent rules in 31 TAC Chapters 281, 305, and 335. These revisions were necessitated by legislative actions of the Sixty-Ninth Legislature of the State of Texas which abolished the Texas Department of Water Resources and transferred its industrial hazardous waste duties and the municipal hazardous waste duties of the Texas Department of Health to the Texas Water Commission on September 1, 1985. These rules are approved with the exception of 305.24(a); 305.25; 305.30; 305.44 (a)(3) and (b); 305.46; 305.62(c)(2); 305.65; 305.68; 305.96; 305.105(c); 305.104; 305.145(b); 335.10(a); 335.13(b); 335.15 (2) and (3); 335.61 (8)(B) and (10); 335.71(6); 335.111; and 335.125 which will be addressed later. The approval also includes two additional rules, one relating to the redefinition of solid waste published by EPA on January 4, 1985, and the other relating to the satellite accumulation provision published December 21, 1984. The State is not being authorized for any of the HSWA provisions at this time. In addition, the State has submitted three emergency rules. One of these rules, revised Rule 305.105(c), deleted the requirement that

for purposes of requesting a public hearing, an affected person must have any interest "different from that of the general public." Deletion of this phrase returns the definition of "affected person" to that authorized in December 1984. Rules 335.61 (8)(B) and (10) were revised to make it clear that generators who mix solid waste with a hazardous waste that exceeds a quantity exclusion level are subject to full regulation. Finally, Rule 305.145(b) was amended to reduce the number of days allowed for written release or discharge reports from 25 days back to 15 days.

EPA had made changes in the Federal program since authorizing the State of Texas. Texas has committed to convert the three emergency rules to permanent rules and to submit a program revision application that addresses the rules excluded above by Spring 1987 to EPA. EPA will then determine whether to proceed or not to proceed with Final Authorization of the new Texas RCRA program at that time.

We are directing your attention today to the two additional RCRA rules. The first, the redefinition of solid waste modifies the regulatory definition of solid waste to clarify which secondary "materials being recycled are solid and hazardous wastes under Subtitle C of RCRA. In addition, it established general and specific standards for various types of hazardous waste recycling activities. The second, the satellite accumulation rule allows generators to store up to 55 gallons of hazardous waste at or near the point of generation subject to certain conditions. After three days the amount in excess of the threshold levels must be managed in accordance with the requirements of the less than 90-day storage rule.

In addition, the State of Texas is not being authorized to operate on Indian lands.

C. Decision

I conclude that Texas' application for program revisions meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised. Texas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitation of its revised program application and previously approved authorities. Texas also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Texas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials, Transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority

This notice is issued under the authority of sections 1006, 2002(a), and 3006 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a) and 6926).

Dated: December 12, 1986.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 86-28382 Filed 12-17-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Office of Child Support Enforcement

Office of Family Assistance

Office of the Secretary

42 CFR Part 433

45 CFR Parts 95, 205, and 307

Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation

AGENCY: Health Care Financing Administration, Office of Child Support Enforcement, Office of Family Assistance, and Offic of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: In September 1978, the Department of Health and Human Services (HHS—then the Department of Health, Educatiton and Welfare) published a regulation containing requirements that State and local governments must observe to claim Federal reimbursement for the costs of automatic data processing (ADP) equipment or services. The regulations are applicable to certain public assistance programs under the Social Security Act. The regulations were modified in February 1980 and in January 1986 to implement certain changes.

These regulations change requirements for the claiming of Federal matching funds for the acquisition of ADP equipment or services in the administration of pubic assistances programs under the Social Security Act Titles I, IV, X, XIV, (AABD), XXIX and XX.

The change modifies the regulations to conform to legislative changes, raises the HHS prior approval threshold for most State and local government acquisitions, and limits the types of documents which are subjec to prior approval requirements. The purpose of the change is to:

—Simplify and make these regulations consistent, to the maximum extent possible, with those regulations that govern availability of Federal Financial Participation (FFP) at the enhanced matching rate for computerized systems that support programs under Titles IV-A, IV-D, and XIX of the Social Security Act;

—Allow States more flexibility in implementing small systems; and

—Reduce paperwork.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Ron Lentz, (202) 245-0422.

SUPPLEMENTARY INFORMATION: HHS, then the Department of Health, Education and Welfare, published final regulations "Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participation", Subpart F of 45 CFR Part 95 in the Federal Register, (43 FR 44851), on September 29, 1978. These regulations required State and local governments to obtain prior written approval by the Department for the acquisition of ADP equipment or ADP services when the acquisition costs exceeded $25,000. These regulations were modified by a rule change published on February 19,

1980 in the **Federal Register**, (45 FR 10794) to raise the prior approval threshold to $100,000 for acquisitions costing that amount or more in Federal and State funds over a twelve-month period anmd to $200,000 in Federal and State funds for the total acquisition. The change also required States to submit a brief prior notice of acquisition for ADP equipment and services tha costs $25,000 to $100,000 over a twelve-month period.

On November 19, 1984, HHS published a Notice of Proposed Rule Making (NPRM) on Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participaion in the **Federal Register** (49 FR 45617). Current regulations are applicable to the administration of Public Assistance programs under Titles, I, IV-A, B, C, and D, X, XIV, XVI, (AABD), and XIX of the Social Security Act. The public was invited to submit comments pertaining to the NPRM. The final rules published herein address the comments received from the public in response to the NPRM and finalize the provisions of the NPRM with changes as noted.

On January 27, 1986, an Interim Final Rule was published in the **Federal Register** (51 FR 3337) which established the conditions and the procedures under which a State can obtain consideration for Fedeal Financial Participation (FFP) in emergency and certain other circumstances for the acquisition of Automatic Data Processing (ADP) Equipment or services in affected programs. The public was invited to submit comments pertaining to the Interm Final Rule.

Section 95.623 of the NPRM published on November 19, 1984 was published in revised final form as part of the Interim Final Rule published on January 27, 1986 (51 FR 3337) and for that reason will not be addressed as part of this final rule.

The major changes to existing requirements presented in these rules stem from an analysis of State requests made since the 1980 regulations change. HHS found that State requests for acquisitions costing between $100,000 and $200,000 represent 9.9 percent of the total number of requests but only 1.4 percent of the dollar amount requested. Additionally, HHS found that States had submitted only 109 prior notices during the three-year period. Therefore, HHS is raising the prior approval threshold to $200,000 for acquisitions costing that amount or more in Federal (regular matching) and State funds over a twelve-month period and to $300,000 in Federal (regular matching) and State funding for the total acquisition, and is eliminating the prior notice requirement, thus reducing paperwork requirements. The changes also modify the regulation to conform to legislative changes in the administration of some Social Security Act programs and to clarify the regulatory language.

Specifics of the changes are:

1. The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272, June 17, 1980) amended Title IV of the Social Security Act by adding Part E—Federal Payments for Foster Care and Adoption Assistance. We are adding Title IV-E to the applicable list of programs covered under this regulation. This is based on the provisions in section 474 of the Social Security Act. The Title IV-E program is administered by the Office of Human Development Services, HHS. We are retaining Title IV-B because of the interaction of program and information systems requirements between Titles IV-A, IV-B and IV-E, and deleting Title IV-C to conform to current HHS policy to reduce general administration requirements placed upon categorical grant programs with close-ended appropriations.

2. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) established seven block grant programs to be administered by the Secretary of Health and Human Services. Section 2352 of this Act amends Title XX of the Social Security Act to establish a social services block grant. Since the States, including Puerto Rico, Guam, the Virgin Islands and the Commonwealth of the Northern Mariana Islands must assume administration of a block grant in its entirety if they want to operate such a program, all references to the Title XX program will be deleted from this regulation. Section 2352 of this Act also deleted the social services programs in Puerto Rico, Guam, the Virgin Islands and the Commonwealth of the Northern Mariana Islands under Titles I, IV-A, X, XIV, and XVI (AABD). All reference to these social service programs have also been deleted.

3. Sections 405 and 406 of Pub. L. 96-265 modified Title IV-D and Title IV-A of the Social Security Act respectively to provide enhanced FFP for States which opt to plan, design, develop, improve and install computerized systems which meet the functional and administrative requirements stated in Pub. L. 96-265. These requirements are delineated in regulations promulgated by the Department on September 30, 1981. The regulation citations are 45 CFR Parts 205 and 307. Title XIX of the Social Security Act also authorizes enhanced FFP for Medicaid systems. The Title XIX enhanced funding regulation citation is 42 CFR Part 433, Subpart C. The proposed changes to Part 95 cross-reference the regulations for higher level matching in Federal financial participation available for certain ADP systems.

4. We are making minor amendments to § 95.605 to include certain definitions now included in regulations governing enhanced funding for Titles IV-A, IV-D and XIX. The definitions that are common to multiple programs are included in 45 CFR Part 95, Subpart F and eliminated from the companion regulations for Titles IV-A, IV-D and XIX. This will eliminate redundant and/or conflicting term definitions from the regulations governing ADP systems, equipment and services.

The term definitions affected are:

—"Advance planning document" is modified to include the requirement for a statement of alternative considerations including transfer of an existing system and an explanation of why such a transfer is not feasible if another alternative is proposed; a requirements analysis; an estimate of prospective cost distributions to the various State and Federal funding sources; the proposed procedure for distributing costs; and a statement setting forth the security and interface requirements to be employed and the backup and fallback contingency procedures available. HHS agencies administering the Titles covered by this regulation are committed to the implementation of State management information systems in the most cost beneficial way. The agencies feel that this can be accomplished through the State's examination of the availability of other State systems that can be implemented through the transfer concept. Also, it has been the agencies' practice to require States to consider systems transfers. For this reason the APD definition has been expanded to include the requirement for consideration of the transfer of an existing system. Definitions of these terms are added to § 95.605.

—"Automatic data processing equipment" is expanded to include the term "hardware" to be interchangeable with "automatic data processing equipment". Hardware is the terminology used by the Office of Family Assistance (OFA) and the Office of Child Support Enforcement (OCSE) regulations that implement Pub. L. 96-265 that authorizes Titles IV-A and IV-D of the Social Security Act to provide enhanced funding for States that design, develop, improve and install computerized systems which meet the functional and administrative requirements stated in Pub. L. 96-265.

—"Design or system design" was included in § 95.605 under the term "system design". The modified definition standardizes the term as defined in regulations governing enhanced funding for systems authorized under Titles IV-A, IV-D and XIX.

—"Development", "Installation", and "Operation" are term definitions not included previously in 45 CFR Part 95, Subpart F but that were included in Parts 205 and 307 of this title for specific requirements for Titles IV-A and IV-D and 42 CFR Part 433, Subpart C for specific requirements of Title XIX. Inclusion of these definitions in this section standardizes the definition for the multiple programs and eliminates the repetition of the terms in the companion regulations.

—"Enhanced matching rate" as defined in the NPRM to include the improvement of systems. The words "improvement of systems" have been deleted from the definition in the final rule because this rule deals only with the acquisition of ADP equipment or services.

—"Enhancement" is being included in § 95.605 to standardize the terms "Modifications or Additions", "Improvements" and "Enhancements" as used in regulations governing enhanced funding for systems authorized under Titles IV-A, IV-D amd XIX.

—"Software" is modified to clarify and simplify the term definition.

—"Service agreement" is modified to define the meaning of the word "primarily" used in item (f) of the current definition, and to add the period of time the agreement covers to its definition (new item (g)), and the requirement for a schedule of expected total charges to the titles covered by this regulation for the period of the service agreement (new item (h)). The current regulation requires the service provider to obtain HHS prior approval for ADP equipment or ADP services that are acquired primarily to support the titles covered by this subpart. ADP equipment and services are considered to be primarily acquired to support the titles covered by this subpart when the titles may reasonably be expected to either be billed for more than 50 percent of the total charges made to all users of the equipment or services, or directly charged for the total cost of the purchase or lease of ADP equipment or services. In either case, the provisions of § 95.611(a) apply. The definition of the word "primarily" and the application of § 95.611(a) are expanded upon for further clarification in the final regulation. This corrects an error which appaered in the NPRM published on November 19, 1984 in the **Federal Register** where we stated that § 95.611(a) applied only if the titles covered by this regulation are to be directly charged for the cost of the purchase or lease of the ADP equipment or services acquired for a central processing facility. Contrary to the NPRM, the longstanding departmental practice has been to apply thresholds in § 95.611(a) not only where the titles are directly charged but also where ADP equipment and/or services are acquired primarily to support the titles covered by the subpart. There was no intent to change that practice.

The definition of a "service agreement" is further revised to explain when a service agreement is necessary. This latter revision does not impose any new requirement, but simply reflects in the regulations longstanding HHS policy.

—"State Agency" is clarified to precisely identify the programs that are affected by these regulations.

We are rescinding other conflicting definitions contained in Parts 205 and 307 of this Title and 42 CFR Part 433, Subpart C. to the extent that statutory requirements permit.

5. Section 95.611(a) is modified to:

—Raise the prior approval threshold of $100,000 to provide that a State shall obtain prior written approval from the Department when it plans to acquire ADP equipment or services that it anticipates will have total acquisition costs of $200,000 or more in State and Federal funds over a twelve-month period, or $300,000 or more in Federal and State funds for the total acquisition, unless the acquisition is noncompetitive from a commercial source, or the State plans to acquire ADP equipment or services with proposed FFP at the enhanced matching rate. The State requests for funding of ADP acquisitions costing between $100,000 and $200,000 since the February 1980 rule change that raised the threshold to $100,000, represent 1.4 percent of the total dollar amount requested and 9.9 percent of the total number of State requests received. By raising the threshold to $200,000, HHS will continue to prior approve most State expenditures but will substantially reduce the number of required State submittals. The purpose of the change is to allow States to implement small systems or system changes more quickly; simplify the process of State application for Federal financial participation in the costs of ADP systems; and reduce paperwork burden.

Part 95 is amended by removing § 95.611(b)(2). This eliminates the prior approval requirement for service agreements. It does not eliminate the requirement for service agreements where a State or local agency is acquiring services from a State or local central data processing facility.

We are deleting this section because we have determined that the prior approval requirement for service agreements duplicates similar requirements of the Department's Regional Division of Cost Allocation. The Regional Office of Cost Allocation is responsible for the review and approval of cost allocation proposals submitted by States for use in administration of the various programs under the Social Security Act. Therefore, the requirement is deleted from the regulations.

A new § 95.611(b)(2) is added which codifies in this regulation the Department's policy that States submit for prior approval requests for proposals (RFP), contracts and contract amendments for which they request funding at the enhanced matching rate.

Sections 95.611(b)(3) and 95.611(b)(4) are replaced with a new § 95.611(b)(3) which modifies the Department's requirement for prior approval of RFPs and contracts when States request funding at the regular matching rate.

Sections 95.611(b)(3)(i) and (ii) require the prior approval of RFPs and contracts for which a State will request the regular matching rate, when required by the Department. For example, the Department may require prior approval of RFPs and contracts for complex procurements or when the grantee has history of performance problems. The purpose of these changes is to reduce the reporting burden on States, while at the same time retaining HHS overview and approval for such situations as noted.

Section 95.611(b)(3)(ii) requires the prior approval of contract amendments, for which a State will request the regular matching rate, when required by the Department. Under the modified regulation the Department may, for example, require prior approval of contract amendments for complex procurements or when the grantee has a history of performance problems. In the past the Department has had a policy that States submit contract amendments for prior approval. The purpose of this change is to codify this policy.

Section 95.611(b)(4) is deleted because contracts are now addressed under § 95.611(b)(2)(ii) and (3)(ii).

Section 95.611(b)(5) is redesignated § 95.611(b)(4) with no other change.

We are establishing a new § 95.611(c) that requires States to provide HHS copies of:

—RFPs not required for prior approval, when they are released to the public; and,

—Contracts and contract amendments not required for prior approval when a State formally enters a contract.

This will permit HHS to assure that RFPs, contracts and contract amendments are consistent with the approved advance planning document. The Department is responsible for making the determinations required under § 95.611(b)(3) and (4).

Section 95.611(c) is redesignated § 95.611(d) with no other change.

6. Section 95.612 presently requires a State to notify HHS when it acquires ADP equipment or services that will cost $25,000 to $100,000 over a twelve-month period in Federal (regular funding) and State funds. This requirement is eliminated by these changes.

In order to maintain proper oversight of State acquisitions costing below the new threshold of $200,000, HHS will conduct periodic on-site surveys as required in the new § 95.621(d).

7. Section 95.613 is modified by adding the phrase "regardless of any conditions for prior approval" to the first sentence of the section. The revised sentence now reads: "Procurements of ADP equipment or services are subject to the procurement standards prescribed by Subpart P of 45 CFR Part 74 regardless of any conditions for prior approval." This added phrase emphasizes that Federal procurement standards, including free and open competition, apply to all acquisitions notwithstanding the fact that HHS will only require prior approval of acquisitions that cost in excess of $200,000.

8. We are making a minor modification to the title of § 95.615 to clarify the language of the requirement pertaining to access to State agency ADP records and systems. The clarification is intended to emphasize that State agencies must allow HHS access to ADP systems and all records pertaining to the systems from planning through operational stages including cost records of the agency, contractors and subcontractors.

9. We are making three changes to § 95.617, Software and ownership rights. The changes, intended as language clarification only, are:

—The first sentence under § 95.617(a) is amended to include the phrase "must include a clause in all procurement instruments that provides that the State or local government". The sentence will now read: "The State or local government must include a clause in all procurement instruments that provides that the State or local government will have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation under this subpart."

—The title of § 95.617(b) is being changed from "Exemption" to "Federal license" because that term more aptly describes the subject of the regulatory provision.

—The regulation provision reference in § 95.617(c) is being changed from "of this subpart" to "in paragraphs (a) and (b) of this section" to point directly to the referenced provisions. A final sentence was added to § 95.617(c) to make it clear that FFP is not available for proprietary application software developed specifically for the public assistance programs covered under this subpart. The HHS intention is to clarify existing Department policy under Part 95 that FFP is not available for design, development or installation of management information systems for a State in which the vendor would retain proprietary interest in that system.

10. We are changing the last phrase in § 95.619 to simplify the language by substituting "a shorter period is justified" for "the elapsed shorter period of time is sufficient to justify the Federal funds involved". The requirement will read: "ADP systems designed, developed, or installed with Federal financial participation shall be used for a period of time specified in the advance planning document, unless the Department determines that a shorter period is justified."

11. We are adding a provision of § 95.621(d) that states that HHS will conduct periodic on-site reviews to assure that State acquisitions costing less than $200,000 were made in accordance with 45 CFR Part 74 and to determine the efficiency, economy and effectiveness of the acquired equipment or service.

We are also adding a provision at § 95.621(e) that requires States to maintain a copy of Service Agreements on file at the State agency and that Service Agreements be available for Federal audit.

12. A new § 95.625, Increased FFP for certain ADP systems, is being added to cross reference the general regulatory provisions that States must meet to qualify for enhanced funding for ADP systems that support State plans for Titles IV-A, IV-D and XIX of the Social Security Act. The section states availability of enhanced matching for certain systems and gives the regulatory citations of specific requirements for such systems.

13. The center heading for § 95.631 and 95.633 is being changed from "Cost Allocation Plan" to "Federal Financial Participation in Costs of ADP Acquisitions" to more accurately reflect the subject of the sections.

14. Section 95.631 is changed as follows: The title of § 95.631 is changed from "Relationship to the approved cost allocation plan:" to "Cost identification for purpose of FFP claims." As with the section heading, this change is being made to more accurately title the subject of the section. The provisions of the section have been restated to describe in a straightforward manner, the methods States must use in identifying, accounting for, and claiming FFP for costs incurred in system development and operation and in acquiring services from a State operated central data processing facility.

15. We are revising § 95.641 (now entitled "Exemption from Subpart G of this part") to explain more clearly the relation of Subpart G of Part 95 to ADP equipment and this Subpart F.

Subpart G concerns "Equipment Acquired Under Public Assistance Programs." Among other things, Subpart G permits a State to charge the cost of equipment having a unit acquisition cost of more than $25,000 only by means of depreciation or use allowances, not by claiming the full cost in the year of acquisition. Section 95.641 of this Subpart F, as we are revising the section, explains that, although that restriction applies to ADP equipment as well as other equipment, the Department will, in the case of ADP equipment, consider requests for waivers of the restriction. The revised text also explains that, if the acquisition of the equipment is part of an advance planning document that is subject to the prior approval requirements of this Subpart F, the State may submit the request for waiver as part of the advance planning document.

16. We are deleting § 95.643. The purpose of that section is to waive for HHS public assistance programs any prior approval requirements for ADP costs in the OMB principles for determining allowable costs of governments (OMB Circular A-87). However, we find the section redundant and unnecessary. The charging of ADP equipment under these programs is fully treated in Subpart G of Part 95. ADP services require prior approval only as specifically provided in this Subpart F.

Public Comments

We published the Notice of Proposed Rulemaking in the Federal Register on November 19, 1984 (49 FR 45617). We

asked for public comments within a period of 60 days. The comment period closed on January 18, 1985. For ease of comprehension and for perspective, we have grouped comments according to the issues raised. Although some of the comments are condensed, summarized or paraphrased, we have responded to each of the issues raised.

Issue: Threshold Amounts

Comment: One commenter recommended that the floor at which HHS's approval must be sought be increased to $500,000 for initial acquisition (e.g., within the initial 12-month period) and to $1,000,000 for total project costs.

Response: For the smaller agencies covered by the regulations, their share of FFP might nearly always fall under the thresholds suggested by the commenter. Because of the adverse impact, i.e., loss of funding control, on these smaller agencies covered by the regulation, it was decided to leave them as proposed in the regulation—at the $200,000 and $300,000 amounts.

Comment: The same commenter recommended that the $25,000 threshold for "non-competitive" acquisitions be raised to $300,000 or eliminated because of the need for procurements of compatible or like equipment. This commenter suggested that a system of prior notice, followed by an HHS audit of the technical compatibility issues and the cost-effectiveness of "limited market" acquisitions, would be more sensible.

Response: Even where compatibility with existing equipment is a requirement, we believe there is a competitive market to supply compatible or like equipment. Therefore, it is our view that the Federal Government's policy of fostering maximum free and open competition dictates that only in the rarest circumstances should the State contemplate a "sole-source" procurement. Since the threshold applies only to "sole-source" procurements, we do not believe the States are unduly restricted by this requirement.

Issue: Service Agreements

Comment: One commenter suggested that service agreements should not require prior Federal approval. Another questioned what was meant by extensions and adjustments to service agreements, citing that a prior approval requirement for every adjustment will create substantial paperwork and delay operations under contract.

Response: The Department agrees that service agreements should not require prior approval under 45 CFR Part 95 Subpart F. However, the Department recognizes that service agreements can have significant impacts on developmental projects funded by the Department. The Department's response to this issue is to eliminate the prior approval requirement for service agreements, but to require that service agreements be executed and on file in the State welfare agencies for review at anytime by HHS representatives.

Issue: Waiver of Prior Approval

Comment: One commenter observed that the proposed regulation would have started a six-month time period running on the date of acquisition of the equipment or services during which the State could seek waiver of the prior approval requirement. However, the event which constitutes "acquisition" was not defined. Since many events might be interpreted as "acquisitions", the commenter suggested that the regulation specify more precisely what would trigger the six-month period.

Response: The intent of the earlier proposed waiver procedure was to allow for certain emergency circumstances which precluded a State from obtaining prior approval. However, this provision on prior approval was replaced by the Interim Final Rule published in the **Federal Register** on January 27, 1986 (51 FR 3337). The Interim Final Rule establishes the conditions and the procedures under which a State can obtain consideration for Federal Financial Participation (FFP) in emergency and certain other circumstances for the acquisition of Automatic Data Processing (ADP) equipment or services in affected programs. Since this emergency procedure replaces the earlier proposed procedure for waiver of prior approval, this comment is no longer applicable to the regulation.

Issue: Definitions

Comment: One commenter cited the need to define "Modification or Additions" to existing systems to standardize the definition between 42 CFR 433.12, 45 CFR 307.1, and 45 CFR 95.605. This commenter suggested that HHS adopt one term and include it in the definitions section of the proposed regulations in order to achieve uniformity.

Response: As the commenter points out, 42 CFR 433.112 uses the word "improvement" and 45 CFR 307.1 uses the word "enhancement" to mean "modifications or additions" to an existing system. To standardize these terms, the term "enhancement" has been adopted and included in § 95.605 and the redundant and/or conflicting definitions are eliminated from the companion regulations for titles IV-D and XIX.

Issue: Consistency of HHS regulations with USDA regulations

Comment: One commenter stated that unless changes are made by the United States Department of Agriculture (USDA) in parallel, the improvements in the proposed HHS regulations will be nullified since most acquistions must meet the same justification criteria for both the USDA and HHS.

Response: HHS and USDA are cooperating in a major effort to standardize their requirements. The USDA has been consulted in the preparation of this Final Rule and is itself seeking to establish similar requirements.

Issue: Procurements

Comment: One commenter suggested that we eliminate the requirement for approval of RFPs and contracts since the procurements were approved in the APD. Another commenter suggested that where contracts have already been approved, and where such contracts allow for negotiated ADP services (system modification and maintenance) that the requirement be eliminated for prior approval for each additional ADP service.

Response: HHS agrees that not all RFPs, contracts and contract amendments should require prior approval. Accordingly, these regulations have been modified to require prior approval of all RFPs, contracts and contract amendments for which a State will claim the enhanced matching rate, and only "when required by the Department" for RFPs, contracts and contract amendments for which a State will claim the regular matching rate.

Issue: Clarification of Content Requirements for APDs

Comment: One commenter stated that the proposed definition of the advance planning document, while it enlarges the content requirements, does not incorporate many of the specific APD requirements now set out in the Medical Assistance Manual, 45 CFR 307.15 and 45 CFR 205.38. That fact makes it unclear whether HHS intends to eliminate these program-specific content requirements. If not, the definition of APD in the proposed regulation should be clarified by including the statement that it is not exclusive and informing the reader that the program-specific content requirements have been retained.

Response: The definition of the advance planning document has been expanded to include the major items

which are required by all the programs covered by this regulation. However, there are still program-specific requirements at this time. There is presently an effort underway to standardize the requirements for all the programs and it is expected that when this effort is completed, future content requirements for APDs will be standardized among the programs.

Issue: Prior Approval Documents

Comment: One commenter suggested that only APDs be submitted for prior approval of projects when total systems costs are above a threshold. For audit and review purposes only, a notice of intent to purchase or lease ADP hardware or software and appropriate justification would be submitted for "limited market" acquisitions. HHS and USDA would retain the right to audit all aspects of ADP acquisitions at any time.

Another commenter stated that the proposed regulation does not specify clearly which documents would require HHS prior approval in order for the State to qualify for enhanced funding and asked if HHS will notify the State if advance approval of the feasibility study, system study, system specifications and acceptance document are required in connection with projects for which the State seeks enhanced funding. This commenter stated that submission and approval of documents in addition to the APD, RFP and contract will create substantial delays in the contracting process.

Response: The Department shares the concern that procedures not delay work on a project while prior approval of documents is sought. At the same time, the Department must adequately control the expenditure of its funds through prior approval requirements to ensure that they are spent effectively and efficiently to support its programs. To meet both these needs, the Department is revising the regulations to limit the prior approval requirements to: (1) All APDs, (2) RFPs, contracts and contract amendments for which the enhanced matching rate will be claimed; and (3) RFPs, contracts and contract amendments for which the regular matching rate will be claimed when required by the Department. The intent is to maintain the authority to follow closely, through prior approval, certain RFPs, contracts, and contract amendments.

Issue: Cost Allocation

Comment: One commenter suggested revising § 95.631(a) to more definitively outline the roles and requirements of the APD and the cost allocation plan.

Response: Section 95.631 has been revised to clarify the required relationship between the APD and the cost allocation plan.

Regulatory Impact Analysis

The Secretary had determined, in accordance with Executive Order 12291, that this rule does not constitute a major rule because it will not have an annual impact on the economy of $100 million or more, result in a major increase in costs or prices for consumers, any industries, any governmental agencies or any geographic regions, or otherwise meet the thresholds of the Executive Order.

Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act (Pub. L. 96–354), which requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities, the Secretary certifies that this rule has no significant effect on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not included.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, the Department has previously obtained OMB clearance of the process described in this document under which the States may apply for and obtain Federal financial participation in their ADP acquisitions. The OMB approval number is 0990–0058.

List of Subjects

42 CFR Part 433

Administrative practice and procedure, Child support, Claims, Medicaid, Reporting and recordkeeping requirements.

45 CFR Part 95

Claims, Computer technology, Grant programs—health, Grant programs, social programs, Social Security.

45 CFR Part 205

Grant programs—social programs, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 307

Child support, Computer technology, Grant programs—social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Numbers 13.645, Child Welfare Services—State Grants; 13.658, Foster Care, Maintenance; 13.659, Adoption Assistance; 13.679, Child Support Enforcement Program; 13.714, Medical Assistance Program; 13.808, Assistance Payments—Maintenance Assistance; 13.810, Assistance Payments—State and local Training)

Dated: August 7, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 95—[AMENDED]

45 CFR Part 95, Subpart F is amended as set forth below:

1. The Table of Contents to 45 CFR Part 95 is amended by revising the entries for Subpart F to read as follows:

Subpart F—Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participation (FFP)

General

Sec.
95.601 Scope and applicability.
95.605 Definitions.

Specific Conditions for FFP

95.611 Prior approval conditions.
95.613 Procurement standards.
95.615 Access to systems and records.
95.617 Software and ownership rights.
95.619 Use of ADP systems.
95.621 ADP reviews.
95.623 Waiver of prior approval requirements.
95.624 Consideration for FFP in emergency situations.
95.625 Increased FFP for certain ADP systems.

Federal Financial Participation in Costs of ADP Acquisitions

95.631 Cost identification for purpose of FFP claims.
95.633 Nondiscrimination requirements.

Exemptions

95.641 Applicability of rules for charging equipment in Subpart G of this part.

Authority: Section. 1102 of the Social Security Act, 42 U.S.C. 1302; 5 U.S.C. 301

2. Section 95.601 is revised to read as follows:

General

§ 95.601 Scope and applicability.

This subpart prescribes the conditions under which the Department of Health and Human Services will approve Federal Financial participation (FFP), at the applicable rates, for the costs of automatic data processing incurred under an approved State plan for Titles I, IV–A IV–B, IV–D, IV–E, X, XIV, XVI (AABD), of XIX of the Social Security Act.

(Approved by the Office of Management and Budget under Control Numbers 0990–0058 and 0990–0160)

3. Section 95.605 is revised to read as follows:

§ 95.605 Definitions.

As used in this part, the term:

"Acceptance documents" means written evidence of satisfactory completion of an approved phase of work or contract, and acceptance thereof by the State agency.

"Acquisition" means acquiring ADP equipment or services from commercial sources or from State or local government resources.

"Advance planning document" or "APD" means a written plan of action to acquire the proposed ADP services or equipment. The APD must contain a statement of needs and objectives; a statement of alternative considerations including transfer of an existing system and an explanation of why such a transfer is not feasible if another alternative is proposed; a requirements analysis; a preliminary cost/benefits analysis; a personnel resource statement indicating availability of qualified and adequate staff, including a project director, to accomplish the project objectives; a detailed description of the nature and scope of the activities to be undertaken and the methods to be used to accomplish the project; a proposed activity schedule for the project; a proposed budget; a statement indicating the period of time the State expects to use the ADP service or equipment; an estimate of prospective cost distribution to the various State and Federal funding sources; the proposed procedure for distributing costs and a statement setting forth the security and interface requirements to be employed and the backup and fallback contingency procedures available. "Alternative Considerations" means methods of satisfying the stated needs and objectives (e.g., upgrade or transfer of an existing system), that the State considered in addition to the selected method.

"Approving component" means an organization within the Department that is authorized to approve requests for the acquisition of ADP equipment or ADP services. Family Support Administration (FAS) for cash assistance for Titles I, IV-A, X, XIV, and XVI(AABD); Office of Human Development Services (OHDS) for social services for Titles IV-B (child welfare services) and IV-E (foster care and adoption assistance); Family Support Administration (FSA) for Title IV-D; and Health Care Financing Administration (HCFA) for Title XIX of the Social Security Act.

"Automatic data processing" or "ADP" means data processing performed by a system of electronic or electrical machines so interconnected and interacting as to minimize the need for human assistance or intervention.

"Automatic data processing equipment" or "ADP equipment" or "Hardware' means automatic equipment that accepts and stores data, performs calculations and other processing steps, and produces information. This includes:

(a) Electronic digital computers;

(b) Peripheral or auxiliary equipment used in support of electronic computers;

(c) Data transmission or communications equipment, and

(d) Data input equipment.

"Automatic data processing services" or "ADP services" means:

(a) Services to operate ADP equipment, either by private sources or by employees of the State agency, or by State or local organizations other than the State agency; and/or

(b) Services provided by private sources or by employees of the State agency or by State and local organizations other than the State agency to perform such tasks as feasibility studies, system studies, system design efforts, development of system specifications, system analysis, programming and system implementation.

"Data processing" means the preparation of source media containing data or basic elements of information and the use of such source media according to precise rules or procedures to accomplish such operations as classifying, sorting, calculating, summarizing, recording and transmitting.

"Department" means the Department of Health and Human Service.

"Design" or "system design" means a combination of narrative and diagrams describing the structure of a new or more efficient automatic data processing system. This includes the use of hardware to the extent necessary for the design phase.

"Development" means the definition of system requirements, detailing of system and program specifications, programming and testing. This includes the use of hardware to the extent necessary for the development phase.

"Enhanced matching rate" means the higher than regular rate of FFP authorized by Title IV-A, IV-D, and XIX of the Social Security Act for acquisition of services and equipment that conform to specific requirements designed to improve administration of the Aid to Families with Dependent Children, Child Support Enforcement and Medicaid programs.

"Enhancement" means modifications which change the functions of software and hardware beyond their original purposes, not just to correct errors or deficiencies which may have been present in the software or hardware, or to improve the operational performance of the software or hardware.

"Feasibility study" means a preliminary study to determine whether it is sufficiently probable that effective and efficient use of ADP equipment or systems can be made to warrant a substantial investment of staff, time, and money being requested and whether the plan is capable of being accomplished successfully.

"FFP" means Federal financial participation.

"Emergency situation" is defined as a situation where:

(a) A State can demonstrate to the Department an immediate need to acquire ADP equipment or services in order to continue the operation of one or more of the Social Security Act programs covered by Subpart F, and

(b) The State can clearly document that the need could not have been anticipated or planned for and the State was prevented from following the prior approval requirements of § 95.611.

"Installation" means the integrated testing of programs and subsystems, system conversion, and turnover to operation status. This includes the use of hardware to the extent necessary for the installation phase.

"Operation" means the automated processing of data used in the administration of State plans for Title I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI(AABD) of XIX of the Social Security Act. Operation includes the use of supplies, software, hardware, and personnel directly associated with the functioning of the mechanized system. See 45 CFR 205.38 and 307.10 for specific requirements for Title IV-A and IV-D, and 42 CFR 433.112 and 42 CFR 433.113 for specific requirements for Title XIX.

"Regular matching rate" means the normal rate of FFP authorized by Titles IV-A, IV-B, IV-D, IV-E, X, XIV, XVI(AABD) and XIX of the Social Security Act of State and local agency administration of programs authorized by those titles.

"Requirements Analysis" means determining and documenting the information needs and the functional and technical requirements the proposed computerized system must meet.

"Service agreement" means the document signed by the State or local agency and the State or local Central Data Processing facility whenever the latter provides data processing services to the former and:

(a) Identifies those ADP services the Central Data Processing facility will provide;

(b) Includes, preferably as an amendable attachment, a schedule of charges for each identified ADP service,

and a certification that these charges apply equally to all users;

(c) Includes a description of the method(s) of accounting for the services rendered under the agreement and computing services charges.

(d) Includes assurances that services provided will be timely and satisfactory;

(e) Includes assurances that information in the computer system as well as access, use and disposal of ADP data will be safeguarded in accordance with provisions of 45 CFR 205.50 and 303.21;

(f) Requires the provider to obtain prior approval pursuant to 45 CFR 95.611(a) from the Department for ADP equipment and ADP services that are acquired from commercial sources primarily to support the titles covered by this subpart and requires the provider to comply with 45 CFR Part 74, Subpart P for procurements related to the service agreement. ADP equipment and services are considered to be primarily acquired to support the titles covered by this subpart when these titles may reasonably be expected to either: be billed for more than 50 percent of the total charges made to all users of the ADP equipment and services during the time period covered by the service agreement, or directly charged for the total cost of the purchase or lease of ADP equipment or services;

(g) Includes the beginning and ending dates of the period of time covered by the service agreement; and

(h) Includes a schedule of expected total charges to the title covered by this subpart for the period of the service agreement.

"Software" means a set of computer programs, procedures, and associated documentation used to operate the hardware.

"State agency" means the State agency administering or supervising the administration of the State plan under Titles I, IV, X, XIV, XVI (AABD) or XIX of the Social Security Act.

"System specifications" means information about the new ADP system—such as workload descriptions, input data, information to be maintained and processed, data processing techniques, and output data—which is required to determine the ADP equipment and software necessary to implement the system design.

"System study" means the examination of existing information flow and operational procedures within an organization. The study essentially consists of three basic phases: Data gathering investigation of the present system and new information requirements; analysis of the data gathered in the investigation; and synthesis, or refitting of the parts and relationships uncovered through the analysis into an efficient system.

4. Section 95.611 is revised to read as follows:

Specific Conditions for FFP

§ 95.611 Prior approval conditions.

(a) *General Acquisition requirement.* A State shall obtain prior written approval from the Department, as specified in paragraph (b) of this section, when it plans to acquire ADP equipment or services with proposed FFP at the regular matching rate that it anticipates will have total acquisition costs of $200,000 or more in Federal and State funds over any twelve-month period, or $300,000 or more in Federal and State funds for the total acquisition. A State shall obtain prior written approval from the Department, as specified in paragraph (b) of this section, when it plans to acquire ADP equipment or services with proposed FFP at the enhanced matching rate authorized by 45 CFR 205.35, 45 CFR Part 307 or 42 CFR Part 433, Subpart C regardless of the acquisition cost. A State shall also obtain prior written approval from the Department, as specified in paragraph (b), when it plans to acquire noncompetitively from a nongovernmental source ADP equipment or services that cost more than $25,000 in Federal and State funds. The State shall submit requests for prior systems approval signed by the appropriate State official, to the Assistant Secretary for Management and Budget (ASMB), Department of Health and Human Services. Requests from States shall indicate clearly the Social Security Act titles under which funding is requested, the estimated cost for the total acquisition, and the estimated amount or percent that is requested for each title. The State shall send to the Department the original and three copies of the request for each component that must approve the request. The Department will acknowledge receipt of the State request.

(b) *Specific prior approval requirements.* The State agency shall obtain written approval of the Department:

(1) For the advance planning document or any change of the advance planning document prior to entering into contractual agreements or making any other commitment for acquisition of ADP equipment or ADP services;

(2) If the State proposes to claim FFP at the enhanced matching rate, for:

(i) The request for proposal (RFP) prior to its issuance when service or equipment proposals are being solicited from nongovernmental sources;

(ii) The contract, prior to signature of the contracting officer; and

(iii) Contract amendments, prior to signature of the contracting officer;

(3) If the State proposes to claim FFP at the regular matching rate, when:

(i) Required by the Department for the RFP, prior to its issuance, when service or equipment proposals are being solicited from non-governmental sources. For example, the Department may require prior approval of the RFP if the procurement is complex or if the grantee has a history of performance problems;

(ii) Required by the Department for the contract, prior to signature of the contracting officer. For example, the Department may require prior approval of the contract if the procurement is complex or if the grantee has a history of performance problems; and,

(iii) Required by the Department for the contract amendment, prior to signature of the contracting officer. For example, the Department may require prior approval of the contract amendment if the procurement is complex or if the grantee has a history of performance problems.

(4) When required by the Department for:

(i) The feasibility study;

(ii) The system study;

(iii) The system design;

(iv) The system specifications; and

(v) The acceptance document.

The Department will notify the State agency if such prior approval is required under § 95.611(b) (3), or (4)

(c) *Miscellaneous requirements.* States are required to provide HHS copies of:

(1) RFPs not requested for prior approval, when they are released to the public; and

(2) Contracts and contract amendments not requested for prior approval, when a State formally enters into a contract or contract amendment.

(d) *Prompt action or requests for prior approving.* The ASMB will promptly send to the approving components the items specified in paragraph (b) of this section. If the Department has not communicated approval or disapproval within 30 days the ASMB or an approving component will notify the State regarding the status of the request.

§ 95.612 [Removed]

5. Section 95.612 is removed.

6. Section 95.613 is revised to read as follows:

§ 95.613 Procurement standards.

(a) Procurements of ADP equipment and services are subject to the procurement standards prescribed by Subpart P of 45 CFR Part 74 regardless of any conditions for prior approval. Those standards include a requirement for maximum practical open and free competition regardless of whether the procurement is formally advertised or negotiated.

(b) Those standards, as well as the requirement for prior approval, apply to ADP services and equipment acquired by a State or local agency, and the ADP services and equipment acquired by a State or local Central Data Processing facility primarily to support the Social Security Act programs covered by this subpart. Service agreements are exempt from these procurement standards.

7. Section 95.615 is amended by removing the word "records" from the section heading and inserting in its place the words "systems and records" to read as follows:

§ 95.615 Access to systems and records.

8. Section 95.617 is revised to read as follows:

§ 95.617 Software and ownership rights.

(a) *General.* The State or local government must include a clause in all procurement instruments that provides that the State or local government will have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation under this subpart.

(b) *Federal license.* The Department reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes, such software, modifications, and documentation.

(c) *Proprietary software.* Proprietary operating/vendor software packages (e.g., ADABAS or TOTAL) which are provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions in paragraphs (a) and (b) of this section. FFP is not available for proprietary applications software developed specifically for the public assistance programs covered under this subpart.

9. Section 95.619 is revised to read as follows:

§ 95.619 Use of ADP systems.

ADP systems designed, developed, or installed with FFP shall be used for a period of time specified in the advance planning document, unless the Department determines that a shorter period is justified.

10. A new paragraph (d) is added to § 95.621 to read as follows:

§ 95.621 ADP reviews.

* * * * *

(d) *Acquisitions not subject to prior approval.* Reviews will be conducted on an audit basis to assure that system and equipment acquisitions costing less the $200,000 were made in accordance with 45 CFR Part 74 and the conditions of this subpart and to determine the efficiency, economy and effectiveness of the equipment or system.

11. A new paragraph (e) is added to § 95.621 to read as follows:

(e) *State Agency Maintenance of Service Agreements.* The State agency will maintain a copy of the Service Agreement on file at the State agency for Federal review.

12. A new § 95.625 is added to read as follows:

§ 95.625 Increased FFP for certain ADP systems.

(a) *General.* FFP is available at enhanced matching rates for the development of individual or integrated systems and the associated computer equipment that support the administration of State plans for Titles IV-A, IV-D and/or XIX provided the systems meet the specifically applicable provisions referenced in paragraph (b) of the section.

(b) *Specific reference to other regulations.* The applicable regulations for the Title IV-A program are contained in 45 CFR 205.35. The applicable regulations for the Title IV-D program are contained in 45 CFR Part 307. The applicable regulations for the Title XIX program are contained in 45 CFR Part 433, Subpart C.

13. The center heading before §§ 95.631 and 95.633 is revised to read as follows:

Federal Financial Participation in Costs of ADP Acquisitions

14. Section 95.631 is revised to read as follows:

§ 95.631 Cost identification for purposes of FFP claims.

The conditions of this subpart apply notwithstanding the existence of an approved cost allocation plan. State agencies shall assign and claim the costs incurred under an approved APD in accordance with the following criteria:

(a) *Development costs.* (1) Using its normal departmental accounting system, the State agency shall specifically identify what items of costs constitute development costs, assign these costs to specific project cost centers, and distribute these costs to funding sources based on the specific identification, assignment and distribution outlined in the approved APD; (2) the methods for distributing costs set forth in the APD should provide for assigning identifiable costs, to the extent practicable, directly to program/functions. The State agency shall amend the cost allocation plan required by Subpart E of this part to include the approved APD methodology for the identification, assignment and distribution of the development costs.

(b) *Operational costs.* Costs incurred for the operation of an ADP system shall be identified and assigned by the State agency to funding sources in accordance with the approved cost allocation plan required by Subpart E of this part.

(c) *Service agreement costs.* States that operate a central data processing facility shall use their approved central service cost allocation plan required by OMB Circular A-87 to identify and assign costs incurred under service agreements with the State agency. The State agency will then distribute these costs to funding sources in accordance with paragraphs (a) and (b) of this section.

15. Section 95.641 is revised to read as follows:

§ 95.641 Applicability of rules for charging equipment in Subpart G of this part.

ADP equipment, as well as other equipment acquired under public assistance programs, is subject to Subpart G of this part. Among other things, Subpart G provides that a State may charge only depreciation or use allowances for equipment with unit acquisition cost of over $25,000. However, for ADP equipment HHS will consider requests for waivers of that restriction. If the acquisition of the equipment is part of an APD that is subject to the prior approval requirements of Subpart F, the State may submit the request for a waiver as part of the APD.

§ 95.643 [removed]

16. Section 95.643 is removed.

PART 205—[AMENDED]

45 CFR Part 205, is amended as set forth below:

1. The authority citation for 45 CFR Part 205 continues to read as follows:

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302, unless otherwise noted.

2. Section 205.35 is revised to read as follows:

§ 205.35 Mechanized claims processing and information retrieval systems; definitions.

Section 205.35 through 205.38 contain State plan requirements for an automated statewide management information system, conditions for FFP and responsibilities of the Social Security Administration (SSA). For purposes of §§ 205.35 through 205.38:

(a) "A mechanized claims processing and information retrieval system", hereafter referred to as an automated "application processing and information retrieval system" (APIRS), or the "system", means a system of software and hardware used:

(1) To introduce, control and account for data items in providing public assistance under the Aid to Families with Dependent Children (AFDC) State plan; and

(2) To retrieve and produce utilization and management information about such aid and services as required by the single State agency and Federal government for program administration and audit purposes.

(b) "Planning" means:

(1) The preliminary project activity to determine the requirements necessitating the project, the activities to be undertaken, and the resources required to complete the project;

(2) The preparation of an APD;

(3) The preparation of a detailed project plan describing when and how the computer system will be designed and developed; and

(4) The preparation of a detailed implementation plan describing specific training, testing, and conversion plans to install the computer system.

(c) The following terms are defined at 45 CFR Part 95, Subpart F § 95.605:

"Design" or "System Design"; "Development"; "Hardware"; "Installation"; "Operation"; and, "Software".

PART 433—[AMENDED]

42 CFR Part 433, Subpart C is amended as set forth below:

1. The authority citation for 42 CFR Part 433 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 433.111 is revised to read as follows:

§ 433.111 Definitions.

For purposes of this section:

(a) The following terms are defined at 45 CFR Part 95, Subpart F § 95.605:

"Advance Planning Document"; "Design" or "System Design"; "Development"; "Enhancement"; "Hardware"; "Installation"; "Operation"; and, "Software".

(b) "Mechanized claims processing and information retrieval system" means a system of software and hardware used to process Medicaid claims, and to retrieve and produce utilization and management information about services that is required by the Medicaid agency or Federal Government for administrative and audit purposes.

3. The heading for § 433.112 is revised to read as follows:

§ 433.112 FFP for design, development, installation or enhancement of mechanized claims processing and information retrieval systems.

4. Section 433.112(a) is revised to read as follows:

(a) FFP is available at 90 percent in expenditures for design, development, installation or enhancement of a mechanized claims processing and information retrieval system, if the system is approved by the Administrator.

PART 307—[AMENDED]

45 CFR Part 307 is amended as set forth below:

1. The authority citation for 45 CFR Part 307 continues to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666, 667 and 1302.

2. Section 307.1 is revised to read as follows:

§ 307.1 Definitions.

(a) "Computerized support enforcement system" means a system of software and hardware (that may have State and local components) which:

(1) Introduces, processes, accounts for and monitors data used by the Child Support Enforcement program in carrying out activities under the State plan; and

(2) Produces utilization and management information about support enforcement services as required by the State IV-D agency and Federal government for program administration and audit purposes.

(b) "Planning" means:

(1) The preliminary project activity to determine the requirements necessitating the project, the activities to be undertaken, and the resources required to complete the project;

(2) The preparation of an APD;

(3) The preparation of a detailed project plan describing when and how the computer system will be designed and developed; and

(4) The preparation of a detailed implementation plan describing specific training, testing, and conversion plans to install the computer system.

(c) The following terms are defined at 45 CFR Part 95, Subpart F § 95.605:

"Advance Planning Document"; "Design" or "System Design"; "Development"; "Enhancement"; "Installation"; "Operation"; "Requirements analysis", and "Software".

(d) The definitions found in § 301.1 of this chapter are also applicable to this part.

[FR Doc. 86-28253 Filed 12-17-86; 8:45 am]
BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6635

[ID-943-07-4220-11; I-22812]

Partial Revocation of Reclamation Project Withdrawal; Targhee National Forest, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a reclamation project withdrawal affecting 104.1 acres of public land within the Targhee National Forest. After revocation of the withdrawal, the underlying lands will remain segregated from entry by a pending Forest Service exchange application.

EFFECTIVE DATE: December 18, 1986.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 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; U.S.C. 1714, and by an Act of Congress dated November 7, 1986, Pub. L. 99-632, and a U.S. District Court Order of November 25, 1986, it is ordered as follows:

1. The Secretarial Order of September 13, 1934, which withdrew national forest lands for the Minidoka Reclamation Project, is hereby revoked insofar as it affects the following-described lands:

Boise Meridian, Idaho

T. 13 N., R. 43 E.,
Sec. 27, lots 4 and 5;
Sec. 28, lot 1.

The area described contains 104.1 acres in Fremont County.

2. Upon revocation of the withdrawal, the lands described above will

immediately become available for a pending Forest Service exchange.

December 15, 1986.

J. Steven Griles,

Assistant Secretary of the Interior.

[FR Doc. 86-28368 Filed 12-17-86; 8:45 am]

BILLING CODE 4310-GG-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-3; RM-4846]

Television Broadcasting Services; Holbrook, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document assigns VHF television Channel 11 to Holbrook, Arizona, as that community's first commercial television service, in response to a petition filed by Metro Telecasting. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 22, 1987.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-3, adopted November 3, 1986, and released December 9, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. In § 73.606(b), the Table of Assignments, is amended by adding Channel 11+ at Holbrook, Arizona.

Federal Communications Commission.

Ralph A. Haller,

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

[FR Doc. 86-28314 Filed 12-17-86; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 51, No. 243
Thursday, December 18, 1986

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 85-394]

Sugarcane Juice From Hawaii and Puerto Rico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning sugarcane diseases (7 CFR 301.87) by adding provisions for the interstate movement of sugarcane juice from Hawaii and Puerto Rico pursuant to the issuance of a certificate based upon a determination by an inspector that the sugarcane juice has been heated at 100°C for 10 or more minutes. This amendment appears to be necessary to relieve current restrictions on the interstate movement of sugarcane juice. It does not appear that these changes would increase the risk of the interstate spread of diseases of sugarcane.

DATE: Written comments concerning this proposed rule must be received on or before February 17, 1987.

ADDRESS: Written comments should be submitted to Steven R. Poore, Acting Assistant Director , Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should indicate that they are in response to Docket No. 85-394. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Bhisham Singh, Biological Assessment Support Staff, PRQ, APHIS, USDA, Room 627, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5215.

SUPPLEMENTARY INFORMATION:

Background

In 1983, regulations captioned "Subpart-Sugarcane Diseases" (contained in 7 CFR 301.87 *et seq.* and referred to below as the regulations) were established quarantining Hawaii because of leaf scald disease and Puerto Rico because of leaf scald and gummosis diseases. Articles that may carry these sugarcane diseases are designated as "regulated articles" within the regulations, which regulate their interstate movement from Hawaii and Puerto Rico. Interstate movement of regulated articles from Hawaii and Puerto Rico is permitted under certificates and limited permits, which require compliance with stringent criteria to prevent artificial spread of leaf scald and gummosis diseases.

Diseases of Concern

"Gummosis" is caused by the highly infectious bacterium *Xanthomonas campestris* pv. *vasculorum* (Cobb) Dye. This bacterium may produce a yellow slime that interferes with plant development, causing tops to die and terminal buds to decay.

"Leaf scald" is caused by the highly infectious bacterium *Xanthomonas albilineans* (Ashby) Dowson. Considered to be one of the major diseases of sugarcane, leaf scald can cause the sudden death of canes.

Since these diseases are not widely prevalent or distributed within or throughout the continental United States, the regulations are needed to protect domestic sugarcane industries in Florida, Louisiana, and Texas.

Sugarcane Juice

Sugarcane juice is used as a drink, as an ingredient in the manufacture of rum and sweets, and as a seasoning in home cooking. Although not specifically named in the current regulations as a regulated article, sugarcane juice extracted from infected sugarcane during processing may contain *Xanthomonas campestris* pv. *vasculorum* (Cobb) Dye and *Xanthomonas albilineans* (Ashby) Dowson. Therefore, sugarcane juice is a regulated article under present § 301.87-2(d), which provides that any product, article, or means of conveyance not specifically listed is a regulated article when it is determined by an inspector that it presents a risk of spread of a sugarcane disease and the person in possession of its has actual notice that the product, article or means of conveyance is subject to the restrictions of § 301.87. Since sugarcane juice moved interstate from Hawaii and Puerto Rico constitutes a substantial risk of causing the interstate spread of sugarcane diseases, we propose to specifically designate sugarcane juice as a regulated article in § 301.87.

Further, we have established that *Xanthomonas campestris* pv. *vasculorum* (Cobb) Dye and *Xanthomonas albilineans* (Ashby) Dowson are destroyed when sugarcane juice is heated at 100°C for 10 or more minutes. We are proposing, therefore, to allow interstate movement of sugarcane juice from Hawaii and Puerto Rico when a certificate has been issued by an inspector based on the inspector's determination that the sugarcane juice has been subjected to this heat treatment, under the direction of an inspector, prior to movement.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued 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 proposed rule would have an an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The commercial demand for sugarcane juice from Hawaii and Puerto Rico is extremely limited. It appears that quantities marketed interstate would not represent a significant portion of the sales or inventory of affected entities. Moreover, the economic impact resulting from this document would be of a beneficial nature since the proposed amendment of § 301.87 would relax unnecessary barriers to the interstate movement of sugarcane juice.

Under the circumstances referred to above, the Administrator of the Animal and Plant Health Inspection Service has

determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Agricultural commodities, Hawaii, Plant diseases, Plant pests, Plants (Agricultural), Puerto Rico, Quarantine, Sugarcane, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Under the circumstances referred to above, it is proposed to amend "Subpart—Sugarcane Diseases" (7 CFR 301.87 et seq.) as follows:

1. The authority citation for 7 CFR Part 301 would continue to read as follows:

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

2. In § 301.87–1, the definition of "regulated article" would be revised to read as follows:

§ 301.87–1 Definitions.

* * * * *

Regulated article. Any article listed in § 301.87–2(a), (b), (c), or (d) or otherwise designated as a regulated article in accordance with § 301.87–2(e).

* * * * *

3. In paragraph (c) of § 301.87–2, the word "and" following the semicolon would be removed.

4. In paragraph (d) of § 301.87–2, the reference to "paragraph (a), (b), or (c) of this section" would be changed to read "paragraph (a), (b), (c), or (d) of this section".

5. In § 301.87–2, paragraph (d) would be redesignated paragraph "(e)" and a new paragraph (d) would be added to read as follows:

§ 301.87–2 Regulated articles.

* * * * *

(d) Sugarcane juice; and

* * * * *

6. Section 301.87–10 would be amended by adding a new paragraph (e) to read as follows:

§ 301.87–10 Treatments.

* * * * *

(e) Sugarcane juice: Heat at 100°C (212°F) for 10 or more minutes.

Done at Washington, DC, this 15th day of December 1986.

D. Husnik,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86–28424 Filed 12–17–86; 8:45 am]

BILLING CODE 3410–34–M

Federal Crop Insurance Corporation

7 CFR Part 454

[Docket No. 0108A]

Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to issue a new Part 454 in Chapter IV of Title 7 of the Code of Federal Regulations to be known as the Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations (7 CFR Part 454), effective for the 1987 and succeeding crop years. The intended effect of this rule is to prescribe procedures for insuring fresh market tomatoes based on a production guarantee rather than an amount of insurance. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than January 20, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes 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 November 1, 1991.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

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

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

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

On October 9, 1986, the Board of Directors of the FCIC approved a program for insuring fresh market tomatoes in North Florida, Georgia, Pennsylvania, and South Carolina based on a production guarantee rather than an amount of insurance concept. It was determined at the meeting that a standard production guarantee policy will be more effective for the new program areas because the new areas will not have the wide price fluctuations found in South Florida.

Data needed for a dollar guarantee policy to determine amounts of insurance and valuation of production to count will be more difficult to obtain in some of the new program areas. This would make sound value determinations difficult. Using the guarantee production plan will ease this problem, allow individualized production guarantees, and a greater choice of coverage and price levels for the producer.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture,

Washington, DC, 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 454

Crop insurance; Fresh Market Tomato (Guaranteed production plan).

Proposed Rule

Accordingly, pursuant to the industry contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to issue a new Part 454 in Chapter IV of Title 7 of the Code of Federal Regulations to be known as the Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations (7 CFR Part 454), effective for the 1987 and succeeding crop years. Part 454 is proposed to be added to read as follows:

PART 454—FRESH MARKET TOMATO (GUARANTEED PRODUCTION PLAN) CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

454.1 Availability of guaranteed plan of fresh market tomato crop insurance.
454.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
454.3 OMB control numbers.
454.4 Creditors.
454.5 Good faith reliance on misrepresentation.
454.6 The contract.
454.7 The application and policy.

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

Subpart—Regulations for the 1987 and Succeeding Crop Years

§ 454.1 Availability of guaranteed plan of fresh market tomato crop insurance.

Insurance shall be offered under the provisions of this subpart on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended, (the Act). The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. The insurance is offered through two methods. First, the Corporation offers the contract contained in this part directly to the insured through Agents of the Corporation. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation. Second, companies reinsured by the Corporation offer contracts containing substantially the same terms and conditions as the contract set out in this part. No person may have in force more than one contract on the same crop for the crop year, whether insured by the Corporation or insured by a company which is reinsured by the Corporation. If a person has more than one contract under the Act outstanding on the same crop for the same crop year, all such contracts will be voided for that crop year but the person will still be liable for the premium on all contracts unless the person can show to the satisfaction of the Corporation that the multiple contract insurance was inadvertent and without the fault of the insured. If the multiple contract insurance is shown to be inadvertent and without the fault of the insured, the contract with the earliest application will be valid and all other contracts on that crop for that crop year will be cancelled. No liability for indemnity or premium will attach to the contracts so cancelled. The person must repay all amounts received in violation of this section with interest at the rate contained in the contract for delinquent premiums. An insured whose contract with the Corporation or with a Company reinsured by the Corporation under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain multi-peril crop insurance under the Act with the Corporation or with a company reinsured by the Corporation unless the insured can show that the default in the prior contract was cured prior to the sales closing date of the contract applied for or unless the insured can show that the termination was improper and should not result in subsequent ineligibility. All applicants for insurance under the Act must advise the agent, in writing, at the time of application, of any previous applications for a Contract under the Act and the present status of the applications or contracts.

§ 454.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for fresh market tomatoes which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices set by the actuarial table for the crop year.

§ 454.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 454.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 454.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the fresh market tomato insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 454.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the fresh market tomato crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 454.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by person to cover such person's share in the fresh market

tomato crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a fresh market tomato contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400-General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement To Insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Wildlife;
(4) Earthquake;
(5) Volcanic eruption; or
(6) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or subsection 9.e.(5).

b. We will not insure against any loss of production due to:

(1) Damage that occurs or becomes evident after the tomatoes have been harvested;
(2) The neglect, mismangement, or wrongdoing by you, any member of your household, your tenants, or employees;
(3) The failure to follow recognized good tomato irrigation practices;
(4) The failure to breakdown of irrigation equipment or facilities;
(5) The failure to follow recognized good tomato farming practices;
(6) The impoundment of water by any governmental, public, or private dam or reservoir project;
(7) Disease or insect infestation; or
(8) Any cause not specified in subsection 1.a. as an insured loss.

2. Crop, Acreage, and Share Insured.

a. The crop insured will be transplanted tomatoes (excluding cherry-type tomatoes) planted for harvest as fresh market tomatoes, grown on insured acreage, and for which a guarantee and premium rate are set by the actuarial table.

b. The acreage insured for each crop year will be tomatoes planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured tomatoes at the time of planting. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or
(2) The beginning of harvest.

d. We do not insure any acreage of tomatoes grown by any person if the person had not previously:

(1) Grown fresh market tomatoes for commercial sales; or
(2) Participated in the management of a fresh market tomato farming operation, in at least one of the three previous years.

e. We do not insure any acreage:

(1) Of tomatoes grown for direct consumer marketing;
(2) If the farming practices carried out are not in accordance with farming practices for which premium rates have been established;
(3) Except in Pennsylvania, on which tomatoes, peppers, eggplants, or tobacco have been grown within the previous two years and the soil was not fumigated or otherwise properly treated before planting tomatoes;
(4) Which is destroyed, it is practical to replant to tomatoes, and such acreage is not replanted (the unavailability of plants is not a valid reason for failure to replant);
(5) Initially planted before or after the planting period set by the actuarial table;
(6) Of volunteer tomatoes;
(7) Planted to a type or variety of tomatoes not established as adapted to the area or excluded by the actuarial table;
(8) Planted for experimental purposes;
(9) Planted with another crop; or
(10) Of tomatoes not subject to an agreement between the producer and the packer to pack the production (excluding insureds with their own packing facilities). Such agreement must be executed before reporting acreage.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of Acreage, Share, and Practice.

You must report on our form:

a. All the acreage of tomatoes in the county in which you have a share;

b. The practice, including the bed size; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any tomato plantings in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the acreage reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. The production guarantees are progressive by stages and increase, at specified intervals, to the final stage production guarantee. The stages and coverages are:

(1) *First Stage*—From planting until qualifying for stage 2, 50% of the final stage guarantee.
(2) *Second Stage*—From the earlier of stakes driven and one tie and pruning, or 30 days after planting, until qualifying for stage 3, 75% of the final stage guarantee.
(3) *Third Stage*—From 60 days after planting until qualifying for stage 4, 90% of the final stage guarantee.
(4) *Fourth Stage*—From the earlier of 75 days after planting or the beginning of harvest, 100% of the final stage guarantee.

c. Any acreage of tomatoes damaged to the extent that growers in the area generally would not further care for the tomatoes will be deemed to have been destroyed even though the tomatoes continue to be cared for. The production guarantee for such acreage will be the guarantee for the stage in which such damage occurs.

d. Coverage level 2 will apply if you do not elect a coverage level.

e. You may change the coverage level and price election on or before the sales closing date set by the actuarial table for submitting applications for the crop year.

f. You must report production to us for the prior crop year before the sales closing date as established by the actuarial table. If you do not provide the required production report, we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the insured crop year. The yield assigned by us will not be more than 75 percent of the yield used by us to determine your guarantee for the prior crop year. If you have filed a claim for the prior crop year, the yield determined in adjusting your indemnity claim will be considered your production report.

5. Annual Premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the final stage production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-fourth percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions For Debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its agencies.

7. Insurance Period.

Insurance attaches when the tomatoes are planted and ends at the earliest of:

a. Total destruction of the tomatoes on the unit;

b. Discontinuance of harvest of tomatoes on the unit;

c. The date harvest would normally have started on the unit on any acreage which will not be harvested;

d. 120 days after the date of transplanting or replanting;

e. Completion of harvest;

f. Final adjustment of a loss; or

g. September 20 of the crop year.

8. Notice of Damage or Loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant tomatoes damaged due to any insured cause (see subsection 9.f.);

(b) During the period before harvest begins, the tomatoes on any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given; additional damage occurs.

Insured acreage may not be put to another use until we have appraised the tomatoes and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is determined within 15 days prior to or during harvest and you are going to claim an indemnity on any unit, you must give us notice not later than 72 hours after the earliest of:

(a) Total destruction of the tomatoes on the unit;

(b) Discontinuance of harvest of any acreage on the unit;

(c) The date harvest would normally start if any acreage on the unit is not to be harvested;

(d) 120 days after transplanting or replanting of the tomatoes; or

(e) September 20 of the crop year.

b. You may not destroy or replant any of the tomatoes on which a replanting payment will be claimed until we give written consent.

c. You must obtain written consent from us before you destroy any of the tomatoes which are not to be harvested.

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim For Indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tomatoes on the unit;

(2) Discontinuance of harvesting on the unit; or

(3) The date harvest should have started on the unit on any acreage which will not be harvested.

b. We will not pay any indemnity unless you:

(1) Establish the total production of tomatoes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee, times the percentage for the stage of production guarantee;

(2) Subtracting therefrom the toal production of tomatoes to be counted (see subsection 9.e.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of this policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in 25-pound carton equivalents) to be counted for a unit will include all harvested and appraised production.

(1) All tomato production harvested will be considered production to count.

(2) Appraised production to be counted will include:

(a) Unharvested production of mature green and ripe tomatoes with classification size of 6 × 7 (2-$^{6}/_{32}$ inch minimum diameter) or larger remaining after the final harvest;

(b) Potential production on unharvested acreage and potential production on acreage when final harvest has not been completed;

(c) Potential production lost due to uninsured causes; and

(d) Not less than the guarantee for any acreage abandoned or put to another use without prior written consent or which is damaged solely by an uninsured cause.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of tomatoes becomes general in the county for the planting period and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(4) The amount of production of any unharvested tomatoes may be determined on the basis of field appraisals conducted after the end of the insurance period.

(5) If you elect to exclude hail and fire as insured causes of loss and the tomatoes are damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

f. A replanting payment may be made on any insured tomatoes replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage as determined on the final planting date. The acreage to be replanted must have sustained a lost in excess of 50 percent of the plant stand.

(1) No replanting payment will be made on acreage on which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed 70 cartons multiplied by the price election, multiplied by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

g. You must not abandon any acreage to us.

h. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

i. An indemnity will not be paid unless you comply with all policy provisions.

j. It is our policy to pay your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. However, we will pay simple interests on the net indemnity ultimately found to be due to you, if the reason for non-payment is not due to your failure to provide information

or other material necessary for the computation or payment of the indemnity. Interest due will be paid from and including the 61st day after the date you sign, date, and submit to us the properly completed claim-for-indemnity form. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

k. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tomatoes are planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or
(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract on all corps insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of Right to Indemnity on Insured Share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of Indemnity.

You may assign to another party your right to an indemnity for the corp year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and Access to Farm.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all tomatoes produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the corp year to which the records apply, assignment of produciton to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and Termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or
(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
Florida, Georgia, and South Carolina.	February 15.
Pennsylvania	April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 3 consectuive years.

16. Contract Changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities ae computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by November 30 preceding the cancellation date for counties with a February 15 cancellation date, and by December 31 preceding the cancellation date for counties with an April 15 cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of Terms.

For the purposes of tomato crop insurance:

a. "Acre" means 43,560 square feet of land on which row widths do not exceed 6 feet or if row widths exceed 6 feet, the land area on which at least 7,260 linear feet of rows are planted.

b. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding fresh market tomato insurance in the county.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the tomatoes are normally grown and is designated by the calendar year in which the tomatoes are normally harvested.

e. "Harvest" means the picking of marketable tomatoes on the unit.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Mature green tomato" means a tomato which:

(1) Has Heightened gloss because of the waxy skin that cannot be torn by scraping;
(2) Has well formed jelly-like substance in the locules;
(3) Has seeds that are sufficiently hard so they are pushed aside and not cut by a sharp knife in slicing; and
(4) Shows no red color.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

j. "Planting" means transplanting the tomato plants into the field.

k. "Plant stand" means the number of live plants per acre before the plants were damaged due to insurable causes.

l. "Potential production" means the number of 25-pound cartons of mature green or ripe tomatoes with classification size of 6 x 7 (2 6/32 inch minimum diameter) or larger which the tomato plants would produce or would have produced, per acre, by the end of the insurance period.

m. "Replanting" means performing the cultural practices necessary to replant insured acreage to tomatoes.

n. "Service office" means the office servicing your contract as shown on the application for insurance or such other

approved office as may be selected by you or designated by us.

o. "Tenant" means a person who rents land from another person for a share of the tomatoes or a share of the proceeds therefrom.

p. "Tomatoes grown for direct consumer marketing" means tomatoes grown for the purpose of selling directly to the consumer.

q. "Unit" means all insurable acreage of tomatoes in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or
(2) Which is owned by one person and operated by another person on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tomatoes on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive Headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with the Appeal Regulations (7 CFR Part 400—Subpart J).

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on November 24, 1986.

Edward Hews,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-28413 Filed 12-17-86; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF JUSTICE

8 CFR Part 109

Employment Authorization; Classes of Aliens Eligible

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Extension of comment period of petition for rulemaking.

SUMMARY: Passage of Pub. L. 99-603 created a new section of law containing a definition of "unauthorized alien" that appears to have a direct bearing on the issues to be considered in the petition for rulemaking published October 28, 1986 (51 FR 39385). The Service has extended the deadline for submitting written comments in order to allow the public additional opportunity to study the petition in view of the new law.

DATE: Comments are now due on or before January 28, 1987.

ADDRESS: Please submit comments in duplicate to the Director, Office of Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

FOR GENERAL INFORMATION: Loretta Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3048

FOR SPECIFIC INFORMATION: Michael L. Shaul, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3946

SUPPLEMENTARY INFORMATION: On October 28, 1986 the Immigration and Naturalization Service ("the Service") published a Petition for Rulemaking based upon a petition which had been received from the Federation for American Immigration Reform ("FAIR") setting forth the position that the Service had exceeded its authority in promulgating regulations at 8 CFR 109.1(b) allowing illegal or temporarily present aliens to apply for and receive work authorization. The Service published the FAIR petition without comment and invited the public to comment and assist the Service in determining whether to proceed with the rulemaking sought by the petition. The October 28, 1986 notice in the **Federal Register** called for the submission of written comments on or before December 29, 1986.

On November 6, 1986 the Immigration Reform and Control Act of 1986 (Pub. L. 99-603) became law. Public Law 99-603 created section 274A of the Immigration and Nationality Act. Included in that section is a definition of the term "unauthorized alien" at 274A(h)(3):

DEFINITION OF UNAUTHORIZED ALIEN—As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

Because this new section of law appears to have a direct bearing on the issues to be resolved in consideration of the FAIR petition, the Service is requesting that comments be made in light of this definition of "unauthorized alien". The Service is also extending the period for submission of written comments by thirty days until January 28, 1987 in order to allow the public sufficient time to study the matter in light of this new factor.

Dated: December 15, 1986.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-28398 Filed 12-17-86; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Rule on the Submission and Management of Records and Documents Related to the Licensing of a Geologic Repository for the Disposal of High-Level Radioactive Waste; Intent To Form an Advisory Committee for Negotiated Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to form an advisory committee to negotiate a proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering formation of an advisory committee under the Federal Advisory Committee Act, to develop recommendations for revision of the Commission's discovery rules, and selected other rules of practice in 10 CFR Part 2, related to the adjudicatory proceeding for the issuance of a license for a geologic repository for the disposal of high-level (HLW). Specifically, the committee would attempt to negotiate a consensus on proposed revisions related to the submission and management of records and documents for the HLW licensing proceeding. The committee would be composed of organizations representing the major interests affected by the rule. This notice provides a preliminary identification of interests that may be represented on the committee, and the issues that the

committee may consider. The notice also invites public comment on potential participation on the committee and on the rulemaking issues identified for negotiation.

DATE: Submit comments by February 17, 1987. Comments received after this date will be considered only if it is practical to do so.

ADDRESS: Send comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington DC 20555, Attn: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Francis X. Cameron, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555, Telephone: 301-492-8689

Kenneth L. Kalman, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555, Telephone: 301-427-4071.

SUPPLEMENTARY INFORMATION:

Background

Under section 114(d)(2) of the NWPA, the NRC is required to issue a final decision approving or disapproving issuance of a construction authorization for the high-level waste repository no later than three years after the date of submittal of the DOE license application, with a possible extension of twelve months for good cause. If the NRC is to meet the statutory deadline for making its decision on construction authorization, specific measures must be taken to streamline the NRC review process. One such measure is the development of an electronic information management system to provide parties to the licensing proceeding with ready access to all relevant documents.

One of the most significant contributions to the length of licensing review has been the time associated with sending, receiving, and handling of information and data. This is true for docketed correspondence between receivers and applicants, for discovery by the production of documents and by interrogatories, and service of documents during adjudication. Current technology for electronic storage, retrieval, and mail could substantially reduce the time needed for information processing.

If the Commission is to reach its construction authorization decision within the allotted timeframe, it will be necessary to facilitate the discovery process, as well as to reduce the delay normally associated with the physical service of documents. Hence, the information and data supporting a DOE application should be made available to all interested parties before the application is submitted and formal NRC review begins. This would entail DOE development of a licensing information system that would provide ready access to all pertinent documents. The system would not involve the generation of new data, but rather, would capture in electronic form, all the data that would normally be generated to the licensing decision. As such, it would serve as a means for efficient management of the information to be used in the licensing decision.

Ideally, all parties to the licensing proceeding would provide access to all relevant data within their control by making it available in a standard electronic format for easy incorporation into a centralized computer data base in the licensing information system. Appropriate safeguards would have to be provided and a "no access" file for privileged data would have to be created. All parties, as well as interested State, local, and tribal governments would then have open access to the licensing information system, with the exception of data in the privileged file. Commission requirements for system performance are that ready access to the system would be available at minimal cost to the user. The Commission proposes to implement this process through a rulemaking which would require all parties to the high-level waste licensing proceeding to place all of their relevant documents in the data base and to use the licensing information data base as the sole information base for discovery purposes.

Because all relevant licensing information would already be available through access to the information management system, this type of process would eliminate the traditional filing of first round discovery requests and accompanying search times by the party from whom the records were requested. It would also eliminate the mailing time associated with the request and the response, and would eliminate or reduce requests for extensions of time because documents were not provided or because adequate search time was not available. Furthermore, it will ensure, to the extent practicable, the availablility of data at the earliest possible time, thereby facilitating the early resolution of licensing issues.

To ensure that the information and data are readily available to all participants, NRC staff believes that the DOE license application and all records relevant to the application should be submitted in a standardized electronic format. The standardized electronic format will ensure compatibility of information and data submitted by parties to the licensing hearing. It would also eliminate the need to re-key information and data into an NRC-accessible system. The compatible information and data would then be accessible to all interested parties (States, Tribes, and others).

In agreement with DOE, NRC will carry out a pilot project to demonstrate document storage and retrieval capabilities and to develop processes that could lead to an interim system for use within the NRC (and possibly by others) until the DOE's full information management system, formally known as the Licensing Support System (LSS) is implemented. The experience gained from the pilot project will be made available to DOE for use in expediting the definition of requirements for the ISS.

In addition, NRC is participating with DOE on an Interagency Coordinating Committee (ICC) whose purpose is to provide a preliminary evaluation of the major issues related to the development and implementation of the LSS. The ICC has met several times, with the assistance and participation of States, Indian Tribes, and the public. Much of the planning and background information developed by the ICC will be useful to the negotiating committee in developing the final recommendations on the use of the LSS in the Commission's HLW licensing process. However, the Commission emphasizes that the use of the LSS in the Commission's licensing proceeding, and any related design issues, will ultimately be dictated by the Commission's rulemaking on this issue, whether the rule is developed through the negotiated rulemaking process or by the Commission on its own initiative. Although the ICC, with the participation of the States and Tribes, will allow DOE to begin planning the development of the system in the period during which the negotiating committee is being constituted, the ultimate decision on the nature of the system and its use will be made within the context of the Commission's rulemaking, with the negotiated rulemaking as the first step in that process.

The Negotiated Rulemaking Process

The Commission intends to use the process of "negotiated rulemaking" to develop the proposed rule that would revise the Commission's discovery procedures and motion practice in 10 CFR Part 2 for the high-level waste licensing proceeding. In negotiated rulemaking, the representatives of

parties who may be affected by a rulemaking, including the agency, convene as a group over a period of time to try to achieve consensus on the rulemaking issues. The agency represents one essential party in the negotiation, with the same rights and responsibilities as any other party. If the negotiating committee does reach a consensus, the committee prepares a report to the agency containing the proposed rule. The agency would then use the consensus report as a basis for a notice of proposed rulemaking. The consensus is the basis for the proposed rule published for public comment, not the final rule. The agency retains the responsibility to develop the final rule on the basis of notice and comment procedures. If the negotiating committee cannot reach consensus, the Commission will proceed to develop the rule on its own.

Negotiated rulemaking offers an opportunity for comprehensive treatment of the issues and creative solutions because all those with ideas on how to solve the problem are present at the discussions and can react directly to each others concerns and positions. It will be particularly important in this rulemaking for all affected parties to communicate directly on a set of uniform and compatible system requirements because of the diverse information systems now in use by these parties. In addition, because the intervenors in the HLW licensing proceeding may possess substantial research data, it is important that they participate fully in the licensing information management system. The Commission believes that negotiated rulemaking will encourage this participation.

Participation by affected interests in the development of the proposed rule will be important in terms of the credibility of the information management system, i.e., the belief that all relevant documents have been entered and that the system is secure from tampering. In this respect, negotiated rulemaking should increase the acceptability and enforceability of the rule. Affected interests will be less likely to resist its enforcement, lobby against its implementation, or challenge it in court.

Negotiated rulemaking has been used successfully by other agencies, and the Commission believes that it is appropriate to use this technique to develop the rulemaking on the HLW licensing information system. This particular rulemaking involves the resolution of many issues, such as what data should be entered into the system, how to ensure that all relevant documents are entered, what types of data will be privileged, security and access issues, sanctions for withholding data, and appropriate modification of the discovery rules. These issues must be resolved to the satisfaction of all affected interests to ensure that the benefits of the rulemaking are achieved. The likelihood of developing a consensus in this area is high because of the mutual benefits that could be realized by all parties.

This would be the Commission's first experience with negotiated rulemaking. Its use, in appropriate situations, has been encouraged by the Administrative Conference of the United States (ACUS). *See* ACUS Recommendation 82-4 (47 FR 11024; 03-15-82) and 85-5 (50 FR 52893; 12-27-85). The Environmental Protection Agency (EPA), and the Federal Aviation Administration (FAA) have completed successful negotiated rulemakings. The ACUS has reviewed these attempts and concluded that its endorsement of negotiated rulemaking was sound.

1. Feasibility

The NRC staff has had preliminary discussions on the development and use of an electronic information management system in the HLW licensing proceeding, and on the possibility of using negotiated rulemaking to institute this system, with many of the parties that would be potentially affected by the rulemaking. This has included DOE and those having special interests under the NWPA—the States and Tribes. Public interest groups have also been approached. The professional mediators that the Commission has engaged to conduct the negotiated rulemaking will make further inquiries among a broad range of parties to determine (1) whether representatives of essential parties would agree to participate in the negotiated rulemaking process, (2) the specific individuals who might represent those parties, (3) the preliminary scope of the issues to be addressed, and (4) the timetable for the negotiating process.

On the basis of preliminary analysis and inquiries, the Commission believes negotiated rulemaking in a feasible mechanism for developing the proposed rule. However, the professional mediators will be further evaluating the feasibility of using the negotiated rulemaking process, and their report, as well as any comments submitted in response to this Notice, will be considered before the Commission proceeds with the negotiated rulemaking.

2. Convenor/Facilitators

Under the umbrella of the Council on Environmental Quality contract for negotiated rulemaking services, the Commission plans to employ the Conservation Foundation of Washington, DC, to oversee the negotiated rulemaking process. Gail Bingham, Senior Associate of the Foundation will act as Project Manager for the negotiation. The Conservation Foundation negotiating team has had extensive experience in multi-party dispute resolution, including experience in negotiated rulemaking. The Conservation Foundation negotiating team has not had any prior involvement with the substantive content of this particular rulemaking.

As noted above, the Conservation Foundation, in the exercise of its responsibility as convenor, will be contacting potential participants on the negotiating committee, and will prepare a feasibility analysis of the negotiation for the Commission's consideration. The facilitator from the Conservation Foundation will chair the negotiating sessions, assist individual parties in forming and presenting their positions, and offer suggestions and alternatives that would help the negotiating committee reach consensus.

3. Participants

The Commission has identified several interests that may be affected by this particular rulemaking. These interests include—

- The NRC as the sponsoring agency
- The Department of Energy
- States potentially affected by the siting of the repository
- Indian Tribes potentially affected by the siting of the repository
- Local governments potentially affected by the siting of the repository
- National environmental public interest groups potentially affected by the siting of the repository
- National energy development public interest groups potentially affected by the siting of the repository or
- Local environmental public interest groups potentially affected by the siting of the repository
- Local energy development public interest groups potentially affected by the siting of the repository
- States, Tribal governments, and local governments potentially affected by the transportation of HLW
- Ratepayers, represented by the National Association of Regulatory Utility Commissioners, or a similar association

• Utilities, represented by the Utility Nuclear Waste Management Group, or a similar association

Although not all of these parties may actually participate in the Commission's HLW licensing proceeding, they all have an interest in the efficiency and adequacy of the process that the Commission uses to ultimately arrive at a final decision on the DOE license application. These interests could be represented by several parties acting in their individual capacities, or by a single party representing several groups in a particular class. The Commission will make a final determination on the identity of the parties that will participate in the negotiated rulemaking based on the convenor's report and the comments received in response to this notice.

The Commission will consider parties for membership on the basis of (1) their direct, immediate, and substantial stake in the rulemaking, (2) whether they may be adequately represented by another party on the committee, and (3) whether their participation is essential to a successful negotiation. However, the Commission does not believe that every individual or group actually or potentially affected by this rulemaking must have its own member on the committee. Rather it is sufficient if each major interest affected by the rule is adequately represented on the committee. The Commission also anticipates that particular groups or individuals may choose not to participate because they believe that the effects of the rulemaking on their interests are limited or speculative, or because they are already adequately represented on the negotiating committee. For example, with the DOE deferral of the site-specific aspects of the second repository program, many "second round" States and Indian Tribes may feel that their interests on the negotiating committee are adequately represented by participation of the "first round" States and Indian Tribes. In addition, to keep the negotiating committee at a manageable size, the Commission may need to consolidate the participation of "second round" States and Indian Tribes in light of the DOE deferral of a site-specific second repository program. However, the Commission welcomes expressions of interest from all potentially affected groups, including those whose stake in the rulemaking may only be speculative at this point. Requests for representation must be made in writing by the date appearing in the notice.

It is important that the negotiating committee be kept to a manageable size in order to maximize the efficient operation of the committee and the chances for success. The ACUS has recommended 15 members as a optimum size, but negotiated rulemakings have also been successfully conducted with as many as 25 committee members. The Commission anticipates proceeding with the negotiation if a substantial number of essential interests are willing to participate.

The Commission will encourage the consolidation of groups/persons with like interests in order to reduce the number of participants in the negotiations. Furthermore, the Commission will use the selection criteria set forth above to exclude interested parties only as a last resort. The Commission itself will make the determination on who will be permitted to participate, if such a decision must be made.

Any individual or group not sitting as a member of the committee, and the public generally, will be provided with an opportunity to comment on any proposed rule developed as a result of the negotiating process. In addition, non-parties will also have an opportunity to attend the meetings of the negotiating committee, and to submit information to the negotiating committee, under the Federal Advisory Committee Act.

4. Qualifications of Representatives

Participants on the negotiating committee must be willing to negotiate in good faith. In this regard, it is important that senior individuals within each party participating in the negotiation, including the NRC, be designated to represent that party. The Commission has designated William J. Olmstead, Assistant General Counsel for Rulemaking and Fuel Cycle, as its representative. Although the individual representative will not be required to "bind" the party he or she represents in terms of making an "on the spot" commitment on any issue that may arise at a particular negotiating session, the representative must have sufficient seniority and delegated responsibility to authoritatively represent the views of the party.

5. Federal Advisory Committee Act

In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., and the Commission's regulations in 10 CFR Part 7, the Commission is, by this notice, indicating its intent to charter the negotiating committee as an advisory committee. The draft charter will be submitted to the General Services Administration (GSA) for its review under 41 CFR Part 101-6.

In line with the GSA guideline that it is the responsibility of each agency to make a good faith effort to meet its advisory committee membership requirements on a noncompensated basis, 41 CFR 101-6.1033, the Commission is not providing any direct funding to the individual members on the negotiating committee. The Commission anticipates that the parties to the negotiation will either be able to cover expenses through funds provided by DOE under the NWPA or will be financially capable of covering their own expenses. In exceptional cases, where an essential group will be unable to participate due to the lack of funds, the Commission will have the convenor for the negotiation attempt to arrange funding through a nonprofit organization.

The Commission is providing complete support for the operation of the committee, including funding for a professional convenor/facilitator to assist the negotiating committee in reaching consensus, funding for the training of participants on the principles of negotiation, provision of background information to the negotiating committee on the technical and legal aspects of the rulemaking, provision of all logistical and administrative support for committee operations, and provision of Commission legal and technical staff to assist the committee.

In accordance with the Commission's regulations in 10 CFR Part 7, advance notice of negotiating committee meetings will be provided in the Federal Register, the meetings of the full negotiating committee will generally be open to the public, members of the public will be allowed to submit written statements to the committee, and detailed minutes of each meeting will be recorded and available for public review and copying.

6. Committee Procedures and Meetings

Under the general guidance of the convenor/facilitator, the committee will establish detailed procedures for conducting committee meetings. To assist the committee, the convenor/facilitator is preparing draft procedures for committee review. These draft procedures address such issues as the definition of consensus and the use of working groups and caucuses.

The Commission anticipates that approximately nine two-day meetings will be required to fully implement the negotiating process for this rulemaking. This series of meetings will take place over a period of nine months beginning in early 1987. Approximately one-half of the meetings will be held in Washington,

DC, and the remaining meetings will be held at regional locations. The first meeting of the negotiating committee will be organizational in nature, focusing on dates, times, locations, and procedures for future meetings. The Commission also intends to sponsor a one day training session on the principles of negotiation for the committee as part of this first meeting. Negotiating sessions would begin approximately one month after the initial organizational meeting and continue monthly thereafter. The Commission is prepared to provide detailed information to the negotiating committee on the legal and technical aspects of the rulemaking during the initial sessions.

7. Notice of Proposed Rulemaking

The negotiating committee's specific objective will be to reach consensus on the terms of a notice of proposed rulemaking. To the extent that the negotiations are successful, the committee will prepare a report describing the factual basis on which the committee developed its proposals. The Commission will provide drafting assistance to the committee in this regard. If consensus is not reached on some issues, the report should identify the areas of consensus, the areas in which consensus could not be reached, and the reasons for non-agreement.

The Commission agrees to issue for comment any proposed rule prepared by the negotiating committee unless the Commission finds that the proposed rule is inconsistent with its statutory authority or is not appropriately justified. In that event, the Commission would explain the reasons for its decision. Adoption of any final rule will be based on consideration of any comments received on the proposed rule and other materials constituting the rulemaking record.

8. Failure to Reach Consensus

The Commission plans to dissolve the negotiating committee if the participants do not reach consensus within eight months after the first committee meeting. The Commission retains the discretion to dissolve the committee of an earlier time if the Commission determines that the committee's activities are being carried out in the public interest. If the negotiating committee is unable to reach consensus on any of the issues raised for discussion, the committee will prepare a report identifying the reasons for failure to achieve consensus. In the absence of consensus, the Commission has direted the NRC Staff to develop a proposed rule on an expedited basis.

9. Issues for Negotiation

The Commission has identified a number of issues appropriate for consideration by the committee. The convenor/facilitators will also be soliciting the views of potential parties on additional issues that may be appropriate for discussion. In addition, the Commission invites any interested person to suggest issues relevant to this rulemaking. The Commission anticipates that additional issues will be considered by the committee as they arise. The following is a preliminary list of issues and is not intended to be a rigid agenda for the committee's deliberations—

- What categories of information will be relevant to the HLW licensing decision, and therefore should be placed in the LSS?
- What timeframe should be used for the identification of relevant documents?
- How should drafts, handwritten notes, and handwritten annotations be handled?
- What rules should apply to privileged information i.e. what documents are privileged and at what point in time should they be placed in the LSS?
- At what time will parties, or potential parties, to the licensing proceeding be required to enter documents into the LSS? How can the early entry of data be encouraged?
- What organization will be responsible for administering the LSS?
- What procedures should be established to ensure that all relevant documents are entered into the LSS?
- What procedures will apply to any documents that are incorrectly excluded from the LSS?
- What measures, including sanctions, will be used to ensure that all relevant documents are entered into the LSS?
- How will the authentication of documents be handled?
- What security measures are necessary to protect the information in the LSS?
- What format should be used for the entry of documents into the LSS?
- Should all documents be entered in full text?
- Where will system access terminals be located and what types of assistance will be available on using the system?
- How will the electronic submission of documents be handled?

Final Notice

After evaluating the comments on this announcement, including requests for representation on the committee, the Commission will make a determination on whether to establish a negotiating committee under the Federal Advisory Committee Act. If the Commission decides that a committee should be formed, the Commission will announce its decision in the **Federal Register.**

Dated at Washington, DC, this 12th day of December 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86-28400 Filed 12-17-86; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; R-0577]

Truth in Lending; Proposed Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: The Board is publishing for comment a proposed revision to the official staff commentary to Regulation Z (Truth in Lending) regarding the right of rescission in the refinancing of a closed-end credit transaction. The revision relates to an amendment to Regulation Z recently adopted by the Board that redefines what constitutes a new advance of money in a refinancing that is exempt from the rescission provisions. (The regulatory amendment is contained elsewhere in this issue.) The proposed commentary provision would revise existing comment 23(f)-4 which explains what constitutes a new advance of money in a refinancing by the original creditor that would require the creditor to give a consumer the opportunity to rescind an extension of additional credit.

DATE: Comments must be received on or before January 30, 1987.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the 20th Street mail service courtyard entrance, 20th Street between C Street and Constitution Avenue, NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to R-0577. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION: Contact Adrienne Hurt or Leonard Chanin, Staff Attorneys, Division of Consumer and

Community Affairs, at (202) 452-3867 or (202) 452-3667; for the hearing impaired *only*, Telecommunications Device for the Deaf (TDD) Earnestine Hill or Dorothea Thompson, at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) General

The Truth in Lending Act (TILA) provides that, in a consumer credit transaction in which the consumer's principal dwelling secures an extension of credit, the consumer has three business days, generally from the date of consummation of the credit transaction, in which to rescind the transaction. This right of rescission was created to allow consumers time to reexamine their credit contracts and cost disclosures and to reconsider whether they want to place an important asset—the home—at risk by offering it as security for the credit.

Not all credit transactions secured by a consumer's principal dwelling are subject to the right of rescission. Under section 125(e) of the TILA a refinancing by the same creditor (the original creditor) is not subject to the right of rescission if no new advances of money are made to the consumer. The Board has recently adopted an amendment to Regulation Z to redefine what constitutes a new advance of money obtained by a consumer for purposes of the rescission exemption for refinancings. The regulatory amendment is contained elsewhere in this issue. The amendments redefines a new advance of money as only amounts above the costs attributable to the refinancing that are in the amount financed.

Comment 23(f)-4 would be revised to incorporate the revised definition of a new advance of money in a refinancing and to further explain what amounts are included in determining what constitutes a new advance. In addition, a minor editorial change would be made in the first sentence of comment 23(f)-4 to clarify that a consolidation is a type of refinancing. No substantive change is intended.

It is expected that revisions to comment 23(f)-4 will be adopted in final form in March 1987 (along with the final version of the sixth general update to the commentary to Regulation Z, a proposal of which was published at 51 FR 43372 on December 2, 1986). Compliance would be optional until the uniform effective date of October 1, 1987, for mandatory compliance. Certain conventions have been used to highlight the proposed revision. New language is shown inside bold-faced arrows, while language that would be deleted is set off with brackets.

Pursuant to authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604 as amended), the Board proposes to amend the official staff commentary to Regulation Z (12 CFR Part 226 Supp. I) as follows:

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in Lending.

PART 226—[AMENDED]

For the reasons set forth above, the Board proposes to amend 12 CFR Part 226 as follows:

1. The authority citation for Part 226 continues to read as follows:

Authority: Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96-221, 94 Stat. 170 (15 U.S.C. 1604 *et seq.*).

2. *Text of revisions.* The proposed revisions to the Official Staff Commentary (12 CFR Part 226, Supp. I) read as follows:

Supplement I—Official Staff Interpretations

* * * * *

Section 226.23—Right of Rescission

* * * * *

23(f) Exempt Transactions

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4. *New advances.* The exemption in § 226.23(f)(2) applies only to refinancing [or consolidations] ►(including consolidations)◄ by the original creditor. [If the transaction involves the advance of new money, then only the amount of the new money is rescindable. For example, if the sum of the outstanding principal balance plus the earned finance charge is $1,000 and the new amount financed is $1,000, then the refinancing would be exempt. On the other hand, if the new amount financed exceeds $1,000, then the amount in excess of that $1,000 would be rescindable.] ►If the refinancing involves a new advance of money, the amount of the new advance is rescindable. For purposes of the right of rescission, a new advance does not include amounts attributable to the costs of the refinancing. These amounts would include § 226.4(c)(7) charges (such as attorneys fees and title examination and insurance fees, if bona fide and reasonable in amount), as well as insurance premiums and other charges that are not finance charges. (Finance charges on the new transaction—points, for example—would not be considered in determining whether there is a new advance of money in a refinancing since finance charges are always excluded from the amount financed.) To illustrate, if the sum of the outstanding principal balance plus the earned unpaid finance charge is $50,000 and the new amount financed is $51,000, then the refinancing would be exempt if the extra $1,000 is attributed solely to costs financed in connection with the refinancing that are not finance charges. Of course, if new advances of money are made (for example, to pay for home improvements) and the consumer exercises the right of rescission, the consumer must be placed in the same position as he or she was prior to entering into the new credit transaction. Thus, if applicable, all amounts of money (which would include all the costs of the refinancing) already paid by the consumer to the creditor or to a third party as part of the refinancing would have to be redefined to the consumer. (See the commentary to § 226.23(d)(2) for discussion of refunds to consumers.)◄ A model rescission notice applicable to transactions involving new advances appears in Appendix H.

Board of Governors of the Federal Reserve System, December 11, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-28316 Filed 12-17-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket Nos. 25010 and 23485; Notice Nos. 86-7 and 86-13]

Helicopter Instrument Flight; Rotorcraft Structural Fatigue and Damage Tolerance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting, date change; and extension of comment periods.

SUMMARY: This notice announces that the public meeting previously scheduled to discuss Notice of Proposed Rulemaking (NPRM) No. 86-7, Helicopter Instrument Flight (51 FR 21488; June 12, 1986) and NPRM No. 86-13, Rotorcraft Structural Fatigue and Damage Tolerance (51 FR 33704; September 22, 1986) has been rescheduled from February 24, 1987, to March 5-6, 1987, to permit additional time for comment by the public. In addition, the comment periods for both NPRM Nos. 86-7 and 86-13 are being extended.

DATES: The public meeting will begin at 9 a.m. on March 5, 1987, and conclude on March 6, 1987.

The public comment periods for NPRM Nos. 86-7 and 86-13 are extended to April 3, 1987.

ADDRESS: The meeting will be held in the Training Room (Room 167), Building

3B, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Ms. Debra H. Myers, Regulations Programs Management, ASW-111, Aircraft Certification Division, FAA, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-5118.

SUPPLEMENTARY INFORMATION: Notice 86-7, Helicopter Instrument Flight, proposes to amend the helicopter instrument flight airworthiness requirements for the approach and landing flight phases to permit flight at airspeeds below the normal minimum instrument flight speed.

Notice 86-13, Rotorcraft Structural Fatigue and Damage Tolerance, proposes to add damage tolerance requirements to the fatigue evaluation of rotorcraft structure.

Issued in Fort Worth, Texas, on November 19, 1986.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 86-28312 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AEA-11]

Proposed Designation of Transition Area, Moundsville, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Moundsville, WV Airport. A new VOR/DME-A instrument approach procedure has been developed to the Marshall County, WV Airport. The transition area is to provide protected airspace for aircraft departing/arriving under Instrument Flight Rules, (IFR).

DATE: Comments must be received on or before January 22, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Glen A. Bales, Manager, Airspace and Planning Branch, AEA-530, Federal Aviation Administration, Docket 86-AEA-11, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430

An informal docket may also be examined during normal business hours in the Airspace and Planning Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica New York 11430; Telephone: (718) 917-1228.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Airspace and Planning Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AEA-11." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area of Moundsville, WV. A new VOR/DME-A instrument approach procedure has been developed to the Marshall County, WV Airport. The transition area is to provide protected airspace for aircraft departing/arriving under Instrument Flight Rules, (IFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

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

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

§ 71.181 [Amended]

2. § 71.181 is amended as follows:

Moundsville, WV [New]

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center (Lat. 39°52'52"N., Long. 80°44'09"W.), excluding that portion overlying

the St. Clairsville, OH, and Wheeling, WV, 700 foot transition areas.

Issued in Jamaica, New York, on December 3, 1986.

Vito J. Borrello,

Manager, Air Traffic Division.

[FR Doc. 86-28299 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWP-33]

Establishment of Transition Area at Mojave, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a 700 foot transition area at Mojave, California. This action will provide controlled airspace for a new instrument approach procedure to the Mojave, California, airport.

DATES: Comments must be received on or before February 3, 1987.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP-530, Docket No. 86-AWP-33, Air Traffic Division, P.O. Box 90027, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace and Procedures Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260, telephone (213) 297-1648.

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 that 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 the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWP-33." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace and Procedures Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90260, 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 on NPRMs

Any person may obtain a copy of this notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot transition area at Mojave, California. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(9) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Mojave, CA [New]

That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at lat. 34°48'00" N., long. 118°10'15" W.; to lat. 35°03'07" N., long. 118°12'38" W.; thence clockwise via the 3 nautical mile radius of the Mojave, California airport (lat. 35°03'30" N., long 118°09'00" W.), to lat. 35°06'30" N., long. 118°09'11" W.; to lat. 35°07'00" N., long. 117°57'00" W.; thence to the point of beginning.

Issued in Los Angeles, California, on December 1, 1986.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 86-28301 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Customs Regulations Amendment Relating to the Customs Service Field Organization, Beaufort-Morehead City, NC

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule; solicitation of comments.

SUMMARY: This document proposes to amend the Customs Regulations to change the Customs field organization by extending the geographic limits of the port of entry of Beaufort-Morehead City, North Carolina. Currently, Customs officers assigned to the port provide service at many locations which are outside the existing port limits. This proposed expansion will better serve the public by including several locations routinely requiring Customs service within the official port limits.

DATE: Comments must be received on or before February 17, 1987.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service, Room 2426, 1301 Constitution Avenue NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Office of Inspection and Control, (202-566-9425).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs proposes to amend § 101.3, Customs Regulations (19 CFR 101.3), by extending the geographic limits of the port of entry of Beaufort-Morehead City, North Carolina, located in the Wilmington, North Carolina, Customs District in the Southeast Region.

The expansion would incorporate into the port limits a number of locations where Customs service is now being provided, including the premises of Blue Bell, Inc., which is the only importer in the area that receives containerized cargo. All cargo examinations for Blue Bell are done at their premises. If the expansion is adopted, Blue Bell and any other importers within the expanded port limits would no longer be billed mileage charges, which currently total approximately $450 per year for the entire port area. The expansion would result in no additional workload and would require no additional personnel.

The proposed expanded port limits are as follows:

The port of entry of Beaufort-Morehead City, North Carolina, shall include all that area in Carteret County, North Carolina, bounded by a line beginning at a point of intersection of State Road 1147 and U.S. Highway 70; then east along U.S. Highway 70 to its intersection with the corporate limits of Morehead City; then north and east along the corporate limits of Morehead City to its intersection with the west bank of Newport River; then north along the shoreline of the Newport River to Crab Point; then in a direct line eastward across Newport River to the mouth of Wading Creek; then east along the south bank of Wading Creek to its intersection with North Carolina State Road 101; then south along State Road 101 to its intersection with U.S. Highway 70; then south along U.S. Highway 70 to its intersection with Lennoxville Road; then east along Lennoxville Road to Lennoxville Point; then southwest across Taylor Creek and west along the southern shore of Carrot Island to a point opposite the western end of Horse Island; then in a direct line southwest to the southeast tip of Fort Macon State Park; then west along the south shore of Bogue Banks to a point directly south of State Road 1147; then north along State Road 1147 to the point of beginning.

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in § 101.3(b) Customs Regulations, will be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by E.O. No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch. II) and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization and functions (Government agencies).

Executive Order 12291 and Regulatory Flexibility Act

Because this document relates to agency organization it is not subject to E.O. 12291. Accordingly, a regulatory impact analysis and the review prescribed by section 3 of that E.O. are not required. Similarly, this document is not subject to the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601. *et seq.*) and the regulatory analysis and other requirements of 5 U.S.C. 603 and 604 are not applicable.

Customs routinely establishes and expands Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding port limits in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved:

Francis A. Keating, II,

Assistant Secretary of the Treasury.

December 5, 1986.

[FR Doc. 86-28374 Filed 12-17-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. 86N-0451]

Proposed Revocation of Regulation

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to remove § 558.20 *Drugs used in medicated feeds in use before January 1, 1958, which are not otherwise listed; interim listing* because the section does not provide an appropriate basis upon which to approve medicated feed applications and because several drugs listed are not the subject of approved new animal drug applications.

DATE: Comments by February 17, 1987.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20847.

FOR FURTHER INFORMATION CONTACT: George Graber, Center for veterinary Medicine (HFV-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4438.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 3, 1986 (51 FR 7382), FDA issued a final rule revising the procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. The final rule was based on the tentative final rule published in the **Federal Register** of July 29, 1983 (48 FR 34574) and amended in the **Federal Register** of November 1, 1983 (48 FR 50358).

With respect to any intended use of an animal feed containing a new animal drug, section 512(m)(1)(B) of the Federal Food, Drug, and Cosmetic Act (the act) requires the filing of a medicated feed application (FDA Form 1900) containing, among other things, a reference to a regulation published under section 512(i) of the act. Such regulations reflect, in part, approval of new animal drugs to be used in animal feed. Section 558.20 (21 CFR 558.20) was intended to list animal drugs approved by FDA for use in animal feeds prior to 1958 which had not been codified as regulations under section 512(i) of the act. The drugs listed in § 558.20 are arsanilate sodium, arsanilic acid, butynorate, neomycin, nitarsone, phenothiazine, and piperazine.

There are no FDA approvals for the use of neomycin, phenothiazine, or piperazine in animal feed. Although there are FDA approvals in effect for the other drugs listed in § 558.20, no regulations have been published under section 512(i) of the act for the conditions of use reflected in § 558.20 for arsanilate sodium, arsanilic acid, and butynorate. Such a regulation (21 CFR 558.369) is in effect for the use of nitarsone in animal feed.

The agency has concluded that the codification of § 558.20 was inappropriate. Section 558.20 is not a regulation intended to reflect FDA approval of the use of a new animal drug in animal feed published under section 512(i) of the act. For this reason, and because there are no approved NADA's for the use of neomycin, phenothiazine, and piperazine in animal feed, FDA is proposing that § 558.20 be removed. In addition, the agency is proposing that:

(1) The arsanilate sodium and arsanilic acid provisions of § 558.20 be transferred to §§ 558.60 and 558.62, respectively, to reflect their currently approved status.

(2) New § 558.108 be established for butynorate to reflect its approved conditions of use.

(3) Provisions for use of neomycin, phenothiazine, and piperazine be removed because there are no currently approved new animal drug applications providing for their use in the manufacture of Type A medicated articles. Concurrently, FDA is proposing that the listing of these three drugs as sole ingredient be removed from § 558.4(d) Category II. Because nitarsone is currently approved and the subject of § 558.369, its status remains unchanged.

Environmental Impact

The agency has determined under 31 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has examined the economic effects of this proposed rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis as defined in the Regulatory Flexibility Act (Pub. L. 96-354). The proposed rule would not impose new or different requirements on industry, because it would revise the regulations to reflect the current legal status of these Type A medicated articles. The agency, therefore, concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Furthermore, the agency certifies that the proposed rule will not have a significant impact on a substantial number of small business entities, as defined in the Regulatory Flexibility Act.

Comments

Interested persons may, on or before February 17, 1987, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act it is proposed that Part 558 be amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

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

§ 558.4 [Amended]

2. Section 558.4 *Medicated feed applications* is amended in paragraph (d) in the table "Category II" by removing the entries "neomycin," "phenothiazine," and "piperazine."

§ 558.20 [Removed]

3. By removing § 558.20 *Drugs used in medicated feeds in use before January 1, 1985, which are not otherwise listed; interim listing.*

4. By revising § 558.60(c) to read as follows:

§ 558.60 Arsanilate sodium.

* * * * *

(c) *Conditions of use.* (1) It is used as follows:

Arsanilate sodium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 90 (0.01 percent)		1. Chickens; increased rate of weight gain and feed efficiency; improving pigmentation..	Withdraw 5 days before slaughter; as sole source of organic arsenic..	
		2. Turkeys; increased rate of weight gain and feed efficiency; improving pigmentation.	Do.	
(ii) 45 to 90 (0.005 to 0.01 percent)		Swine; increase rate of weight gain and improve feed efficiency in growing swine.	Withdraw 5 days before slaughter; as sole source of organic arsenic.	
(iii) 90 (0.01 percent)		Swine; control of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter; as sole source of organic arsenic.	

Arsanilate sodium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(iv) 225 to 360 (0.025 to 0.04 percent)		Swine; treatment of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter; as sole source of organic arsenic.	

(2) Arsanilate sodium may be used as in this section in combination as follows:

(i) Amprolium as in § 558.55.

(ii) Zoalene as in § 558.680.

5. By revising § 558.62(c) to read as follows:

§ 558.62 Arsanilic acid.

* * * * *

(c) *Conditions of use.* (1) It is used as follows:

Arsanilic acid in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 45 to 90 (0.005 to 0.01 percent)		Swine; increase rate of weight gain and improve feed efficiency in growing swine.	Withdraw 5 days before slaughter; as sole source of organic arsenic.	
(ii) 90 (0.01 percent)		1. Chickens; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 days before slaughter; as sole source of organic arsenic.	
		2. Turkeys; growth promotion and feed efficiency; improving pigmentation.	do.	
		3. Swine; control of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Within 5 days before slaughter; as sole source of organic arsenic.	
	Erythromycin 4.6 to 18.5	Chickens; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; withdraw 5 days before slaughter; as sole source of organic arsenic.	
	Erythromycin 92.5	1. Chickens; as an aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and fed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 2 days before stress and 3 to 6 days after stress; withdraw 5 days before slaughter; as sole source of organic arsenic.	
		2. Chickens; as an aid in the prevention of infectious coryza; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 7 to 14 days; withdraw 5 days before salughter; as sole source of organic arsenic.	
	Erythromycin 185	Chickens; as an aid in th eprevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and fed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 5 to 8 days; do not use in birds producing eggs for food purposes; withdraw 5 days before slaughter; as sole source of organic arsenic.	
(iii) 225 to 360 (0.025 to 0.04 percent)		Swine; treatment of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter; as sole source of organic arsenic.	

(2) Arsanilic acid may be used as in this section in combination as follows:

(i) Amprolium as in § 558.55.

(ii) Amprolium and ethopabate as in § 558.58.

(iii) Bacitracin zinc as in § 558.78.

(iv) Bacitracin and zoalene as in § 558.680.

(v) Buquinolate as in § 558.105.

(vi) Zoalene as in § 558.680.

6. By adding new § 558.108 to read as follows:

§ 558.108 Butynorate (dibutyltin dilaurate).

(a) *Approvals.* Type A medicated articles: 25 and 41.5 percent to 017210 in § 510.600(c) of this chapter.

(b) *Conditions of use*—(1) *Amount.* 0.0375 percent.

(2) *Indications for use.* For use in turkeys as an aid in the prevention of coccidiosis (caused by *E. meleagridis, E. meleagrimitis, E. gallopavonis)* and hexamitiasis.

(3) *Limitations.* Withdraw 28 days before slaughter.

Dated: December 3, 1986.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-28332 Filed 12-17-86; 8:45 am]

BILLING CODE 4160-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

[Ex Parte No. 246; Sub No. 2]

Practice and Procedure; Fees for Services Performed in Connection With Licensing and Related Services [1]

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is reopening its 1984 user fee decision [published as corrected at 49 FR 27154 (7-2-84)] and its 1985 user fee decision [published as corrected at 50 FR 4722 (11-15-85)] to seek comments on proposed adjustment to the fee schedule changes required by the decision in *Central and Southern Motor Freight Tariff Ass'n Inc.* v. *United States* 777 F.2d 722 (D.C. Cir. 1985). As a result of this reopening the filing fee for Fee Item (74), the filing of tariffs, rate schedules and contracts, including supplements, would be increased to $6.00 per series transmitted. Also two fees in our 1984 schedule should have been established at lower levels. Our calculations for the 1986 update are also discussed.

DATE: Comments must be submitted by January 20, 1987.

ADDRESS: An Original and 15 copies should be sent to: Ex Parte No. 246 (Sub No. 2), Case Control Branch, Office of the Secretary, Room 1324, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Kathleen M. King (202) 275-7428.

SUPPLEMENTARY INFORMATION: As a result of the court's decision in *Central and Southern Motor Freight Tariff Ass'n Inc.* v. *United States,* 777 F.2d 722 (D.C. Cir. 1985), the Commission has reviewed its calculation of the operations overhead cost factor used to develop fees for performing services for the public and its calculations of the specific costs for the tariff filing fee.

Using actual budget data, the Commission proposes to change its calculation for operations overhead costs from 10.82 percent to 9.34 percent for our 1984 fee schedule. Since the Commission's fees are set at levels lower than its fully distributed costs (due to a rounding-down procedure), the recalculation of operations overhead would have little effect on the actual

[1] This decision embraces Ex Parte No. 246 (Sub No. 3), *Regulations Governing Fees for Services—1985 Update,* 2 ICC 2d 23 (1985) and Ex Parte No. 246 (Sub No. 4), *Regulations Governing Fees For Services Performed in Connection with Licensing and Related Services—1986 Update.*

fees. Only two fee items on the 1984 schedule would change: Fee Item (42), a notice petition to discontinue passenger train service, and Fee Item (440, an application for use of terminal facilities or other applications under 49 U.S.C. 11103. Fee Item (42) should have been established at $6,200 rather than $6,300 and Fee Item (44) should have been established at $5,200 rather than $5,300. Anyone who filed either type of application between July 2, 1984, and November 4, 1985—when the 1984 schedule was in effect—would be entitled to a refund of $100 upon adoption of the changes. No changes would be required in our 1985 Schedule as a result of the modification of the operations overhead cost factor.

Upon re-examination, the direct labor cost for processing tariff filings has been calculated at $3.35. The fully allocated cost level for 1984 shall have been $5.98. Thus, our calculations of $4.86 in our 1984 decision (which produced a fee of $4.00) was lower than the actual costs. The tariff filing fee increased to $5.00 in 1985, when fees were adjusted to reflect the 1985 costs of services. Based upon the change in direct labor noted above and taking into consideration update factors for 1985, we now propose to increase the fee to $6.00, because our fully allocated costs for tariff filing is now $6.17.

The Commission is required to recalculate its costs for providing services to the public annually and to update its fees accordingly 49. CFR 1002.3. This year there has been no increase in direct labor costs because there was no governmental general schedule wage increase. Our general and administrative expenses have decreased slightly this year. As a result our fully distributed costs for providing service decreased slightly this year. However, the decrease is not substantial enough to cause any reductions in fees. Our calculations of 1986 fees appear as Appendix C in the Commission's full decision. Adoption of the 1986 fee update will be deferred until a final decision is issued with respect to the reopening of the 1984 and 1985 Fee Decisions.

Additional information about the calculations that led to these proposed revisions in our fee schedule is contained in the Commission's full decision. A copy of the full decision is available upon request from the Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423 or call (202) 275-7428.

This decision should not have a significant impact upon the quality of the human environment or the consumption of energy nor should it have a significant effect on a substantial number of small entities.

List of Subjects in 49 CFR Part 1002

Administrative practice and procedures, and Common carriers.

It is ordered:

1. The Commission's decisions of April 25, 1984 and September 19, 1985 are reopened for comment.
2. Comments are due on January 20, 1987.
3. This decision is effective on the date served.

Authority: 5 U.S.C. 553, 31 U.S.C. 9701, and 49 U.S.C. 10321.

Decided: December 8, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

Appendix

Title 49 of the Code of Federal Regulation is proposed to be amended as follows:

PART 1002—FEES

1. In Part 1002 the authority citation would continue to read as follows:

Authority: 5 U.S.C. 553, 31 U.S.C. 9701, and 49 U.S.C. 10321.

2. In § 1002.2, paragraph (f)(74), is proposed to be revised to read as follows:

§ 1002.2 Filing fees.

* * * * *

(f) * * *

(74) The filing of tariffs, rate scheduled, and contracts including supplements—6.00 per series transmitted.

* * * * *

[FR Doc. 86-28349 Filed 12-17-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 61225-6222]

Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 10 to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). The amendment would: (1) Close an area of the executive economic zone (EEZ) in the Bering Sea to all commercial fishing trawl gear, set limits on incidental catches (bycatch) of Tanner and red king crabs and Pacific halibut in Bering Sea foreign and domestic fisheries for yellowfin sole and other flatfish, and require that these fisheries cease when the incidental catch limits are reached; (2) revise weekly reporting requirements for catcher/processor and mothership vessels to require that they report weekly regardless of when their catch is landed; (3) provide authority for the Secretary of Commerce (Secretary) to make certain inseason changes to gear regulations, seasons, and harvest quotas, and (4) provide the Secretary with inseason authority to reapportion surplus amounts of groundfish within the domestic allowable harvest category. These measures are intended to respond to biological, socioeconomic, and administrative problems that have been identified by the North Pacific Fishery Management Council (Council).

DATES: Comments on the amendment and proposed rule are invited until January 22, 1987.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Individual copies of the amendment, the environmental assessment, and the regulatory impact review/initial regulatory flexibility analysis may be obtained by contacting the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99501, 907-274-4563.

Comments on the collection-of-information requirement should be directed to the Office of Information and Regulatory affairs of OMB, Washington, DC 20503, Attention: Desk Office for NOAA.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter (Resource Management Specialist, NMFS) 907-586-7230.

SUPPLEMENTARY INFORMATION: Domestic and foreign groundfish fisheries in the EEZ in the Bering Sea and Aleutian Islands (BSAI) area are managed in accordance with the FMP. The FMP was developed by the Council under authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act), and is implemented by regulations appearing at 50 CFR 611.93 and Part 675.

The Council solicits management proposals annually from the general

public, other agencies and staff between September and December. Proposals for inclusion in Amendment 10 were requested by the Council between the September and December 1985 Council meetings. After receiving proposals, the Council's Plan Team reviews and ranks each proposal. At its meeting on January 15–17, 1986, the Council reviewed the recommendations of the Plan Team, the Scientific and Statistical Commitee (SSC), and the Advisory Panel (AP), and selected five proposals for inclusion in Amendment 10. The Council's Plan Team then prepared drafts of an environmental assessment and a regulatory impact review of the proposals for public comment as required by the National Environmental Policy Act of 1969, Executive Order 12291, and NOAA policy. The Council reviewed these documents at its meeting on March 19–21, 1986, and released them for public comment. In response to comments, the Plan Team revised the draft documents for consideration by the Council at its meeting on June 25–27, 1986. The Council, AP and SSC reviewed the documents, heard further public comment, and the Council decided to further revise the documents by dropping one part of the amendment and releasing them for another 30-day comment period prior to the Council's September meeting. At its meeting on September 24–26, 1986, the Council approved the four parts of the amendment for submission to the Secretary.

A description of and reasons for each part of Amendment 10 are as follows:

1. Protection of one of the Tanner crabs, *Chionoecetes bairdi; Paralithodes camtschatica*, red king crab; and *Hippoglossus stenolepis*, Pacific halibut in the Eastern Bering Sea.

At its meeting of January 15–17, 1986, the Council determined that two species of commercially important crabs, *C. bairdi* and red king crab, in the Bering Sea subarea were dangerously low in population abundance. Concern was expressed that commercial trawl fishing for groundfish, particularly yellowfin sole and other flounder species, contributed to the mortality of Tanner and king crabs through their incidental capture in, and multilation from, trawl gear as it passes over the sea bottom. Additional concern was expressed about incidental catches of halibut from trawl fishing. Although regulations governing foreign trawl fishing in this area provide certain closed areas and prohibited species catch (PSC) limits for Pacific halibut, and Tanner and king crabs, domestic trawl fishing vessels have not been similarly restricted. Domestic trawl fishing for groundfish includes U.S. vessels working in joint ventures with foreign processing vessels (JVP) and U.S. vessels processing their catch on board or delivering it to U.S. processors (DAP). Together, JVP and DAP fisheries account for the domestic annual harvest (DAH) of groundfish.

The Council recommended that the Secretary promulgate emergency regulations that would: (1) Close a part of the Bering Sea subarea to all commercial trawling (except for domestic trawl fishing for Pacific cod under certain conditions), (2) establish PSC limits for *C. bairdi*, red and blue king crab, and Pacific halibut, (3) close a fishery that reaches a PSC limit, and (4) provide for NMFS-approved observers on domestic fishing vessels in certain areas. With few minor exceptions and the deletion of blue king crab and Pacific halibut, the Secretary implemented the Council's recommendations as an emergency interim rule for 90 days beginning on June 3, 1986 (June 6, 1986, 51 FR 20652). This emergency rule was extended on September 3, 1986 (September 11, 1986, 51 FR 32334) until December 2, 1986.

At the Council's meeting of September 24–26, 1986, the AP and the majority of public testimony recommended that the Council approve the emergency rule, as promulgated by the secretary, as a part of Amendment 10 with the addition of a PSC limit of 828,000 Pacific halibut applicable to JVP fishing for yellowfin sole and other flatfish in the entire BSAI management area. It was further recommended that when the halibut PSC limit is reached, only the area designated as Zone 1 would close to further trawling by JVP vessels. The Council adopted these recommendations in approving Amendment 10 but specified that all provisions of this part of Amendment 10 would expire on December 31, 1988. During this two year period, the Council expects to continue its efforts to develop a more comprehensive approach to bycatch management in the BSAI area.

The area proposed to be closed to foreign and domestic trawl fishing is that part of the EEZ north of the Alaska Peninsula, south of 58° N. latitude, west of 160° W. longitude, and east of 162° W. longitude (Area B in Figure 2). Within that area, however, the Secretary may allow domestic trawling for Pacific cod in that portion lying south of a straight line approximating the 25 fathom depth contour, provided that such fishing is conducted under a data gathering program approved by the Regional Director after consultation with the Council. The data gathering program is to provide data useful for management of the trawl fishery, the Pacific halibut, Tanner and king crab fisheries, and is to prevent overfishing of Pacific halibut, Tanner and king crab stocks in the area. All fishing with trawl gear will cease when a PSC limit of 12,000 red king crabs has been taken in that portion of the closed area.

The area proposed to be closed by this action contains the highest concentrations of red king and legal male and large female *C. bairdi*. The closure will protect about 70 percent of the mature female red king crab spawning stock according to NMFS scientists. The closure will effectively keep the incidental fishing mortality rate of these crabs to a minimum.

Closing this area is expected to result in substantial changes in distribution of groundfish fishing effort. Historically, a relatively large part (47 percent in 1985) of the joint venture yellowfin sole and other flatfish fishery has taken place within the area proposed for total closure. However, the probable cost to groundfish fishermen, and particularly DAH yellowfin sole and other flatfish fishermen, as reflected in potential reductions in catch, may be much less than past catch distributions imply. NMFS trawl surveys indicate equivalent or higher concentrations of yellowfin sole and other flatfish outside the area as those found within. Furthermore, under the 1986 emergency rule, joint ventures took a record 150,000 metric tons (mt) of yellowfin sole fishing outside of the proposed closed area.

Although benefits, in the form of protection of crab and halibut within the closed area, are anticipated from the closure, there will be costs. Prohibiting trawl fishing in the area, which has been important to the developing DAH groundfish fisheries for yellowfin sole and other flatfish, will require changes and adjustments on the part of the affected operators which cannot be fully anticipated. The closure will require fishermen to leave preferred and familiar grounds. It will impose costs in the form of exploration time to locate new grounds, extended running time in transit between port and prospective fishing areas, and logistical adjustments to coordinate refueling and transferring of crews and observers. While all of these represent costs directly attributable to the proposed action, no experience exists within the industry upon which to judge the magnitude of these likely impacts.

Most foreign fishing in this area is already prohibited under provisions of the foreign fishing regulations which established a pot sanctuary for domestic

crab fishermen closed to foreign trawling. This proposal closes a small area adjacent to the pot sanctuary in the northwest corner of the closed area between 160°–162° W. longitude. The impact on foreign vessels of this additional closure will be small. Only 7 mt of groundfish were harvested there by foreign trawlers in 1985.

The PSC limit of 12,000 red king crabs in that portion of the closed area remaining open for domestic Pacific cod fishing should not unduly constrain this fishery. The bycatch rate of red king crab in this area under the 1986 emergency rule was about 0.5 crab/mt of groundfish, and the total bycatch was significantly below the limit of 12,000 red king crabs. However, the requirement that participants in the Pacific cod fishery in the excepted area comply with a data gathering program will impose costs on the participants. During the 1986 fishery, the Secretary required an onboard data gatherer, provided by the fisherman, on every vessel. If this requirement were repeated in the future, the average cost per vessel of carrying an onboard data gatherer would be $5,400 per month for an average of about 2 months or $10,800.

A PSC limit of 80,000 *C. bairdi* and 135,000 red king crabs is proposed in the EEZ north of the Alaska Peninsula, south of 58° N. latitude, and east of 165° W. longitude applicable to the DAH fishery for yellowfin sole and other flatfish (Area A in Figure 2).

Area A, defined as Zone 1, is important to directed fishing for yellowfin sole and other flatfish, especially during April, May, and June, when sea ice prevents fishing further north. Although the area closed to all trawling by this action protects the highest concentrations of red king and legal male and large female *C. bairdi*, significant numbers of these crabs occur outside of the closed area but east of 165° W. longitude. The PSC limits for this area will provide necessary additional protection for these crabs. Foreign fishing with trawl gear is already prohibited in a large portion of this area known as the pot sanctuary under § 611.93(c)(2)(ii).

A PSC limit of 326,000 *C. bairdi* applicable to the DAH fishery for yellowfin sole and other flatfish is proposed in the area of the EEZ bounded by straight lines beginning at 54°30′ N. latitude, 165° W. longitude, then north to 58° N. latitude, 165° W. longitude, then west to 58° N. latitude, 171° W. longitude, then north to 60° N. latitude, 171° W. longitude, then west to 60° N. latitude, 179°21′ W. longitude, then south to 59°25′ N. latitude, 179°20′ W. longitude, then extending on a straight diagonal line southeast to the intersection of 54°30′ N. latitude, 167° W. longitude, and finally eastward along 54°30′ N. latitude to 165° W. longitude (Area C in Figure 2).

This area, defined as Zone 2, encompasses the majority of the small female and pre-recruit male *C. bairdi*, population. The combined PSC limits applicable to DAH fisheries in Zones 1 and 2 (406,000 *C. bairdi)* will provide protection for 98 percent of the *C. bairdi* stocks.

A PSC limit of 64,000 *C. bairdi* applicable to the foreign directed fisheries for yellowfin sole and other flatfish is proposed in the combined areas of Zones 1 and 2. NOAA has made a minor technical change to the regulations approved by the Council by providing for the apportionment of this PSC limit among foreign nations based on a nation's share of the total TALFF of yellowfin sole and other flatfish. The purpose of this change is to equitably control the take of this PSC limit among nations and prevent one nation with excessive bycatches from precluding another nation's access to the yellowfin sole and other flatfish stocks in Zones 1 and 2. Regardless of whether national PSC limits are fully taken, however, the Regional Director must prohibit all foreign fishing for yellowfin sole and other flatfish in both zones when the PSC limit is reached. This PSC limit will provide greater protection to *C. bairdi* taken by the foreign flounder fisheries than is provided by the less restrictive BSAI area-wide PSC limit of Tanner crab contained in § 611.93(c)(2)(ii)(E) of the foreign fishing regulations.

Continued fishing by the DAH and foreign fisheries for yellowfin sole and other flatfish will not be permitted in any area after a fishery-specific PSC limit is reached. Foreign directed fishing for these species will not be permitted in Zone 1 after it is closed to DAH fishing due to achievement of the DAH–PSC limit for red king crab. However, if Zone 1 is closed to DAH fishing due to achievement of the DAH–PSC limit for *C. bairdi*, foreign fishing may continue in Zone 1.

The bycatch savings that occurred during the 1986 fishery under the emergency rule compared to the 1985 fishery were significant. The bycatch rate for red king crab declined by 90 percent, the *C. bairdi* bycatch rate declined by 44 percent, and the halibut bycatch rate declined by about 17 percent. However, the *C. opilio* bycatch rate increased by a factor of 10 when the fleet moved out of Zone 1. If the emergency rule imposing the red king and *C. bairdi* PSC limits were not in effect in 1986, and the fleet made no attempt to redistribute effort or minimize bycatch relative to the 1985 season, it is estimated that the bycatch would have been 1,292,000 red king crab, 502,000 *C. bairdi*, 468,000 *C. opilio*, and 368,000 Pacific halibut. Imposition of the emergency rule, including the closed area, resulted in a savings of 1,162,000 red king crab, 221,000 *C. bairdi* and 64,000 halibut, and a loss of 4,492,000 *C. opilio*. In terms of ex-vessel value these bycatch savings are estimated to be between $6.1 and $14.1 million for red king crab; $96,000 for *C. bairdi* and $613,000 for halibut. Because the bycatch of *C. opilio* comprised mostly small juvenile crab, the increased bycatch is estimated to be worth approximately $159,000 at the exvessel level.

The closure and subsequent redistribution of effort in response to exceeding a PSC limit would impose some costs upon the fishery associated with relocation and transmit time, but no empirical data are available with which to measure these potential costs. It has been estimated, however, that fuel costs would have to increase four-fold before the increased operational costs exceeded the potential bycatch savings.

In 1985, the foreign bycatch of *C. bairdi* in the Bering Sea flatfish fishery was estimated to be 287,000 crabs. A reduction in the loss to the 64,000 level of the PSC limit would represent a savings of 223,000 crabs with a discounted present value at exvessel of approximately $100,000.

This proposed rule would give the Secretary some discretion in carrying out closures due to PSC limits. The purpose of this discretionary authority is to provide some management latitude, with respect to PSC limits, in imposing restrictions on domestic fishermen in areas and under circumstances where continued fishing can be determined to have insignificant deleterious effects on either crab stock. The discretionary authority provided by this action will allow assessment and consideration of existing conditions within domestic fisheries before enacting a closure due to a PSC limit.

This discretionary authority is designed to strike a balance between conservation of depressed crab stocks and excessive regulatory burden on the domestic groundfish fishery. Allowing continuation or resumption of domestic fishing for yellowfin sole and other flatfish in an area that is otherwise closed due to a PSC limit will permit the domestic industry to use groundfish resources more fully. However, a thorough assessment and consideration of existing conditions within domestic

fisheries and the biological and socioeconomic risks involved will be made and relevant findings published before this discretionary authority can be fully exercised. This authority does not extend to foreign fisheries.

The closure of either or both Zones 1 and 2 due to achievement of a PSC limit will not preclude either the DAH or foreign fishery from continuing to fish for yellowfin sole and other flatfish elsewhere in the BSAI management area. For DAH fisheries, there will be no PSC limits outside of Zones 1 and 2, while the BSAI area-wide PSC limits for foreign fisheries will continue to apply outside of Zones 1 and 2.

The purpose of these restrictions on fishing vessels trawling for yellowfin sole and other flatfish species is to reduce the deleterious effects of this fishing on *C. bairdi*, and red king crab. Recent data suggest that *C. bairdi* and red king crab have declined to extremely low abundances (source: Report to Industry on the 1985 Eastern Bering Sea Crab Survey, NMFS Northwest and Alaska Fisheries Center Processed Report 85–20, November 1985). A description and summary of these data can be found in the emergency interim rule published by the Secretary (50 FR 20652, June 6, 1986).

A PSC limit of 828,000 Pacific halibut is proposed to be applicable to the JVP yellowfin sole and other flatfish fisheries within the entire BSAI management area. Reaching the PSC limit would result in closure of Zone 1 to all JVP trawling for yellowfin sole and other flatfish. The Council derived this limit from an estimated annual average of 3,100 mt of halibut taken as bycatch in all non-halibut fisheries over the past 5 years. From this number, 500 mt were subtracted to account for crab and shrimp fisheries bycatches of halibut and another 360 mt were subtracted to account for bycatches in foreign trawling fisheries.

Assuming an average weight of 5 pounds per halibut caught incidentally in other fisheries, the remaining 2,240 mt were calculated to be equivalent to 987,392 animals. Ten percent of this amount was subtracted to account for halibut bycatches in the DAP trawl fishery and another 60,000 animals were subtracted to account for halibut bycatches in non-flatfish JVP fisheries. Hence, the remaining number, rounded to 828,000, was specified as the PSC limit for halibut applicable only to the JVP fishery for yellowfin sole and other flatfish.

This PSC limit will not be immediately constraining on the JVP flatfish fisheries because the 1985 halibut bycatch in the yellowfin sole and other flatfish joint ventures was only 266,000 fish and the 1986 bycatch, at the time of the September Council meeting, was only 354,000 fish. It is intended primarily as an upper limit, which if achieved, would result in closure of an area (Zone 1) that is known to contain a high abundance of juvenile halibut. Given the expected bycatches of halibut in the DAP and foreign groundfish fisheries and the crab pot fisheries, this PSC limit is intended to ensure that the total halibut bycatch from all fisheries in the BSAI area does not exceed recent historical levels.

A definition of directed fishing is proposed to be added to § 611.93 for purposes of enforcing prohibitions against directed fishing for yellowfin sole and "other flatfish" after a PSC limit is reached.

2. Revision of reporting requirements for domestic catcher/processor and mothership/processor vessels.

The Council approved a proposal to revise an existing reporting requirement at § 675.5(a)(3) which requires that any catcher/processor vessel that retains its catch for more than 14 days from the time it is caught, or any mothership/processor which receives groundfish at sea from a domestic fishing vessel and retains it for more than 14 days from the time it is received, submit to the Regional Director at weekly catch or receipt report for each weekly period, Sunday through Saturday, during which groundfish were caught or received at sea. The Council has proposed that all catcher/processor and mothership/processor vessels be required to submit weekly catch reports regardless of how long their catch is retained before landing. Weekly catch reports are necessary because the large amounts of catches that might be on board these vessels would not otherwise be reported on State of Alaska fish tickets until the fish were landed, often weeks or months later.

Under the current regulation, catcher/processors and mothership/processors that land fish within 14 days are not required to submit a weekly catch report to the Regional Director. This exception to the weekly catch report requirement was allowed under the assumption that any catch landed within 14 days and reported on an Alaska Department of Fish and Game (ADF&G) fish ticket would be incorporated into the catch monitoring data base in a relatively short period of time. In practice, the catch information is not received quickly due to delays in submitting the tickets by vessel operators or processors. When receipt-of-catch information is delayed, fishery managers may have to make critical management decisions based on incomplete information. For fisheries operating on small quotas and over short time periods, incomplete information becomes an acute management problem. Large catcher/processor can harvest amounts of a quota while remaining at sea for long periods. Incorrect management decisions, as a result of incomplete catch and effort information, could result in serious over or under harvest and substantial inconvenience and cost to the fishing industry. Compounding this problem is the fact that recent ADF&G budget cuts due to declining State revenues may result in ADF&G fish tickets being collected even more slowly.

The current reporting requirement also has resulted in lack of consistency of catch records for some vessels reporting weekly part of the time and submitting fish tickets at other times when their landings are made within 14 days. This has resulted in some double counting of catch in trying to resolve catch information from the two reporting systems which has resulted in overestimates of harvest rates. This lack of consistent reporting has made enforcement of the reporting requirement nearly impossible because agents do not know, when a report is missed, whether the vessel landed and submitted an ADF&G fish ticket or whether it failed to report.

For these reasons, the Council approved this part of Amendment 10 which requires all catcher/processors and mothership/processors to submit weekly catch reports regardless of how long they retain their catch so that inseason harvest management decisions can be made using the best available information.

The expansion of the weekly reporting requirement to include periods when catch is landed within 14 days is not expected to significantly increase costs for affected vessels because they will have already established the infrastructure for reporting when catches are held beyond 14 days.

To aid identification of which fishing vessels are affected by the revised reporting requirement, a new definition of "processing" would be added to the domestic regulations. This definition defines processing as the preparation of fish to render it suitable for human consumption, industrial uses, or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, freezing, and rendering into meal or oil. Under this definition, any domestic fishing vessel "processing" any part of its catch or received fish on

board would be required to report its catches weekly to the Regional Director.

Proposed Technical Amendments

NOAA has proposed certain minor technical changes to the implementing regulations approved by the Council. These changes would not implement Amendment 10, but are modifications under existing authority in the FMP. Section 675.5(a)(3)(iv) would be changed to require catcher/processors and mothership/processors to submit a weekly catch or receipt report after checking into a fishing area under § 675.5(a)(3)(i), regardless of whether any groundfish were caught or received.

NOAA is also proposing certain technical changes to clarify domestic reporting requirements. Thus, in § 675.5, paragraph (a)(1) would be redesignated as paragraph (a)(2) and a new paragraph (a)(1) would be added to require submission of State of Alaska fish tickets to ADF&G when landing fish in Alaska. Landings in Alaska include those landings made to floating processors within the territorial sea. Renumbered paragraph (a)(2) would be revised to make it clear that landings made outside of Alaska include at-sea landings in the EEZ off the State of Alaska. This revision makes the original paragraph (a)(2) redundant; it would therefore be deleted.

3. Inseason Management Authority.

Harvest levels, gear restrictions, seasons, area restrictions, and other types of management measures are established by the Council for the groundfish fisheries based on the best available biological, ecological, and socioeconomic information. The Council recognized, however, that new information and data relating to stock status may become available to the Secretary and/or the Council during the course of a fishing year that justifies inseason adjustments to the harvest quotas or other management measures. Such changes in stock status may not have been anticipated or were not sufficiently understood at the time harvest levels and other management measures were being established. Such changes may become known from events within the fishery as it proceeds, or they may become known from new scientific survey data. Certain changes may justify swift action by the Secretary to protect the resource from overfishing by adjusting harvest levels or instituting other closures or restrictions.

The need for adjustment may be related to several circumstances. For instance, certain target or bycatch groundfish species may have decreased in abundance. When new information indicates that a groundfish species has decreased in abundance, failure either to reduce the allowable harvest or to institute other measures designed to reduce the harvest of that species could result in overfishing. Likewise, new information relating to the stock status of incidentally caught prohibited species (e.g., crab and halibut) may require the adjustment of PSC limits or season or gear modifications to prevent overfishing of those species.

Information may become available inseason to indicate that the status of a groundfish or prohibited species stock is greater than was anticipated at the time harvest levels and other management measures were established, and that certain harvest levels or PSC limits are too low. In this case, closing a fishery at the originally specified harvest quota or PSC limit could result in underutilization of groundfish and fishermen would unnecessarily forego economic benefits unless the total allowable catch (TAC) or PSC limit were increased and the fishery allowed to continue. The proposed rule, however, would not authorize the Secretary to make inseason adjustments to TACs or PSCs which are not initially specified on the basis of biological stock status, unless an adustment is necessary to prevent overfishing.

The Council approved inseason management authority for the Secretary, through determinations to be made by the Regional Director, to adjust gear restrictions, season opening and closing dates, TACs and PSC limits. Such adjustments must be necessary to prevent overfishing or to change TACs or PSC limits which the Regional Director finds, as a result of the best available stock status information, to have been incorrectly specified.

The Regional Director is constrained, however, in his choice of management responses to prevent potential overfishing by having to select the least restrictive adjustments, from the following management measures, to achieve the purpose of the adjustment: (1) Any gear modification that would protect the species in need of conservation protection, but which would still allow fisheries to continue for other species; (2) a time/area closure which would allow fisheries for other species to continue in noncritical areas and time periods; and (3) total closure of the management area. An example of a potential gear restriction would be the closure of an area to nonpelagic trawling to prevent overfishing of a bottom dwelling species.

The exercise of the Secretary's authority to adjust TAC or PSC limits requires a determination, based on the best available scientific information, that the biological status or condition of a stock is different from that on which the currently specified TAC or PSC limits were specified. Any adjustments to a specified TAC or PSC limits must be reasonably related to the change in stock status.

For example, a PSC limit for a crab stock derived from a specific level of the crab biomass could be adjusted upwards or downwards if the new stock status information showed that the crab biomass had changed. If, however, a TAC or PSC limit were based on factors other than the biological stock status of that species, the Regional Director would be unable to make the determination that the TAC or PSC limits was incorrectly specified. For example, the red king crab PSC limit in Zone 1 of the eastern Bering Sea in 1986 was a negotiated level between representatives of the crab and trawl fishermen. In this instance, any change in the stock status of red king crab wold not result in exercise of this authority since the PSC limit was not directly related to the stock status of red king crab. The only exception would be if new stock status informaton indicated that a negotiated PSC limit would result in overfishing.

The types of information which the Regional Director must consider in determining whether stock conditions exist that require an inseason management response are described as follows, although he is not precluded from using information not described but determined to be releveant to the issue.

(A) The effect of overall fishing effort within a regulatory area;

(B) Catch per unit of effort and rate of harvest;

(C) Relative abundance of stocks within the area;

(D) The condition of the stock within all or part of a regulatory area; and

(E) Any other factors relevant to the conservation and management of groundfish species or any incidentally caught species which are designated as a prohibited species or for which a PSC limit has been specified.

The Secretary will publish a notice of preliminary adjustments in the **Federal Register** before they are made final, unless the Secretary finds for good cause that such notice is impracticable or contrary to the public interest. If the Secretary determines that the prior comment period should be waived, he will still request comments for 15 days after the notice is made effective, and respond to any opposing comments by publishing in the **Federal Register** either notice of continued effectiveness or a

notice modifying or rescinding the adjustment.

Under the Magnuson Act, the Secretary is required to prevent overfishing. One of the major underlying concerns this part addresses is that management not be so shortsighted as to allow short term benefits to accrue in a fishery at the expense of a continuing stream of benefits for future generations. Inseason measures adjusting a gear restriction or season or to reduce a TAC or PSC limit would be taken to preserve future benefits from the fishery by preventing overfishing. This would only occur in cases where FMP flexibility is inadequate to deal with the situation through normal processes. When inseason management authority would be required to adjust a TAC or PSC limit upward, immediate benefits would be realized by the fishery due to the increased potential harvest in the target fishery and the sale of that harvest.

4. Inseason Reapportionment within DAH.

Currently, the FMP and its implementing regulations authorize the Regional Director to periodically reassess DAH during the year and determine if the initial DAH apportionments accurately reflect the intent and capacity of the DAH fisheries. If greater amounts of groundfish are needed by the domestic fisheries he is authorized to increase the DAH apportionment by transferring amounts of groundfish from the reserve. If any amounts of DAH will go unharvested, the Secretary may reapportion those amounts of DAH and any reserves not needed by the DAH fisheries to TALFF.

However, the FMP and the regulations are silent on transfers of amounts of groundfish within DAH (between DAP and JVP). Although the Secretary previously has made reapportionments within DAH based on the implied authority of the existing regulations and the Magnuson Act, NMFS and the Council concluded that the process would be less confusing to the public and the affected industry if the FMP and regulations specifically clarified that authority. This change is proposed as a clarification to remove any ambiguities in the existing FMP and regulations. Priority access by the domestic fishing industry to Bering Sea groundfish resources, as provided by the Magnuson Act, would not be affected by this action.

Approval and implementation of this part will result in no undesirable or adverse impacts on the fishery. While current practice is fully consistent with the intent of the current regulations, implementation of this part would remove any ambiguity or uncertainty about reapportionments within DAH, reduce the potential for litigation, and assure the full and efficient utilization of groundfish by the domestic fishery.

Classification

The proposed rule is published under section 304(a)(1)D)(ii) of the Magnuson Act, as amended by Pub. L. 99-659, which requires the Secretary to publish regulations proposed by a Council by the 15th day after receipt of the amendment and regulations. At this time the Secretary has not determined that the amendment these regulations would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making these determinations, will take into account the data and comments received during the comment period.

The Council prepared an environmental assessment (EA) for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. A copy of the EA may be obtained from the Council at the address above.

The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) prepared by the Council. A copy of the RIR/IRFA may be obtained from the Council at the address above.

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review which concludes that this proposed rule, if adopted, would have significant effects on small entities. These effects have been discussed earlier in this document relative to each specific action and in the RIR/IRFA. A copy of this analysis may be obtained from the Council at the address listed above.

This rule contains a modification to a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). A request to collect additional information has been submitted to the Office of Management and Budget for review under section 3504(h) of the PRA.

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.

List of Subjects

50 CFR Part 611

Fisheries, Foreign fishing.

50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: December 12, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Parts 611 and 675 are proposed to be amended as follows:

PART 611—[AMENDED]

1. The authority citation for 50 CFR Part 611 continues to read as follows:

Authority 16 U.S.C. 1801 *et seq.*, and 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et sec.*, and 16 U.S.C. 1361 *et sec.*

2. Section 611.93 is amended by adding new paragraphs (b)(1)(iii), (c)(2)(ii)(E)(*2*)(*iv*), and (c)(2)(ii)(F) and (G), and figure 1 to read as follows:

§611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(b) * * *

(1) * * *

(iii) Directed fishing, with respect to any species, stock, or other aggregation of fish, means fishing that is intended or can reasonably be expected to result in the catching, taking, or harvesting of quantities of such fish which amount to 20 percent or more of the total amount by weight of fish or fish products on board at any time. It will be rebuttable presumption that, when any species, stock, or other aggregation of fish comprises 20 percent or more by weight of the catch, take, or harvest, or 20 percent or more of the total amount by weight of fish products on board at any time, such fishing was directed fishing for such fish.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(E) * * *

(*2*) * * *

(*iv*) When, during the fishing year, the trawl vessels of foreign nations conducting directed fishing for yellowfin sole and "other flatfish" in either Zone 1 or Zone 2 (areas A and C in Figure 1) catch that nations share of the PSC limit of 64,000 *C. bairdi*, the Regional Director will publish a notice in the Federal Register prohibiting trawling by vessels of that nation for yellowfin sole and "other flatfish" in both of these areas for

the remainder of the fishing year. A nation's share of this PSC limit will be calculated by multiplying 64,000 by a percent that is equivalent to that nation's portion of the total TALFF of yellowfin sole and "other flatfish." At the beginning of the fishing year, a portion of this PSC limit will not be distributed to nations, because some of the total TALFF of yellowfin sole and "other flatfish" may not yet be allocated. The undistributed protion of this PSC limit will be subsequently distributed to nations in proportion to increases in their yellowfin sole and "other flatfish" allocations. Apportionments of this PSC limit notwithtstanding, the Regional Director will publish a notice in the **Federal Register** prohibiting all foreign trawling for yellowfin sole and "other flatfish" in Zones 1 and 2 when such trawling catches the PSC limit of 64,000 *C. bairdi* Tanner crabs in either zone. For this purpose, Zone 1 is defined as that part of the management area south of 58° N. latitude and east of 165° W. longitude exclusive of other closed areas specified under this part (area A in Figure 1), and Zone 2 is defined as that part of the management area bounded by straight lines connecting the following coordinates in the order listed and exclusive of other closed areas specified under this part (area C in Figure 1):

54°30 min. N. latitude, 165°00 min. W. longitude;
58°00 min. N. latitude, 165°00 min. W. longitude;
58°00 min. N. latitude, 171°00 min. W. longitude;
60°00 min. N. latitude, 171°00 min. W. longitude;
60°00 min. N. latitude, 179°20 min. W. longitude;
59°25 min. N. latitude, 179°20 min. W. longitude;
54°30 min. N. latitude, 167°00 min. W. longitude;
54°30 min. N. latitude, 165°00 min. W. longitude.

(F) At all times in the area enclosed by straight lines connecting the following coordinates: 57°30 min. N. latitude, 162°00 min. W. longitude; 58°00 min. N. latitude, 162°00 min. W. longitude; 58°00 min. N. latitude, 160°30 min. 30 sec. W. longitude; (area B in Figure 1).

(G) When the domestic fishery for yellowfin sole and "other flatfish" is prohibited under §675.21(b) of this chapter, the directed fishery for yellowfin sole and "other flatfish" is prohibited in the same area specified in § 675.21(b) (Area A, Figure 1).

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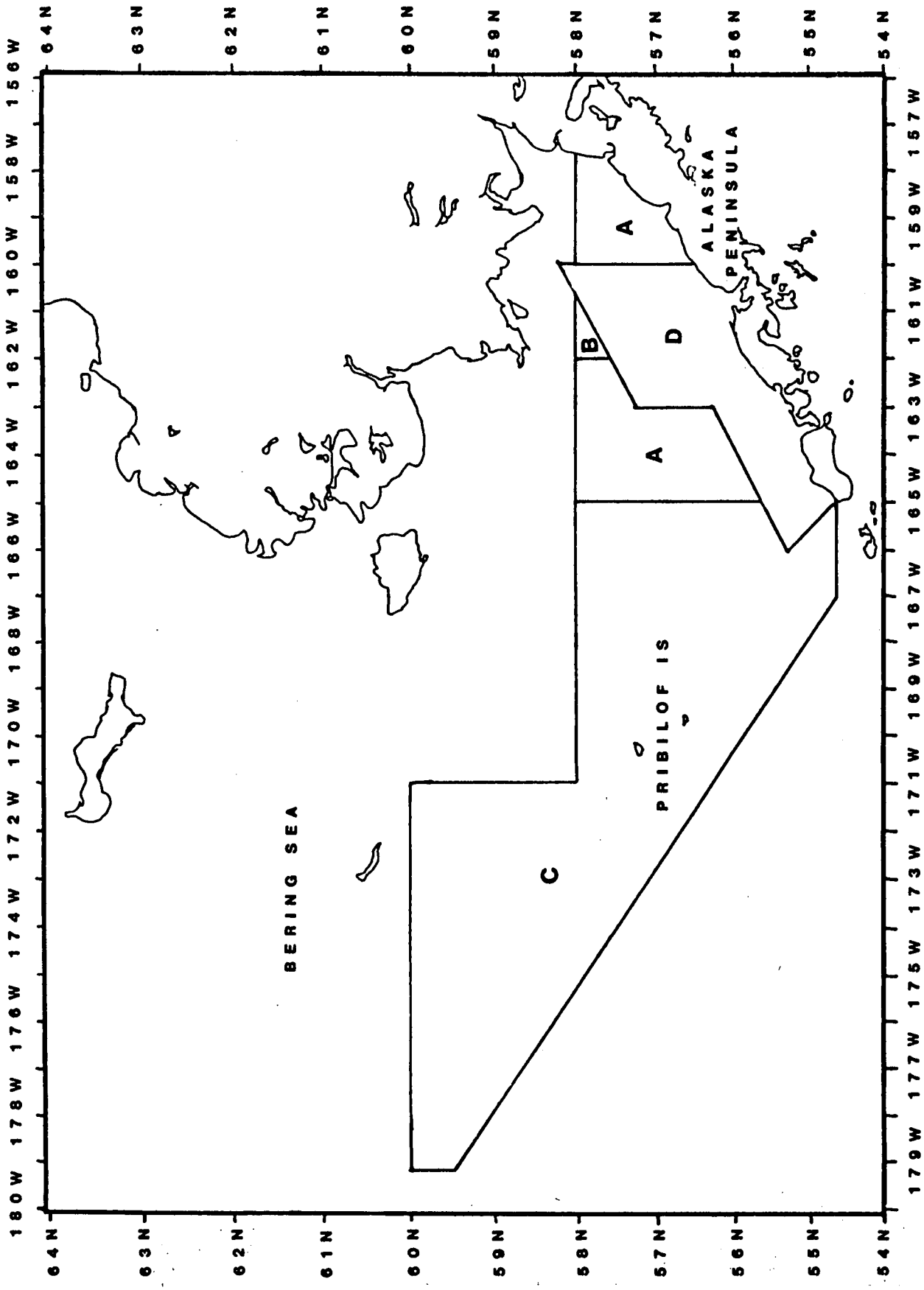

FIGURE 1

BILLING CODE 3510-22-C

Captions for Figure 1

A. Zone 1 area defined at § 611.93(c)(2)(ii)(E)(2)(iv).
B. Closed area defined at § 611.93(c)(2)(ii)(F).
C. Zone 2 area defined at § 611.93(c)(2)(ii)(E)(2)(iv).
D. Bristol Bay "pot sanctuary" defined at § 611.93(c)(2)(ii)(A).

* * * * *

PART 675—[AMENDED]

3. The authority citation for 50 CFR Part 675 continues to read as follows:

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

4. The Table of Contents is revised by adding new sections §§ 675.21 and 675.22 to read as follows:

* * * * *

Sec.
675.21 Prohibited species catch (PSC) limitations.
675.22 Time and area closures.

* * * * *

5. In § 675.2, three new definitions are added in alphabetical order to read as follows:

§ 675.2 Definitions.

* * * * *

Bycatch limitation zone 1 (Zone 1) means that part of the Bering Sea subarea that is south of 58°00 min. N. latitude and east of 165°00 min. W. longitude (areas A and B § 675.21 Figure 2).

Bycatch limitation zone 2 (Zone 2) means that part of the Bering Sea subarea bounded by straight lines connecting the following coordinates in the order listed (area C in § 675.21 Figure 2):

54°30 min. N. latitude, 165°00 min. W. longitude;
58°00 min. N. latitude, 165°00 min. W. longitude;
58°00 min. N. latitude, 171°00 min. W. longitude;
60°00 min. N. latitude, 171°00 min. W. longitude;
60°00 min. N. latitude, 179°20 min. W. longitude;
59°25 min. N. latitude, 179°20 min. W. longitude;
54°30 min. N. latitude, 167°00 min. W. longitude; and
54°30 min. N. latitude, 165°00 min. W. longitude.

* * * * *

Processing, or to process, means the preparation of fish to render it suitable for human consumption, industrial uses, or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, freezing, and rendering into meal or oil.

* * * * *

6. In § 675.5, paragraph (a)(2) is removed, paragraph (a)(1) is redesignated as paragraph (a)(2), a new paragraph (a)(1) is added, and newly redesignated paragraph (a)(2) and paragraphs (a)(3) introductory text, (a)(3) (i) and (iv) are revised to read as follows:

§ 675.5 Reporting requirements.

(a) * * *

(1) *Landing in Alaska.* The operator of any fishing vessel regulated under this part who lands fish in the State of Alaska must, for each sale or delivery of groundfish caught in the Bering Sea and Aleutian Islands management area, be responsible for the submission to ADF&G of an accurately completed State of Alaska fish ticket. At the election of the vessel operator, the fish ticket required under paragraph (a)(1) of this section will be either:

(i) Submitted by the vessel operator directly to the ADF&G within one week after such fish are sold or delivered; or

(ii) Prepared, at the request of the operator, by the purchaser and submitted by the purchaser to ADF&G within one week after such fish are received by the purchaser. For the purposes of paragraph (a) of this section, a "purchaser" is any person who receives, from a fishing vessel regulated under this part, groundfish caught in the Bering Sea and Aleutian Islands management area.

(2) *Landing outside Alaska.* The operator of any fishing vessel regulated under this part who lands fish outside the State of Alaska, including the EEZ adjacent to the State of Alaska, must submit a completed State of Alaska fish ticket, or an equivalent document, containing all of the information required on an Alaska fish ticket. This information must be submitted to ADF&G within one week after the date of each sale or delivery of any groundfish taken in the Bering Sea and Aleutian Islands management area. The address to which these documents must be sent is: Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, Subport Building, Juneau, Alaska 99801.

(3) *Catcher/processor and mothership/processor vessels.* The operator of any fishing vessel regulated under this part processing any groundfish on board that vessel must, in addition to the requirements of paragraphs (a) (1) and (2) of this section, meet the following requirements:

(i) Twenty-four hours before starting and upon stopping fishing or receiving groundfish in any area, the operator of that vessel must notify the Regional Director of the date and hour in Greenwich mean Time (GMT) and the area of such activity.

* * * * *

(iv) After notification of starting fishing by a vessel under paragraph (a)(3)(i) of this section, and continuing until that vessel's entire catch or cargo of fish has been off-loaded, the operator of that vessel must submit a weekly catch or receipt report, including reports of zero tons caught or received, for each weekly period, Sunday through Saturday, GMT, or for each portion of such a period. Catch or receipt reports must be sent to the Regional Director within one week of the end of the reporting period through such means as the Regional Director will prescribe upon issuing that vessel's permit under § 675.4 of this part. These reports must contain the following information:

* * * * *

7. In § 675.7, the introductory text is revised, paragraph (g) is redesignated as paragraph (j) and new paragraphs (g), (h), and (i) are added to read as follows:

§ 675.7 General prohibitions.

It is unlawful for any person to do the following:

* * * * *

(g) Use of vessel: (1) To fish with trawl gear in Area B of Figure 2 unless specifically allowed by the Secretary as provided under § 675.22 of this part; (2) to fish with trawl gear in the area at any time when no approved data gathering program exists or after such a program has been terminated; or (3) to fish with trawl gear in the area without complying fully with an approved data gathering program;

(h) Conduct any fishing contrary to a notice of inseason adjustment issued under § 675.20(e) of this part;

(i) Conduct any fishing contrary to a notice issued under § 675.21; or

* * * * *

8. Section 675.20 is revised by redesignating paragraph (b)(1)(ii) as paragraph (b)(1)(iii), adding a new paragraph (b)(1)(ii), revising paragraph (c)(1), and adding new paragraphs (e), (f), and (g) to read as follows:

§ 675.20 General limitations.

* * * * *

(b) * * *

(1) * * *

(ii) *Apportionment between DAP and JVP.* As soon as practicable after April 1, June 1, and August 1, and on such other dates as he determines appropriate, the Secretary will, by notice in the **Federal Register**, reassess and reapportion to JVP the part of DAP that he determines will not be harvested by U.S. vessels and delivered to U.S. processors during the remainder of the fishing year, unless such reapportionments to JVP would

adversely affect the conservation of groundfish or prohibited species or would have an adverse impact on the socioeconomic considerations set forth in paragraph (a)(2)(i)(B) of this section.

* * * * *

(c) *Prohibited species.* (1) Prohibited species, for the purpose of this part, means any species of fish caught while fishing for groundfish in the Bering Sea and Aleutian Islands management area, the retention of which is prohibited by other applicable law. Any catch of Pacific halibut by fishing vessels regulated under this part is a catch of a prohibited species, unless retention is authorized by regulations of the International Pacific Halibut Commission. Any catch of Tanner crab, king crab, or salmon by vessels regulated under this part must be treated in the same manner as a catch of a prohibited species.

* * * * *

(e) *Inseason adjustments.* (1) Inseason adjustments issued by the Secretary under this paragraph (e) of this section include:

(i) The closure, extension, or opening of a season in all or part of a management area;

(ii) Modification of the allowable gear to be used in all or part of a management area; and

(iii) The adjustment of TACs or PSC limits.

(2) Any inseason adjustment under paragraph (e) of this section must be based on a determination that such adjustments are necessary to prevent:

(i) The overfishing of any species or stock of fish or shellfish; or

(ii) The harvest of a TAC for any groundfish species, the taking of a PSC limit for any prohibited species, or the closure of any fishing for groundfish based on a TAC or PSC limit which on the basis of the best available scientific information is found by the Secretary to be incorrectly specified.

(3) The selection of the appropriate inseason management adjustments under paragraph (e)(1) (i) or (ii) of this section must be from the following authorized management measures and be based on an adjustment selected which is the least restrictive necessary to achieve the purpose of the adjustment:

(i) Any gear modification that would protect the species in need of conservation protection, but which would allow fisheries to continue for other species; or

(ii) A time-area closure which would allow fisheries for other species to continue in noncritical areas and time periods; or

(iii) Closure of a management area to all groundfish fishing for the remainder of the fishing year.

(4) The adjustment of a TAC or PSC limit for any species under paragraph (e)(1)(iii) of this section must be based on the best available scientific information concerning the biological stock status of the species in question and on the Regional Director's determination that the currently specified TAC or PSC limit is incorrect. Any adjustment to a TAC or PSC limit must be reasonably related to the change in biological stock status.

(f) *Data.* All information relevant to one or more of the following factors may be considered in making the required determinations under paragraph (e)(2) of this section:

(1) The effect of overall fishing effort within a regulatory area;

(2) Catch per unit of effort and rate of harvest;

(3) Relative abundance of stocks within the area;

(4) The condition of the stock within all or part of a regulatory area; and

(5) Any other factors relevant to the conservation and management of groundfish species or any incidentally caught species which are designated as a prohibited species or for which a PSC limit has been specified.

(g) *Procedure.* (1) No inseason adjustment issued under paragraph (e) of this section may take effect until:

(i) The Secretary has filed the proposed adjustment with the Office of the Federal Register for public inspection; and

(ii) The Secretary has published the proposed adjustment for public comment for a period of thirty (30) days before it is made final, unless the Secretary finds for good cause that such notice and public comment is impracticable, unnecessary or contrary to the public interest.

(2) If the Secretary decides, for good cause, that an adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment will be received by the Regional Director for a period of fifteen (15) days after the effective date of the notice.

(3) During any such 15-day period, the Regional Director will make available for public inspection, during business hours, the aggregate data on which an adjustment was based.

(4) If written comments are received during any such 15-day period which oppose or protest an inseason adjustment issued under this section, the Secretary will reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, will either:

(i) Publish in the **Federal Register** a notice of continued effectiveness of the adjustment, responding to comments received; or

(ii) Modify or rescind the adjustment.

(5) Notices of inseason adjustments issued by the Secretary under this paragraph (g) must include the following information:

(i) A description of the management adjustment;

(ii) The reasons for the adjustment and the determinations required by this part; and

(iii) The effective date and any termination date of the management adjustment. If no termination date is specified, the adjustment will terminate on the last day of the fishing year.

9. A new § 675.21 and Figure 2 are added to read as follows:

§ 675.21 Prohibited species catch (PSC) limitations.

(a) Tanner crab *(C. bairdi).* (1) If, during the fishing year, the Regional Director determines that vessels of the United States will catch the PSC limit of 80,000 *C. bairdi* while conducting directed fishing for yellowfin sole and "other flatfish" in Zone 1 (area A in Figure 2), he will publish a notice in the **Federal Register** prohibiting a directed fishery in Zone 1 by vessels of the United States for yellowfin sole and "other flatfish" for the remainder of the fishing year, subject to paragraph (d) of this section.

(2) If, during the fishing year, the Regional Director determines that vessels of the United States will catch the PSC limit of 326,000 *C. bairdi* while conducting directed fishing for yellowfin sole and "other flatfish" in Zone 2 (area C in Figure 2), he will publish a notice in the **Federal Register** prohibiting a directed fishery in Zone 2 by vessels of the United States for yellowfin sole and "other flatfish" for the remainder of the fishing year, subject to paragraph (d) of this section.

(b) *Red king crab.* If, during the fishing year, the Regional Director determines that vessels of the United States will catch the PSC limit of 135,000 red king crabs while conducting directed fishing for yellowfin sole and "other flatfish" in Zone 1 (area A in Figure 2), he will publish a notice in the **Federal Register** prohibiting a directed fishery in Zone 1 by vessels of the United States for yellowfin sole and "other flatfish" for the remainder of the fishing year, subject to paragraph (d) of this section.

(c) *Pacific halibut.* If during the fishing year, the Regional Director determines

that vessels of the United States will catch the PSC limit of 828,000 Pacific halibut while conducting directed fishing for yellowfin sole and "other flatfish" in the Bering Sea and Aleutian Islands management area for delivery to floating foreign processors, he will publish a notice in the **Federal Register** prohibiting directed fishing in Zone 1 for yellowfin sole and "other flatfish" by such vessels for the remainder of the fishing year, subject to paragraph (d) of this section.

(d) When the fishing vessels of the United States to which a PSC limit applies have caught an amount of prohibited species equal to that PSC limit (but less than an amount which would constitute over fishing), the Secretary may allow some or all of those vessels to continue or resume directed fishing for yellowfin sole and "other flatfish" under conditions which will limit fishing by permissible gear, areas, times, and other appropriate factors, and subject to other provisions of this part. Such other factors may include delivery of a vessel's catch to United States fish processors. In authorizing and conditioning such continued or resumed directed fishing by those vessels, the Secretary will take into account the following considerations:

(1) A determination by the Regional Director of the risk of biological harm to Pacific halibut, Tanner and king crab stocks and of socioeconomic harm to authorized halibut and crab users posed by authorizing continued or resumed directed fishing for yellowfin sole and "other flatfish";

(2) A determination by the Regional Director of the extent of incidental catches of Pacific halibut, Tanner and king crabs in specific areas;

(3) A determination by the Regional Director of the accuracy of the estimates of incidental catches of Pacific halibut, Tanner and king crabs;

(4) A determination by the Regional Director that adherence to the prescribed conditions can be assured in light of available enforcement resources; and

(5) A determination by the Regional Director that continued or resumed directed fishing for yellowfin sole and "other flatfish" will not lead to overfishing of prohibited species.

BILLING CODE 3510-22-M

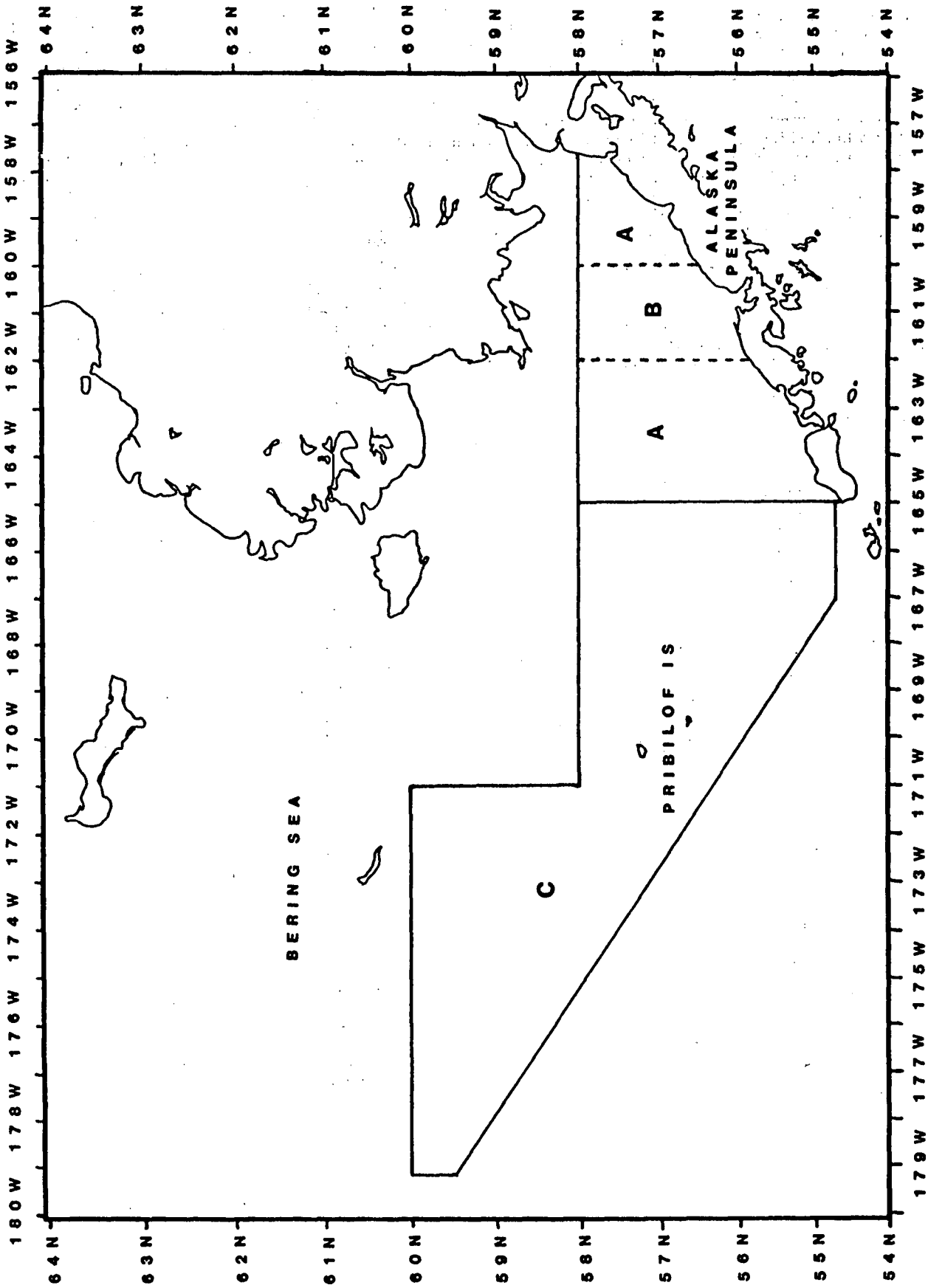

FIGURE 2

BILLING CODE 3510-22-C

Caption for Figure 2

A. Zone 1 area defined at § 675.2
B. Closed area defined at § 675.22(a)
C. Zone 2 area defined at § 675.2

10. A new § 675.22 is added to read as follows:

§ 675.22 Time and area closures.

(a) No fishing with trawl gear is allowed at any time in that part of Zone 1 in the Bering Sea subarea that is south of 58°00 min. N. latitude, east of 162°00 min. W. longitude and west of 160°00 min. W. longitude (area B in Figure 2).

(b) The Secretary may allow fishing for Pacific cod with trawl gear in that portion of the area described in paragraph (a) of this section that lies south of a straight line connecting the coordinates 56°43 min. N. latitude, 160°00 min. W. longitude, and 56°00 min. N. latitude, 162°00 min. W. longitude, *Provided That,* such fishing is in accordance with a data gathering program, approved by the Regional Director after consultation with the Council, designed to provide data useful in the management of the trawl fishery, the Pacific halibut, Tanner crab, and king crab fisheries, and which will be monitored to prevent overfishing of the Pacific halibut, Tanner and king crab stocks in the area.

(c) The owner or operator of each vessel which fishes in Area B pursuant to an approved data gathering program must agree with the Secretary to comply with all requirements of that program.

(d) If the Regional Director determines that vessels fishing with trawl gear in the area described in paragraph (a) of this section will catch the PSC limit of 12,000 red king crabs, he will immediately close all fishing with trawl gear in that area by notice in the **Federal Register** and will make reasonable attempts to notify all parties to each agreement referred to in paragraph (c) of this section that the program has terminated.

[FR Doc. 86-28256 Filed 12-15-86; 1:57 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 243
Thursday, December 18, 1986

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Determination of Import Quotas on Sugar for Quota Period 1987 and Modification of the Quota Period

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice establishes the annual quota year sugar import quota for the period January 1, 1987 through December 31, 1987 at 937,160 short tons, raw value.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: John Nuttall, Foreign Agricultural Service, Department of Agriculture, Washington, DC 20250, Telephone: (202) 447-2916.

SUPPLEMENTARY INFORMATION: Presidential Proclamation No. 4941, dated May 5, 1982, amended Headnote 3 of Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (TSUS) to establish a system of import quotas for foreign sugar coming into the United States. Under the terms of Headnote 3, the Secretary of Agriculture established an annual sugar import quota period of October 1-September 30 beginning October 1, 1982. (47 FR 34812.)

For the 1986 quota year, the quota lever was set at 1,722,000 short tons, raw value, and the quota period was initially established as December 1, 1985-September 30, 1986. (50 FR 37887.) The 1986 quota year was later changed to the period December 1, 1985 through December 31, 1986. (51 FR 7475.) For the 1987 quota year (January 1, 1987 through December 31, 1987), the 1987 sugar import quota is set at 937,160 short tons, raw value.

Presidential Proclamation No. 4941 also permits the Secretary of Agriculture, after consultations with the U.S. Trade Representative and the Department of State, to proclaim quota periods other than quarterly, if he determines that such periods give due consideration in the United States sugar market to the interests of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade. This notice announces the Secretary of Agriculture's determination, after the appropriate consultations, that the 1987 quota period shall begin on January 1, 1987 and terminate on December 31, 1987.

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 3, Subpart A, Part 10, Schedule 1 of of the TSUS, I have determined that up to 937,160 short tons, raw value, of sugar described in items 155.20 and 155.30 of the TSUS may be entered or withdrawn from warehouse for consumption during the period January 1, 1987 through December 31, 1987. Of the 937,160 short tons, raw value, 2,000 short tons, raw value, are reseved for specialty sugars from countries listed in paragraph (c)(ii) of Headnote 3 and 25,160 short tons, raw value, are reserved as quota adjustment amount allocated in accordance with paragraph (c)(iii) of Headnote 3.

I have also determined that this quota amount (937,160 short tons, raw value) gives due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

In conformity with the above, paragraph (a)(i) of Headnote 3, Subpart A, Part 10, Schedule 1 of the TSUS is modified to read as follows:

3. (a)(i) The total amount of sugars, sirups and molasses described in items 155.20 and 155.30, the products of all foreign countries entered, or withdrawn from warehouse for consumption, between January 1, 1987 and December 31, 1987, inclusive, shall not exceed in the aggregate 937,160 short tons, raw value. Of this amount, the total amount permitted to be imported for purposes of paragraph (c)(i) of this headnote (the total base quota amount) shall be 910,000 short tons, raw value; 2,000 short tons, raw value, may only be used for the importation of "speciality sugars," as defined by the United States Trade Representative in accordance with paragraph (c)(ii) of this headnote; and the remaining 25,160 short tons, raw value, may only be imported for the purposes specified in paragraph (c)(iii) of this headnote (the quota adjustment amount).

Signed at Washington, DC, on December 15, 1986.

Peter C. Myers,

Acting Secretary of Agriculture.

[FR Doc. 86-28385 Filed 12-15-86; 3:25 am]

BILLING CODE 3410-10-M

Animal and Plant Health Inspection Service

[Docket No. 86-410]

Productivity Improvement Review List and Estimated Dates for Beginning Studies

AGENCY: Animal and Plant Health Inspection Service (APHIS), USDA.

ACTION: Notice of intent to conduct cost comparison studies under the guidelines set forth in OMB Circular No. A-76 and OMB Bulletin 86-8.

SUMMARY: This notice provides locations and projected dates for starting productivity improvement studies within APHIS during FY 1987.

Location and type of activity	Projected review start
Agency Wide:	
1. Motor Pools and Vehicle Maintenance	January 1987.
2. ADP Functions	February 1987
3. Bird Station Technicians	April 1987.
Other:	
1. Los Angeles, CA, Animal Import Center.	October 1986.
2. Newburgh, NY, Animal Import Center	October 1986.
3. Fleming Key, FL, Animal Import Center.	November 1986.
4. Miami, FL, Animal Import Center	November 1986.
5. Honolulu, HI, Animal Import Center	December 1986.
6. Washington, DC, Labor Services	January 1987.
7. Frederick, MD, Program Manual Writing.	March 1987

FOR FURTHER INFORMATION CONTACT: Burt C. Hawkins, Assistant Deputy Administrator for Management and Budget, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 1634-South Building, Washington, DC 20250, (202) 447-3321.

SUPPLEMENTARY INFORMATION: Reviews will be conducted under the guidelines of OMB Circular No. A-76, Performance of Commercial Activities and OMB Bulletin 86-8, Productivity Improvement Program. Some of the listed activities

may be evaluated in subunits or combined with other units for review. Activities may also be reviewed on the basis of all, some, or none. This is a notice of intent only and not a request for proposals.

Done at Washington, DC, this 15th day of December 1986.

Robert L. Buchanan,

Acting Deputy Administrator for Management and Budget, Animal and Plant Health Inspection Service.

[FR Doc. 86-28350 Filed 12-17-86; 8:45 am]

BILLING CODE 3410-34-M

Soil Conservation Service

Gypsum Critical Area Treatment RC&D Measure, Eagle County, CO

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Gypsum Critical Area Treatment RC&D Measure, Eagle County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colorado 80211, telephone (303) 964-0292.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement are not needed for this measure.

This critical area treatment measure concerns a plan to prevent water erosion along the drainageway through the Town of Gypsum. This gully erosion is damaging buildings, streets and public utilities. The planned works of improvement include constructing a rock and mortar lined channel 1,030 feet long, and establishing native grass cover on the disturbed areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available at the above address to fill single-copy requests. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901, Resource Conservation and Development, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: December 12, 1986.

Sheldon G. Boone,

State Conservationist.

[FR Doc. 86-28319 Filed 12-17-86; 8:45 am]

BILLING CODE 3410-16-M

Pettingill Memorial Field Critical Area Treatment Measure, Resource Conservation and Development Program, MA; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental imapct statement is not being prepared for the Pettingill Memorial Field Critical Area Treatment Measure, Hampshire County, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Rex O. Tracy, State Conservationist, Soil Conservation Service, 451 West Street, Amherst, Massachusetts, 01002, telephone (413) 256-0442.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Rex O. Tracy, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns erosion control along the southerly bank of the East Branch of the Westfield River to prevent land loss of a recreation facility and prime farmland as described in the Pettingill Memorial Field Critical Area Treatment RC&D Measure Plan. The planned works of improvement includes: The installation of 475 linear feet or rock rip-rap, 150 linear feet of fencing and planting of shrubs along the disturbed riverbank.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reiewed by contacting Rex O. Tracy.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

Dated: December 3, 1986.

Rex O. Tracy,

State Conservationist.

[FR Doc. 86-28431 Filed 12-17-86; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Cryo-Microtomes; Duke University Medical Center, et al

This is a decision consolidated 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 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC.

Docket No.: 86-261. Applicant: Duke University Medical Center, Durham, NC 27710. Intended use: See notice at 51 FR 26732.

Docket No.: 86-266. Applicant: University of California-San Diego, La Jolla, CA 92093. Intended use: See notice at 51 FR 28402.

Docket No.: 86-294. Applicant: University of Massachusetts Medical Center, Worcester, MA 01605. Intended use: See notice at 51 FR 29953.

Instrument: PMV Cryo-Microtome, Model LKB 2250-041 with Accessories. Manufacturer: LKB Produkter AB, Sweden. Advice submitted by: National Institutes of Health: October 27, 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can produce uniform frozen sections as large as 450 × 150 millimeters. The National Institutes of Health advises in its respectively cited memoranda that (1) this capability is pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-28428 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: December 18, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a (a)(1), (a)(2), (a)(5), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews no later than December 31, 1987.

Antidumping duty proceedings and firms	Periods to be reviewed
Choline Chloride from Canada: Chinook	11/1/85-11/16/86
Bicycle Speedometers from Japan:	
Tsuyama	11/85-10/86
Titanium Sponge from Japan:	
Osaka Titanium	11/85-10/86
Toho Titanium	11/85-10/86
Carbon Steel Wire Rod from Trinidad and Tobago:	
ISCOTT	11/85-10/86
Drycleaning Machinery from West Germany:	
Seco	11/85-10/86

Countervailing duty proceeding	Period to be reviewed
Certain Refrigeration Compressors from the Republic of Singapore	1/85-12/85

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c)).

Dated: December 12, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-28427 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-421-060]

Animal Glue and Inedible Gelatin From the Netherlands; Preliminary Results of Antidumping Duty Administrative Review and Tentative Determination to Revoke in Part

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review and tentative determination to revoke in part.

SUMMARY: In response to a request by one respondent, the Department of Commerce has conducted an administrative review of the antidumping finding on animal glue and inedible gelatin from the Netherlands. The review covers one manufacturer/exporter of this merchandise and the period December 1, 1982 through May 31, 1984. The review indicates the existence of no dumping margins for the firm during the period.

As a result of the review, the Department has tentatively determined to revoke the finding with respect to Holding Trobas.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke in part.

EFFECTIVE DATE: December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION: .

Background

On May 8, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 19550) the final results of its last administrative review of the antidumping finding on animal glue and inedible gelatin from the Netherlands (42 FR 64115, December 22, 1977). We began this review of the finding under our old regulations. After the promulgation of our new regulations, one manufacturer/exporter requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published the new initiation on January 21, 1986 (51 FR 2748). The Department has now conducted 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 animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated.

The review covers one manufacturer/exporter of Dutch animal glue and inedible gelatin, Holding Trobas, and

the period December 1, 1982 through May 31, 1984.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the packed ex-factory price to an unrelated purchaser in the United States. No adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used third-country (West German) prices, as defined in section 773 of the Tariff Act, since insufficient quantities of such or similar merchandise were sold in the home market during the period to provide a basis for comparison. Third-country price was based on the packed delivered price to unrelated purchasers in West Germany. We made adjustments, where applicable, for inland freight and cash discounts. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination to Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Holding Trobas	12/1/82-11/30/83	0
	12/1/83-5/31/84	[1] 0

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Holding Trobas requested partial revocation of the finding and, as provided for in § 353.54(e) of the Commerce Regulations, has agreed in writing to an immediate suspension of liquidation and reinstatement in the finding under circumstances specified in the written agreement. Holding Trobas had no margins for two years and no shipments for six months.

Therefore, we tentatively determine to revoke the antidumping finding on animal glue and inedible gelatin from the Netherlands with respect to Holding Trobas. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported by Holding Trobas, and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Further, as provided for by § 353.48(b) of the Commerce Regulations, since there was no margin for Holding Trobas the Department shall not require a cash deposit of estimated antidumping duties for Holding Trobas. For any shipments from the two remaining known manufacturers/exporters and third-country resellers not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (49 FR 19550, May 8, 1984). For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after May 31, 1984 and who is unrelated to the reviewed firm or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Dutch animal glue and inedible gelatin entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Dated: December 12, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-28419 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-004]

Certain Carton-Closing Staples and Staple Machines From Sweden; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain carton-closing staples and staple machines from Sweden. The review covers one manufacturer/exporter of this merchandise to the United States and the period December 1, 1984 through November 30, 1985. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Katherine Glover or David P. Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/2923.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 38250) an antidumping duty order on certain carton-closing staples and staple machines from Sweden. A respondent, Josef Kihlberg AB, requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on January 21, 1986 (51 FR 2747). The Department has now conducted 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 certain carton-closing staples in strip form and certain non-automatic carton-closing staple machines. Carton-closing staple machines are U-Shaped wide crown fastening devices used to secure and close the flaps of corrugated paperboard cartons. They are commonly referred to as wide-crown staples and are available in either 50 or 60 piece sticks of 2,000 or 2,500 per box.

Staples are made of steel, most often copper coated or galvanized. Carton-closing wide crown staples differ from office, desk-type, and other industrial staples primarily in the width of the crown and wire dimensions. Carton-closing wide crown staples have crown widths of 1¼ inches or more. The wire cross-sectional dimensions vary from .037–.040— inches by .074–.092 inches.

Non-automatic wide crown carton-closing staple machines use the wide crown staples described above and can be divided into two categories, hand-held top closing staple machines and free-standing bottom closing machines.

Such staples and staple machines are currently classifiable under items 646.2000 and 662.2065, respectively, of the Tariff Schedules of the United States Annotated.

The review covers one manufacturer/exporter, Josef Kihlberg AB, of certain carton-closing staples and staple machines from Sweden and the period December 1, 1984 through November 30, 1985.

United States Price

In calculating United States price, the Department used purchase price or exporter's sales price ("ESP"), both as defined in section 772 of the Tariff Act, as appropriate. Purchase price and exporter's sales price were based on the packed ex-factory, f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States.

We made adjustments, where applicable, for ocean freight, U.S. and Swedish inland freight, marine insurance, brokerage fees, packing, U.S. customs duties, selling expenses, and credit expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, to provide a basis of comparison for Hosef Kihlberg AB since sufficient quantities of such or similar merchandise were sold in the home market during the period of review.

Home market price was based on the packed, delivered price to unrelated purchasers in the home market. Where applicable, we made adjustments for quantity discounts, credit expenses, packing and differences in the physical characteristics of the merchandise. We made further adjustments, where applicable, for indirect selling expenses in ESP calculations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Josef Kihlberg AB Staples	12/84–11/85	7.0
Staple Machines	12/84–11/85	6.0

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for shipments by Josef Kihlberg AB. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1985 and who is unrelated to Josef Kihlberg AB or any other previously reviewed firm, a cash deposit of 7.0 percent shall be required on shipments of staples and a cash deposit of 6.0 percent shall be required on shipments of staple machines. These deposit requirements are effective for all shipments of Swedish carton-closing staples and staple machines entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: December 15, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 86-28426 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by Tsubakimoto Chain Company and the American Chain Association, the Department of Commerce has conducted an administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers one manufacturer/exporter of this merchandise to the United States and the period April 1, 1981 through September 1, 1983. The review indicates the existence of margins during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Richard P. Bruno or J. Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 43755) the final results of its last administrative review of the antidumping finding on roller chain,

other than bicycle, from Japan (38 FR 9926, April 12, 1973). We began the current review of the finding under our old regulations. After the promulgation of our new regulations, the petitioner and respondent requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published a notice of initiation of the antidumping duty administrative review on January 21, 1986 (51 FR 2748).

Scope of the Review

Imports covered by the review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle" as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used for power transmission or as conveyor chain. This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain, other than bicycle, is currently classifiable under various provisions of the Tariff Schedules of the United States Annotated, from item numbers 652.1400 through 652.3800.

The review covers Tsubakimoto, a manufacturer and exporter of Japanese roller chain, other than bicycle, to the United States, and the period April 1, 1981 through September 1, 1983.

United States Price

In calculating United States price, the Department used exporter's sales price ("ESP") as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Exporter's sales price was based on the f.o.b. packed price to the first unrelated purchaser in the United States. We made adjustments, where applicable, for foreign and U.S. inland freight, U.S. Customs duties, brokerage, ocean freight, marine insurance, foreign shipping charges, commissions to unrelated parties, brokerage charges, credit expenses, and the U.S. subsidiary's administrative, selling and warehousing expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison, or constructed value, both defined in section 773 of the Tariff Act.

Home market price was based on packed delivered prices to unrelated purchasers in Japan. Constructed value was calculated as the sum of materials, fabrication costs, general expenses, profit, and U.S. packing. The amount added for general expenses was the actual general expenses because they were higher than the statutory minimum of 10 percent of the sum of materials and fabrication costs. Because the actual profit was less than 8 percent of the sum of materials, fabrication, and general expenses, the Department added the statutory minimum of 8 percent for profit. We made adjustments, where applicable, for discounts, differences in packing, inland freight, credit costs, and indirect selling expenses to offset U.S. selling expenses for ESP calculations. The claim for directors' expenses as an indirect selling expense was disallowed. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Tsubakimoto Chain Company	4/01/81—3/31-82	0.67
	4/01/82—3/31/83	0.74
	4/01/83—9/01/83	1.06

Interested parties may submit written comments on these preliminary results within 21 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 21 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the precentages stated above. The Department will issue appraisement instructions on Tsubakimoto directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required for this firm. For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after March 31, 1983 and who is unrelated to any reviewed firm or any other previously reviewed firm, a cash deposit of 15.92 percent shall be required. These deposit requirements and waivers are effective for all shipments of Japanese roller chain, other than bicycle, entered, in withdrawn from warehouse, for consumption on or after the date of publication of the final results of this 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 § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: December 12, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administrator.

[FR Doc. 86-28425 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review on Certain Semi-Finished Steel Slabs; Request for Comments

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, the U.S.-Mexico Understanding Concerning Trade in Certain Steel Products, the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products, and the U.S.-Australia Arrangement Concerning Trade in Certain Steel Products with respect to certain semi-finished steel slabs.

EFFECTIVE DATE: Comments must be submitted no later than on or before December 29, 1986.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, Room 3099.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement, the U.S.-Mexico Understanding, the U.S.-Brazil Arrangement, and the U.S.-Australia Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product. . . ."

We have received a short supply request for various grades of semi-finished carbon and alloy steel slabs for use in producing hot rolled sheet and strip, galvanized sheet, plate, cold rolled sheet and electric resistance welded pipe. Requested sizes for sheet and strip mill applications include thicknesses ranging from 4.25 inches to 8.81 inches, widths ranging from 24 inches to 74 inches, and lengths ranging from 212 inches to 264 inches. Slab sizes for plate mill applications include thicknesses ranging from 4 inches to 17 inches, widths ranging from 28 inches to 66 inches, and lengths ranging from 76 inches to 98 inches.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days from the publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission, which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-28422 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

Carnegie-Mellon University; Decision on Application For Duty-Free Entry of Scientific Instrument; Carnegie-Mellon University

This decision is made pursuant to section 6(c) of the Educaitonal, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 17 CFR Part 301). Related records can be reviewed between 8:30 a.m. and 5:30 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-729.

Applicant: Carnegie-Mellon University, Pittsburgh, PA 15213.

Instrument: Scanning X-Ray Diffraction Micrographic Camera, Model D1511.

Manufacturer: Rigaku Corporation, Japan.

Intended Use: See notice at 51 FR 29149.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is an accessory which can collect information on the form and location of lattice defects and enables the non-destruct analysis of impurities, precipitation, stacking faults and lattice distortions. The National Bureau of Standards advises in its memorandum dated October 29, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-28415 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

Lehigh University; Decision on Application For Duty-Free Entry of Scientific Instrument

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 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-329.

Applicant: Lehigh University, Bethlehem, PA 18015-3188.

Instrument: Portable Rock Magnetometer, MS 1.

Manfacturer: Molspin Limited, United Kingdom.

Intended Use: See notice at 51 FR 37057.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument allows in situ operation with a sensitivity of 0.1×10^{-6} emu.cm^{-3}. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-28416 Filed 12-17-86; 8:45am]

BILLING CODE 3510-DS-M

NOAA; Notice of Decision on Application For Duty-Free Entry of Scientific Instrument

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, DC.

Docket Number: 86-260.

Applicant: U.S. Department of Commerce, NOAA, Oak Ridge, TN 37831.

Instrument: Sonic Anemometer, Model PAC-100 with Accessories.

Manufacturer: Dobbie Instruments, Australia.

Intended Use: See notice at 51 FR 26732.

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 (May 7, 1986). Reasons: The foreign article provides a resolution of 0.005 m/s for wind measurement and ± 0.01 °C with a range of −10 to 50 °C for temperature measurement. This capability 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 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 purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to Applied Technology, Inc., Boulder, CO, 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.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-28418 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-15-M

St. Vincent's Hospital and Medical Center NY; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

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, DC.

Docket Number: 86-219R. Applicant: St. Vincent's Hospital and Medical Center New York, New York, NY 10011.

Instrument: Electron Microscope, Model EM 109 with Accessories.

Manufacturer: Carl Zeiss, West Germany.

Intended Use: See notice at 51 FR 26287.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides a guaranteed crystal lattice resolution of 0.344 nm. The National Institutes of Health advises in its memorandum dated October 27, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-28423 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

UCLA; Los Angeles, CA; Decision on Application For Duty-Free Entry of Scientific Instrument

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, DC.

Docket Number: 86-107R.

Applicant: UCLA, Los Angeles, CA 90024.

Instrument: pH Electrodes, Model Lot 440-M4/20/3m-15.30.

Manufacturer: InGold AG Industrie Nord, Switzerland. Original notice of this resubmitted application was published in the **Federal Register** of February 20, 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high accuracy and reliability (error less than 0.05 pH units) by use of a glass combination electrode based system. The National Institutes of Health advises in its memorandum dated October 27, 1986 that (1) capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Program Staff.

[FR Doc. 86-28417 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-036]

Certain Scissors and Shears From Brazil; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On March 26, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain scissors and shears from Brazil. The review covers the period March 1, 1981 through February 28, 1982 and eleven programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, the Department has determined the net subsidy during the period of review to be 15.17 percent *ad valorem*.

The Department is deferring its final decision on the question of whether it has the authority to assess

countervailing duties on entries of pinking shears.

EFFECTIVE DATE: December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 11927) the preliminary results of its administrative review of the countervailing duty order on certain scissors and shears from Brazil (42 FR 8634, February 11, 1977). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

On December 14, 1983, the International Trade Commission ("the ITC") published its determination, under section 104(b) of the Trade Agreements Act of 1979, that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of Brazilian scissors and shears if the order were revoked (48 FR 55644). Consequently, the Department published in the **Federal Register** (49 FR 7638, March 1, 1984) a revocation of the order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after July 17, 1981, the date of the ITC's notification to the Department of the request by the Brazilian government for such an injury determination.

Scope of Review

Imports covered by the review are shipments of Brazilian scissors and shears valued over $1.75 per dozen. Such merchandise is currently classifiable under items 650.9000 and 650.9200 of the Tariff Schedules of the United States Annotated ("TSUSA").

The review covers the period March 1, 1981 through February 28, 1982 and eleven programs: (1) CACEX export financing; (2) an income tax exemption for export earnings; (3) the export credit premium for the IPI; (4) BEFIEX; (5) CIC-CREGE 14-11 financing; (6) CIEX; (7) FUNDECE; (8) financing for the storage of merchandise destined for export (Resolution 330); (9) FINEX; (10) incentives for trading companies (Resolution 643); and (11) partially-indexed long-term loans.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the Government of Brazil.

Comment 1: The Government of Brazil argues that the Department should have used the companies' trade bill history as the most accurate source of information in establishing the short-term loan benchmark for the Department of Foreign Commerce of the Banco do Brasil ("CACEX") export financing. Instead, the Department incorrectly based its benchmark on an average of weekly trade bill discount figures published in *Analise/Business Trends.*

Department's Position: We disagree. Our practice in calculating a short-term benchmark is to use a national average interest rate rather than a company-specific interest rate. *See,* Subsidies Appendix to the notice of *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order on Certain Cold-rolled Carbon Steel Flat-rolled Products from Argentina* (49 FR 18006, April 26, 1984).

Comment 2: The Brazilian government argues that if the Department uses *Analise/Business Trends* to establish its short-term loan benchmark, it should follow the calculation method used in *Cast Iron Pipe Fittings from Brazil* (50 FR 8755, March 5, 1985) and annualize the discount rate in effect on the date that each loan was disbursed. Failing that, the Department should weigh the annual commercial average rate by the borrowing volume of each firm.

Department's Position: We did not annualize the discount rate in effect on the date when each loan was disbursed in the pipe fittings notice. Instead, we used an average annual rate for the review period. We disagree that we should weigh the benchmark to reflect the borrowing volume of each firm (*see,* Comment 1). Weighing the benchmark, as the Brazilian government suggests, would result in a benchmark specifically for the firm covered by the review.

Comment 3: The Government of Brazil argues that, because the review covers the fiscal year, the Department's calculation of a calendar year benchmark overstates the interest rates on loans made during the first part of the fiscal year.

Department's Position: We agree that the calculation of a calendar year benchmark misstates the interest rates on loans reviewed on a fiscal year basis. The calculation of a fiscal year benchmark as well as the correction of other calculation errors results in a net subsidy of 7.66 percent *ad valorem* for CACEX export financing. The rates in other programs are unaffected by this change.

Comment 4: The Government of Brazil claims that, in calculating the interest benchmark for CACEX export financing, the Department should not include the tax on financing transactions ("the IOF"). The IOF is an indirect tax on the financing of the purchase of physically incorporated inputs. Considering the IOF tax as an intergral part of the commercially-available rate (*i.e.,* considering exemption from the tax a subsidy) is contrary to the General Agreement on Tariffs and Trade and U.S. law, both of which permit the non-excessive rebate of indirect taxes.

Department's Position: We have considered and rejected this argument in other Brazilian countervailing duty cases. *See, e.g., Certain Castor Oil Products from Brazil* (48 FR 40534, September 8, 1983).

Comment 5: The Government of Brazil argues that the Department has overstated the benefit from the income tax exemption for export earnings. Brazilian federal tax laws permit corporations to invest 26 percent of their tax liability in certain specified corporations. The Brazilian government claims that these equity investments produce dividend income and increase salable assets. Since these investments effectively reduce the nominal corporate income tax rate, the Government of Brazil argues that the Department should decrease the income tax exemption benefit to reflect the actual tax savings.

Department's Position: We would consider using the effective income tax rates if the firms demonstrated that they had invested in the specified corporations. No information was provided to support such a claim during this review.

Comment 6: The Government of Brazil cites the determinations made in *Bicycle Tires and Tubes from Korea* (46 FR 17068, March 17, 1981) and *Certain Textiles and Textile Products from Pakistan* (44 FR 40884, July 13, 1979) to support its claim that benefits derived from the income tax exemptions for export earnings should be allocated over total sales rather than only export sales. Under the Brazilian program, an exporter receives an exemption from income tax liabilities at the end of the fiscal year based upon a ratio of export to total revenue, provided that the firm has made an overall profit. The Brazilian government argues that, because the salient factor in determining a firm's eligibility for this program is the firm's overall profitability in a given year, the benefit accrues to the operations of the whole firm and not just to exports. Thus, by allocating the

benefits only to export sales, the Department overstates the value of the subsidy.

Department's Position: We have considered and rejected this argument in other Brazilian countervailing duty cases. *See, e.g., Certain Castor Oil Products from Brazil, supra.* The Department's current method of allocating export subsidies over exports supersedes the allocation method used in the two cases cited by the Government of Brazil.

Comment 7: The Government of Brazil argues that the Department incorrectly found the lag in collection of the offset tax on the export credit premium for the Industrial Products Tax ("IPI") to be a benefit. The Brazilian government argues that it had no agreement with the United States regarding the timing of the collection of the offset tax. Therefore, there was no delay in collection of the tax, since the firms paid the tax on the date set by governmental decree.

Department's Position: While there may have been no agreement specifying the time period for tax collection, we must still ensure that the tax (or alternatively a countervailing duty) offsets completely the benefit received from the IPI export credit premium on exports to the United States.

The offset tax became effective on June 26, 1981. The first collection occurred December 31, 1982. A tax collected that long after the export date, especially without monetary correction in a period of high inflation, does not offset completely the benefit. Further, our treatment of a lag in the collection of the offset tax to the IPI has been upheld by the CIT in *Philipp Brothers, Inc. v. United States,* Slip Op. 86-107 CIT (Oct. 22, 1986).

Comment 8: The Government of Brazil argues that, if the Department calculates a benefit due to the delay in collection of the offset tax, the Department should use the same benchmark as used for CACEX export financing.

Department's Position: We agree and did use that benchmark in the preliminary results. However, we made several rounding errors. We have corrected those errors for these final results. The net subsidy is 1.15 percent *ad valorem* for the late collection of the IPI offset tax, and the total net subsidy for the IPI export credit premium is 3.68 percent *ad valorem.* As described in Comment 1, we have not agreed that our use of *Analise* numbers is erroneous.

Comment 9: The Government of Brazil argues that CIC-CREGE 14-11 loans are not countervailable because they are non-government loans granted in accordance with commercial consideration.

Department's Position: The Government of Brazil has not provided adequate information to allow us to consider this loan program to be provided without government direction or to be provided on terms consistent with commercial loans.

Comment 10: The Government of Brazil argues that, if the Department calculates a benefit for CIC-CREGE 14-11 financing, it should use the same benchmark as for CACEX export financing.

Department's Position: We agree. We used the same benchmark for all short-term preferential loans taken out in 1980.

Final Results of Review

After reviewing all of the comments received, we determine the next subsidy to be 15.17 percent *ad valorem* for the period of review. The Department will instruct the Customs Service to assess countervailing duties of 15.17 percent of the f.o.b. invoice price on any shipments (except as noted below) exported on or after March 1, 1981 and entered, or withdrawn from warehouse, for consumption before July 17, 1981 (the date the Department received notification of the request for an injury determination).

As a result of the ITC's negative injury determination, the Department has revoked this order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after July 17, 1981.

Entries of pinking shears classifiable under TSUSA item 605.9000 are afforded duty free status under the Generalized System of Preferences. Section 303 of the Tariff Act provides that we may not "impose" countervailing duties on duty-free products absent an injury test, when the United States has an "international obligation" to provide such a test. In our preliminary results, we preliminarily took the position that Brazil's adherence to the General Agreement on Tariffs and Trade imposed such an "international obligation" on the United States, and that we lacked the authority to assess countervailing duties on the pinking shears. We are deferring a final decision on this issue and will not now instruct the Customs Service to liquidate shipments of pinking shears entered, or withdrawn from warehouse, for consumption on or before July 16, 1981. We will publish our determination on this issue in a separate notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 12, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-28429 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-004]

Certain Stainless Steel Products From Brazil; Final Results of Countervailing Duty Administrative Review and Renegotiation of Suspension Agreement

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review and renegotiation of suspension agreement.

SUMMARY: On October 30, 1986, the Department of Commerce published the preliminary results of its administrative review and tentative determination to renegotiate or terminate suspension agreement on certain stainless steel products from Brazil. We have renegotiated the suspension agreement and find that the revised agreement meets the requirements of sections 704 (b) and (d) of the Tariff Act. The review covers the period March 31, 1983 through December 31, 1985 and 17 programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we have determined the net subsidy to be 27.88 percent *ad valorem* for the 1983 period, 16.74 percent *ad valorem* for 1984, and 8.51 percent *ad valorem* for 1985.

EFFECTIVE DATE: December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or John D. Miller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 30, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 39693) the preliminary results of its countervailing duty administrative review and tentative determination to renegotiate or terminate the suspension agreement on certain stainless steel products from Brazil (48 FR 4703, February 2, 1983). We have now completed the administrative review in

accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Brazilian certain stainless steel products, limited to hot-rolled stainless steel bars, cold-formed stainless steel bars and stainless steel wire rod. Such merchandise is currently classifiable under items 606.9005, 606.9010, and 607.2600 (if tempered, treated or partly manufactured, 607.4300) of the Tariff Schedules of the United States Annotated.

The review covers the period March 31, 1983 through December 31, 1985 and 17 programs: (1) CACEX export financing; (2) an income tax exemption for export earnings; (3) the export credit premium for the IPI; (4) CIC-CREGE 14–11 financing; (5) incentives for trading companies (Resolution 883); (6) accelerated depreciation for Brazilian-made capital goods; (7) duty-free treatment and tax exemption on equipment used in export production ("CDI"); (8) FINEX (Resolutions 68 and 509); (9) funding for expansion through IPI tax rebates; (10) BNDES long-term loans; (11) FINEP long-term loans; (12) BEFIEX; (13) CIEX; (14) FUNPAR; (15) PROEX; (16) PROSIM; and (17) financing for the storage of merchandise destined for export (Resolution 330).

The review covers three producers and one trading company.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, the Speciality Steel Industry of the United States ("SSI"), and the Brazilian government.

Comment 1: The Brazilian government argues that the Department should use for its short-term loan benchmark the annualized interest rate in effect on the date that each loan was obtained instead of the average annual rate in effect during the reveiw period. In a high-inflation economy, such as exists in Brazil, an average rate calculated over the review period distorts the actual interest differentials. Further, since the number of loans in this case is small, this approach will not create an unworkable administrative burden.

Department's Position: We disagree. An average benchmark over the review period may understate or overstate the benefit on individual loans, but it will accurately reflect the aggregate benefit from preferential loans over the review period because each company borrows at a more or less constant rate throughout the year.

Comment 2: The Brazilian government contends that the Department should use as its short-term loan benchmark the average commercial bank lending rates published by Morgan Guaranty Trust Company in its *World Financial Markets* instead of the average of weekly trade bill discount figures published in *Analise/Business Trends.* Commercial bank lending practices are most similar to Resolution 674/882 financing, the source of Morgan Guaranty's figures.

Department's Position: We disagree. The commercial bank lending rates published by Morgan Guaranty Trust Company are lending rates to prime borrowers. As stated in the Subsidies Appendix to the notice of final affirmative countervailing duty determination and order on certain cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006, April 26, 1984) ("the Subsidies Appendix"), we use a national average benchmark based on short-term financing available to all firms, not just to prime borrowers. We have found that trade bill discounting more accurately reflects the actual borrowing practice of most Brazilian firms.

Comment 3: The Brazilian government argues that the Department overstated the short-term loan benchmark by compounding monthly rates. If the Department continues to use the annual average for discounts of accounts receivable, it should calculate a daily rate, compound it for a 30-day period and then multiply this rate by 12 to annualize the benchmark. This calculation would take into account the montly rollover of the principal.

Department's Position: We disagree. We have found that commercial lending in Brazil generally does not exceed 30 days and that most loans are rolled over monthly. It is inappropriate to use compounded daily rates, even if such rates were available, because loans are rolled over monthly, not daily.

Comment 4: The Brazilian government believes that the Department should use the guideline interest rates established by the resolutions regarding the short-term preferential export financing programs instead of the actual interest rates on each loan contract. Although the actual lending experience of certain firms may result in interest rates that are lower than the guideline interest rates, the lower rates are the result of commercial practices, such as the large volume of business conducted between certain firms and banks, and not any government action. Furthermore, since a higher lending volume generates higher costs for the firm, the Department should include these costs in calculating the effective preferential interest rate.

Department's Position: We disagree. Regardless of whether the costs of these loans are higher or lower than the guideline rates, the benefit received by the companies borrowing under this program is the difference between what they are paying and what they otherwise pay. Further, the Brazilian government has provided no evidence that an increased volume of loans causes higher effective costs.

Comment 5: The Brazilian government claims that, in calculating the short-term interest rate benchmark, the Department should not include the tax on financing transactions ("the IOF"). The IOF is an indirect tax on the financing of physically incorporated inputs. Considering the IOF tax to be an integral part of the commercially-available rate (*i.e.*, considering exemption from the tax to be a subsidy) is contrary to the General Agreement on Tariffs and Trade and U.S. law, both of which permit the non-excessive rebate of indirect taxes.

Department's Position: We have considered and rejected this argument in other Brazilian countervailing duty cases. *See, e.g., Certain Castor Oil Products from Brazil* (48 FR 40534, September 8, 1983).

Comment 6: The Brazilian government claims that the Department incorrectly allocated the benefits from the income tax exemption for export earnings program over export sales instead of total sales. Since the program rebates direct taxes, it is a domestic subsidy, which requires the Department to allocate the benefit over total sales.

Department's Position: We disagree. When the amount of benefit received under a program is tied directly or indirectly to a company's level of exports, that program is an export subsidy. Under this program, exports are necessary to receive a benefit, and the level of exports determines the level of benefit. Therefore, we will continue to allocate benefits from this program over export sales instead of total sales.

Comment 7: The Brazilian government argues that CIC–CREGE 14–11 loans are not countervailable because they are non-government loans granted in accordance with commercial considerations. Although the nominal interest rates on these loans during the review period were somewhat below the commercial interest rates, commission costs, collateral and foreign exchange requirements effectively increased nominal rates to the range of commercial rates. Further, the Department should not calculate a cash

deposit rate for this program because the nominal rates on these loans now approximate commercial rates.

Department's Position: The Brazilian government has not provided adequate information to allow us to consider this loan program to be provided without government direction or to be provided on terms consistent with commerical loans.

Comment 8: The Brazilian government believes that the Industrial Development Council's ("CDI") Decree Law 1137, which provides for accelerated depreciation for Brazilian-made capital goods, and Decree Law 1428, which allows import duty exemptions on Brazilian-made capital equipment, are not limited to an industry or group of industries, and are therefore not countervailable.

If the Department maintains that Decree Law 1137 is countervailable, it should calculate a benefit only when the amount of accelerated depreciation claimed exceeds the amount of accelerated depreciation "recaptured" (*i.e.*, added back to the net profit in an amount equal to that claimed in prior years), because the recapture eliminates any net tax effect.

Department's Position: We disagree. We have found that CDI benefits are provided by the government to specific industries. *See, Certain Carbon Steel Products from Brazil* (49 FR 17988, April 26, 1984.

We agree that we should calculate a benefit when the amount of recapture attributable to CDI is less than the amount of accelerated depreciation attributable to CDI. However, the companies did not provide the relevant verification documents that would allow us to make this calculation.

Comment 9: The Brazilian government believes that FINEX financing under Resolutions 68 and 509 is not countervailable because the program is consistent with the Arrangement on Guidelines for Officially Supported Export Credits ("the Arrangement"), which is not considered an illegal export subsidy under item (k) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code").

Department's Position: We disagree. Since the FINEX loans in this case are short-term loans, they are not covered by the Arrangement and, hence, do not fall within the second paragraph of item (k).

Comment 10: The Brazilian government contends that U.S. importers would normally obtain import financing at LIBOR or the U.S. prime rate, not at the rates reported in the U.S. Federal Reserve Bulletin. Therefore, the Department should change the benchmark for FINEX importer financing. If the Department continues to use the Federal Reserve rate as a benchmark, the Brazilian government believes that the benchmark should not be based on the upper limit of the interquartile range, but rather on the average of the upper and lower limits.

Department's Position: We disagree. The Federal Reserve rates are an appropriate measure of the national average commercial rates available to U.S. importers. The Brazilian government has not provided any proof that an average importer in the United States would have access to either trade or working capital financing at LIBOR or U.S. prime rates.

In calculating the benchmark, we used the weighted-average interest rates on loans of less than one million dollars, not the upper limit of the interquartile range.

Comment 11: The Brazilian government contends that the Department should have used discounting operations under Communication 331, rather than Resolution 63 loans, as the basis for the FINEX export financing benchmark. The terms and commitments associated with Communication 331 discount operations more closely approximate the FINEX export financing discounting operations.

Department's Position: We disagree. Communication 331 discount operations generally have a duration of much less than 180 days. In contrast, Resolution 63 loans, with 180-day terms, more closely approximate the terms, commitments, and duration of FINEX export financing.

Comment 12: The Brazilian government argues that the Department, in its calculation of benefits from importer and exporter FINEX financing, should not have included the commission, which is paid to the lending bank by CACEX. The Brazilian government believes that, since the commission is negotiated between the lender and borrower at arm's length, it is governed by commercial considerations, and is therefore not countervailable.

Department's Position: We disagree. The benefit received by the companies borrowing under this program is the difference between what they are paying and what they would otherwise pay. Therefore, we have included the portion of the commission that is passed on to borrowers.

Comment 13: The Brazilian government argues that the IPI rebate program under Decree Law 1547 is not countervailable. As originally enacted, the value-added tax was applied to all domestic sales transactions, but it now applies to only fourteen industries, including steel. Because these industries are subject to the IPI while others are not, the reduction of the IPI for any of those industries cannot be considered a subsidy.

Department's Position: We disagree. The IPI rebates do not directly reduce taxes paid by steel producers. Instead, the same amount of IPI tax is applied to all steel products, but only companies that produce certain priority products and companies whose expansion projects are government-approved may receive the rebates. For example, manufacturers of steel products such as welded pipe and tube are not eligible for the rebates. Therefore, there is no one-to-one correspondence between taxes paid and the IPI rebate. Moreover, we do not have sufficient information on the amount of rebates in other industries or on the exceptions within those industries.

Comment 14: The Brazilian government contends that the Department has sufficient evidence to find the FINEP long-term loan program generally available and, therefore, not countervailable. If the Department continues to find these loans countervailable, the benchmark should be the company-specific long-term interest rate in effect when the loans were taken out.

Department's Position: We disagree. During verification, we requested industry-specific FINEP loan information, including data on the relative size of, and amounts received by, each industry for the past six years. Although we obtained information on various industries that received FINEP loans, the Brazilian government did not break down the amounts provided for those industries. Therefore, we do not have sufficient information to find that FINEP long-term loans are not specifically provided to more than a specific enterprise or industry or group of enterprises or industries.

We agree that a company-specific loan benchmark is appropriate. We have calculated the benefit and find no change in the subsidy rate.

Comment 15: The Brazilian government believes that, since sales from producers to trading companies are made at arm's length, the Department inappropriately assumed that the subsidies given to producers also confer subsidies on trading companies and service centers. If the Department believes that subsidies on this merchandise were passed through from the producers to the trading companies

and service centers, it should have used an upstream subsidy test to determine the benefit. If the Department continues to assume that subsidies given to producers also confer subsidies on trading companies and service centers, it should weight the benefits received by each trading company and service center by the amount purchased from each producer.

Department's Position: The upstream subsidy provision of the Act, 19 U.S.C. section 1677–1, only applies to situations involving an input product. (*See,* final affirmative countervailing duty determination on live swine and fresh chilled and frozen pork products from Canada (50 FR 25097, June 17, 1985)). The products which are sold to the trading companies or the service center in this case are not inputs, rather they are products which are at or near the final stage of processing. All the trading companies or the service centers do is prepare these products for the next customer. The amount of value added by the trading company or the service center is minimal. Thus, since we determine that this situation is not one involving inputs, we determine that the upstream subsidy provision of the Act is not applicable. Nor does the fact that the sale from the producer to the trading company is an arm's length transaction alter this conclusion.

Comment 16: The Brazilian government believes that the Department incorrectly determined that the suspension agreement no longer meets the requirements of the Tariff Act. The Brazilian government has fulfilled the conditions of the suspension agreement by appropriately collecting export taxes equal to the amount required by the Department, and therefore, it has not violated the agreement. Neither the agreement nor the statute requires retroactive comparison of the export tax with the net subsidy. Instead, a suspension agreement should function prospectively since the statute only requires the review of the net subsidy. Therefore, there is no need to renegotiate the suspension agreement. Further, it would be inappropriate to use the rate set in the final determination of this case instead of the rate found in this review for a deposit rate for estimated countervailing duties if an order were issued.

Department's Position: We disagree. Although the Brazilian government did not violate the suspension agreement, the original agreement lacked a mechanism that would allow the complete elimination of the net subsidy as required by the statute. Therefore, the agreement no longer met the requirements of section 704 (b) and (d) of the Tariff Act. The revised agreement now has an adjustment mechanism that allows for the complete elimination of the net subsidy based on a comparison between actual export taxes paid during the period of review and the net subsidy found during the same period. Therefore, the revised agreement conforms to both the statute and the Department's practice to conduct reviews retrospectively.

Further, since we have not issued an order in this case, the issue of the appropriate cash deposit rate is moot.

Comment 17: The petitioner, the Specialty Steel Industry ("SSI"), argues that the Department lacks the authority to renegotiate the suspension agreement. The SSI believes that, because the original agreement has been violated and no longer meets the requirements of section 704 (b) and (d) of the Tariff Act, the Department is required under section 704(i) to terminate the agreement and issue a countervailing duty order.

Department's Position: We disagree. We made a preliminary determination that the original agreement no longer meets the requirements of section 704 (b) and (d) because the amount of export taxes collected did not fully offset the net subsidy. Section 355.32(b) of the Commerce Regulations allows the Department to renegotiate suspension agreements, except in the event of intentional violations, which we do not find in this case. Further, the statute does not prohibit renegotiations to bring agreement into compliance with section 704 (b) and (d). Therefore, we believe that we have the authority to renegotiate the suspension agreement. Further, we determine that the revised agreement meets the requirements of section 704 (b) and (d).

Comment 18: The SSI argues that the Department should terminate the agreement because of the Brazilian government's past failures to collect the appropriate amount of export tax required by Brazil's tax resolutions. The SSI believes that such incidents indicate a continuing failure to comply with the terms of the agreement.

Department's Position: We disagree. Although there were some initial problems with implementation of the tax resolutions governing the suspension agreement, we have found no further problems. The companies have paid to the Brazilian Government all underpayments resulting from any difference between the export tax rate set by the Brazilian government and the amount paid by the companies on specific shipments of this merchandise. Therefore, we believe that the Brazilian government and the companies have made efforts in good faith to comply with the terms of the agreement.

Comment 19: The petitioner argues that the revised suspension agreement should not forgive the difference between the net subsidy and the amount of export taxes paid during the review period and 1986. The SSI believes that the Department should rectify this difference by assessing additional countervailing duties or requiring the Brazilian government to collect additional export taxes.

Department Position: We disagree. The originial suspension agreement did not allow for the retroactive correction of export taxes. Further, we have no authority to collect countervailing duties on imports covered by the agreement. The revised agreement corrects this deficiency by including a mechanism which adjusts for any under-or over-collection of export taxes on specific shipments. This mechanism will account for any differences between the net subsidy and the amount of past export taxes paid.

Comment 20: The SSI argues that the revised agreement should include a provision for the treatment of any differences between the export tax rate set by the Brazilian government and the amount paid by the companies. The SSI believes that the absence of such a provision gives exporters an incentive to underpay. Such undercollections should be treated as interest-free long-term loans.

Department's Position: We disagree. We do not belive it is necessary to include the export tax provisions suggested by the SSI in the agreement because the Department has the authority to calculate a benefit which corrects for any such discrepancies. If we find continuing problems with collection or payment of the export taxes, we will terminate the suspension agreement and issue a countervailing duty order. Further, since all payments for the review period have been appropriately made, the issue of the benchmark is moot.

Comments 21: The SSI argues that the revised agreement should correct for Brazil's inflation rate by specifying how the dollar value of the cruzado-denominatd subsidy is calculated. The SSI believes that if Brazil's inflation rate exceeds the depreciation of the cruzado in relation to the dollar, the dollar value of the subsidies will be understated.

Department's Position: The SSI mistakenly belives that we can tie the benefits received by each firm from the

different subsidy programs to each shipment. The dollar value of benefits received by Brazilian companies from one particular program on individual shipments may be, to a certain extent, "understated" or "overstated" by the divergence between inflation and devaluation. However, the calculation of a countervailing duty would also "understate" or "overstate" the benefit by the same amount. Since the effect of a suspension agreement and a countervailing duty order is the same, there is no reason to calculate the benefits differently.

Final Results of Review

After reviewing all of the comments received, we determine that the revised agreement now meets the requirements of sections 704(b) and (d) of the Tariff Act and that the net benefit be 27.88 percent *ad valorem* for the 1983 period, 16.74 percent *ad valorem* for 1984, and 8.51 percent *ad valorem* for 1985; the same as in the preliminary results. The Government of Brazil collected an average export tax of 15.99 percent *ad valorem* for the 1983 period, 16.26 percent *ad valorem* for 1984, and 8.50 percent *ad valorem* for 1985. In accordance with the adjustment mechanism in the revised agreement, we will instruct the Government of Brazil to set an export tax rate of 8.51 percent on all shipments of this merchandise to the United States.

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 § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 12, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

Revised Suspension Agreement

Certain Stainless Steel Products From Brazil

Pursuant to section 704 of the Tariff Act of 1930, ("the Tariff Act"), and § 355.31 of the Commerce Regulations, the Department of Commerce ("the Department") and the Government of Brazil enter into the following Revised Suspension Agreement ("the Agreement"). On the basis of the foregoing, the Department shall continue to suspend its countervailing duty investigation initiated on July 6, 1982 (47 FR 30274) with respect to certain stainless steel products from Brazil subject to the terms and provisions set forth below.

I. Scope of the Agreement

The Agreement applies to certain stainless steel products manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States, ("certain stainless steel products"). Certain stainless steel products include stainless steel wire rod, hot-rolled stainless steel bars, and cold-formed stainless steel bars.

The term stainless steel wire rod covers a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, currently classifiable under item 607.2600 of the Tariff Schedules of the United States Annotated ("TSUSA"), or if tempered, treated, or partly manufactured, currently classifiable under item 607.4300 of the TSUSA.

The term "hot-rolled stainless bars" covers hot-rolled stainless steel products of solid cross section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal, currently classifiable under item 606.9005 of the TSUSA.

The term "cold-formed stainless steel bars" covers cold-formed stainless steel products of solid cross section having cross sections in the shapes of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal, currently classifiable under item 606.9010 of the TSUSA.

Stainless steel is an alloy steel which contains by weight less than 1 percent of carbon and over 11.5 percent of chromium.

II. Basis of the Agreement

The Government of Brazil hereby agrees to offset completely the net subsidy determined by the Department to exist with respect to certain stainless steel products exported directly or indirectly to the United States. The offset shall be accomplished by the imposition and collection of an export tax.

A. *Export Tax.* 1. The Government of Brazil shall impose and collect an export tax equal to the value of the "subsidy" found to exist, modified by an adjustment described in paragraph II.A.5. The export tax shall offset completely any benefit received through the following programs:

(a) Export credit premium for the IPI;

(b) CACEX export financing;

(c) Accelerated depreciation for Brazilian-made capital goods;

(d) CIC–CREGE 14–11 financing;

(e) Funding for expansion through IPI tax rebates;

(f) Duty-free treatment and tax exemptions on imported equipment;

(g) Incentives for trading companies;

(h) FINEX financing under Resolutions 68 and 509;

(i) Long-term loans under the FINEP program;

(j) BEFIEX;

(k) Income tax exemption for export earnings; and

(l) Any other benefits found countervailable in an administrative review in this proceeding.

2. The export tax will apply to certain stainless steel products exported directly or indirectly from Brazil to the United States on or after January 1, 1987.

3. The export tax shall be imposed and collected on or before the thirtieth day after the last day of the month of export.

4. The value of the "subsidy" referred to in paragraph II.A.1. shall be equal to the most recent rate of subsidy found by the Department in this proceeding to exist with respect to exports of certain stainless steel products.

5. The adjustment referred to in paragraph II.A.1. shall be calculated as follows:

(a) The United States dollar amount of the subsidy found by the Department to exist during the course of the most recent administrative review of this Agreement, minus

(b) The United States dollar amount of the export tax paid during the period reviewed in the most recent administrative review of this Agreement.

6. The Department shall make best efforts to complete any administrative review initiated under section 751 of the Tariff Act by November 30 of the year initiated. The effective date of any change in the export tax rate, as determined in the final results of administrative review, shall be the earlier of January 1 of the year following the issuance of the final results of administrative review or 30 days after issuance of the final results of administrative review.

7. Any change in the export tax shall apply only to exports made on or after the effective date of that adjusted export tax.

III. Additional Undertakings by the Government of Brazil

A. The Government of Brazil agrees to take such steps as are necessary to ensure that this Agreement is implemented and monitored effectively, including:

1. Notifying the relevant authorities of the Government of Brazil of the terms of this agreement in order to ensure action by those agencies consistent with the terms of this Agreement;

2. Supplying any information and documentation that the Department deems necessary to demonstrate full compliance with the terms of this Agreement;

3. Permitting such verification and data collection as deemed necessary by the Department in order to monitor this Agreement;

4. Notifying the Department if it becomes aware that any producer or exporter is transshipping certain stainless steel products through third countries to the United States;

5. Notifying the Department if it alters or terminates its position with respect to any of the terms of this Agreement; and

B. The Government of Brazil agrees to provide to the Department within 45 days of the end of each calendar quarter, beginning with the quarter ending March 31, 1987, all information deemed by the Department to be necessary to maintain this Agreement. The information shall include, but not be limited to:

1. A certification that the Government of Brazil continues to be in full compliance with this Agreement;

2. A certification (provided after consultation with each agency responsible for administering the programs in section II), that the exporters have paid the appropriate export tax in a timely manner; and

3. A certification of the total amount of export taxes paid during the quarter and a

listing of each shipment of certain stainless steel products to the United States identifying for each shipment:

(a) The name of the exporter;
(b) The volume and value of the shipment;
(c) The date of shipment;
(d) The amount of export tax paid; and
(e) The date the export tax was paid.

IV. General Provisions

A. The provision of section 704(i) shall apply if:

1. The Government of Brazil withdraws from this Agreement; or

2. The Department determines that this Agreement is being or has been violated or no longer meets the requirements of section 704 of the Tariff Act.

B. By participating in this Agreement, the Government of Brazil does not admit that any of the programs investigated or included in this Agreement constitute subsidies within the meaning of the Tariff Act or the GATT Subsidies Code.

VI. Effective Date

The effective date of this Agreement is the date of publication in the **Federal Register.**

Signed on this 1st day of December 1986, for the Government of Brazil.

Jose Artur Medeiros,

Minister Counselor, Embassy of Brazil.

I have determined, pursuant to section 704(b) of the Tariff Act, that the provisions of Section II completely eliminate the subsidies that the Government of Brazil is providing with respect to certain stainless steel products exported, directly or indirectly, from Brazil to the United States. Furthermore, I have determined that the suspension of the investigation is in the public interest, that the provisions of Sections II and III ensure that this Agreement can be monitored effectively, and that this Agreement meets the requirements of the Tariff Act.

United States Department of Commerce.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-28421 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-006]

Certain Tool Steel Products From Brazil; Final Results of Countervailing Duty Administrative Review and Renegotiation of Suspension Agreement

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review and renegotiation of suspension agreement.

SUMMARY: On October 30, 1986, the Department of Commerce published the preliminary results of its administrative review and tentative determination to renegotiate or terminate suspension agreement on certain tool steel products from Brazil. We have renegotiated the suspension agreement and find that the revised agreement meets the requirements of sections 704(b) and (d) of the Tariff Act. The review covers the period May 1, 1983 through December 31, 1985 and 17 programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we have determined the net subsidy to be 28.55 percent *ad valorem* for the 1983 period, 20.97 percent *ad valorem* for 1984, and 12.18 percent *ad valorem* for 1985.

EFFECTIVE DATE: December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or John D. Miller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 30, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 39693) the preliminary results of its countervailing duty administrative review and tentative determination to renegotiate or terminate the suspension agreement on certain tool steel products from Brazil (48 FR 11731, March 21, 1983). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Brazilian certain tool steel products, limited to hot-finished tool steel, cold-finished tool steel, high speed tool steel, chipper knife tool steel, and band saw steel bars and rods. Such merchandise is currently classifiable under items 603.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2800, 607.3405, 607.3420, 607.4600, 607.5405, and 607.5420 of the Tariff Schedules of the United States Annotated.

The review covers the period May 1, 1983 through December 31, 1985 and 17 programs: (1) CACEX export financing; (2) an income tax exemption for export earnings; (3) the export credit premium for the IPI; (4) CIC-CREGE 14-11 financing; (5) incentives for trading companies (Resolution 883); (6) accelerated depreciation for Brazilian-made capital goods; (7) duty-free treatment and tax exemption on equipment used in export production ("CDI"); (8) FINEX (Resolutions 68 and 509); (9) funding for expansion through IPI tax rebates; (10) BNDES long-terms loans; (11) FINEP long-term loans; (12) BEFIEX; (13) CIEX; (14) FUNPAR; (15) PROEX; (16) PROSIM; and (17) financing for the storage of merchandise destined for export (Resolution 330).

The review covers three producers and one trading company.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, the Speciality Steel Industry of the United States ("SSI"), and the Brazilian government.

Comment 1: The Brazilian government argues that the Department should use for its short-term loan benchmark the annualized interest rate in effect on the date that each loan was obtained instead of the average annual rate in effect during the review period. In a high-inflation economy, such as exists in Brazil, an average rate calculated over the review period distorts the actual interest differentials. Further, since the number of loans in this case is small, this approach will not create an unworkable administrative burden.

Department's Position: We disagree. An average benchmark over the review period may understate or overstate the benefit on individual loans, but it will accurately reflect the aggregate benefit from preferential loans over the review period because each company borrows at a more or less constant rate throughout the year.

Comment 2: The Brazilian government contends that the Department should use as its short-term loan benchmark the average commercial bank lending rates published by Morgan Guaranty Trust Company in its *World Financial Markets* instead of the average of weekly trade bill discount figures published in *Analise/Business Trends.* Commercial bank lending practices are most similar to Resolution 674/882 financing, the source of Morgan Guaranty's figures.

Department's Position: We disagree. The commercial bank lending rates published by Morgan Guaranty Trust Company are lending rates to prime borrowers. As stated in the Subsidies Appendix to the notice of final affirmative countervailing duty determination and order on certain cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006, April 26, 1984) ("The Subsidies Appendix"), we use a national average benchmark based on short-term financing available to all firms, not just to prime borrowers.

We have found that trade bill discounting more accurately reflects the actual borrowing practice of most Brazilian firms.

Comment 3: The Brazilian government argues that the Department overstated the short-term loan benchmark by compounding monthly rates. If the Department continues to use the annual average for discounts of accounts receivable, it should calculate a daily rate, compound it for a 30-day period and then multiply this rate by 12 to annualize the benchmark. This calculation would take into account the monthly rollover of the principal.

Department's Position: We disagree. We have found that commercial lending in Brazil generally does not exceed 30 days and that most loans are rolled over monthly. It is inappropriate to use compounded daily rates, even if such rates were available, because loans are rolled over monthly, not daily.

Comment 4: Brazilian government believes that the Department should use the guideline interest rates established by the resolution regarding the short-term preferential export financing programs instead of the actual interest rates on each loan contract. Although the actual lending experience of certain firms may result in interest rates that are lower than the guideline interest rates, the lower rates are the result of commercial practices, such as the large volume of business conducted between certain firms and banks, and not any government action. Furthermore, since a higher lending volume generates higher costs for the firm, the Department should include these costs in calculating the effective preferential interest rate.

Department's Position: We disagree. Regardless of whether the costs of these loans are higher or lower than the guideline rates, the benefit received by the companies borrowing under this program is the difference between what they are paying and what they otherwise pay. Further, the Brazilian government has provided no evidence that an increased volume of loans causes higher effective costs.

Comment 5: The Brazilian government claims that, in calculating the short-term interest rate benchmark, the Department should not include the tax on financing transactions ("the IOF"). The IOF is an indirect tax on the financing of physically incorporated inputs.

Considering the IOF tax to be an integral part of the commercially-available rate (*i.e.*, considering exemption from the tax to be a subsidy) is contrary to the General Agreement on Tariffs and Trade and U.S. law, both by which permit the non-excessive rebate of indirect taxes.

Department's Position: We have considered and rejected this argument in other Brazilian countervailing duty cases. *See, e.g., Certain Castor Oil Products from Brazil* (48 FR 40534, September 8, 1983).

Comment 6: The Brazilian government claims that the Department incorrectly allocated the benefits from the income tax exemption for export earnings program over export sales instead of total sales. Since the program rebates direct taxes, it is a domestic subsidy, which requires the Department to allocate the benefit over total sales.

Department's Position: We disagree. When the amount of benefit received under a program is tied directly or indirectly to a company's level of exports, that program is an export subsidy. Under this program, exports are necessary to receive a benefit, and the level of exports determines the level of benefit. Therefore, we will continue to allocate benefits from this program over export sales instead of total sales.

Comment 7: The Brazilian government argues that CIC-CREGE 14–11 loans are not countervailable because they are non-government loans granted in accordance with commercial considerations. Although the nominal interest rates on these loans during the review period were somewhat below the commercial interest rates, commission costs, collateral and foreign exchange requirements effectively increased nominal rates to the range of commercial rates. Further, the Department should not calculate a cash deposit rate for this program because the nominal rates on these loans now approximate commercial rates.

Department's Position: The Brazilian government has not provided adequate information to allow us to consider this loan program to be provided without government direction or to be provided on terms consistent with commercial loans.

Comment 8: The Brazilian government believes that the Industrial Development Council's ("CDI") Decree Law 1137, which provides for accelerated depreciation for Brazilian-made capital goods, and Decree Law 1428, which allows import duty exemptions on Brazilian-made capital equipment, are not limited to an industry or group of industries, and are therefore not countervailable.

If the Department maintains that Decree Law 1137 is countervailable, it should calculate a benefit only when the amount of accelerated depreciation claimed exceeds the amount of accelerated depreciation "recaptured" (*i.e.*, added back to the net profit in an amount equal to that claimed in prior years), because the recapture eliminates any net tax effect.

Department's Position: We disagree. We have found that CDI benefits are provided by the government to specific industries. *See, Certain Carbon Steel Products from Brazil* (49 FR 17988, April 26, 1984).

We agree that we should calculate a benefit when the amount of recapture attributable to CDI is less than the amount of accelerated depreciation attributable to CDI. However, the companies did not provide the relevant verification documents that would allow us to make this calculation.

Comment 9: The Brazilian government believes that FINEX financing under Resolutions 68 and 509 is not countervailable because the program is consistent with the Arrangement on Guidelines for Officially Supported Export Credits ("the Arrangement"), which is not considered an illegal export subsidy under item (k) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code").

Department's Position: We disagree. Since the FINEX loans in this case are short-term loans, they are not covered by the Arrangement and, hence, do not fall within the second paragraph of item (k).

Comment 10: The Brazilian government contends that U.S. importers would normally obtain import financing at LIBOR or the U.S. prime rate, not at the rates reported in the U.S. Federal Reserve Bulletin. Therefore, the Department should change the benchmark for FINEX importer financing. If the Department continues to use the Federal Reserve rate as a benchmark, the Brazilian government believes that the benchmark should not be based on the upper limit of the interquartile range, but rather on the average of the upper and lower limits.

Department's Position: We disagree. The Federal Reserve rates are an appropriate measure of the national average commercial rates available to U.S. importers. The Brazilian government has not provided any proof that an average importer in the United States would have access to either trade or working capital financing at LIBOR or U.S. prime rates.

In calculating the benchmark, we used the weighted-average interest rates on loans of less than one million dollars, not the upper limit of the interquartile range.

Comment 11: The Brazilian government contends that the Department should have used discounting operations under Communication 331, rather than Resolution 63 loans, as the basis for the FINEX export financing benchmark. The terms and commitments associated with Communication 331 discount operations more closely approximate the FINEX export financing discounting operations.

Department's Position: We disagree. Communications 331 discount operations generally have a duration of much less than 180 days. In contrast, Resolution 63 loans, with 180-day terms, more closely approximate the terms, commitments, and duration of FINEX export financing.

Comment 12: The Brazilian government argues that the Department, in its calculation of benefits from importer and exporter FINEX financing, should not have included the commission, which is paid to the lending bank by CACEX. The Brazilian government believes that, since the commission is negotiated between the lender and borrower at arm's length, it is governed by commercial considerations, and is therefore not countervailable.

Department's Position: We disagree. The benefit received by the companies borrowing under this program is the difference between what they are paying and what they would otherwise pay. Therefore, we have included the portion of the commission that is passed on to borrowers.

Comment 13: The Brazilian government argues that the IPI rebate program under Decree Law 1547 is not countervailable. As originally enacted, the value-added tax was applied to all domestic sales transactions, but it now applies to only fourteen industries, including steel. Because these industries are subject to the IPI while others are not, the reduction of the IPI for any of those industries cannot be considered a subsidy.

Department's Position: We disagree. The IPI rebates do not directly reduce taxes paid by steel producers. Instead, the same amount of IPI tax is applied to all steel products, but only companies that produce certain priority products and companies whose expansion projects are government-approved may receive the rebates. For example, manufacturers of steel products such as welded pipe and tube are not eligible for the rebates. Therefore, there is no one-to-one correspondence between taxes paid and the IPI rebate. Moreover, we do not have sufficient information on the amount of rebates in other industries or on the exceptions within those industries.

Comment 14: The Brazilian government contends that the Department has sufficient evidence to find the FINEP long-term loan program generally available and, therefore, not countervailable. If the Department continues to find these loans countervailable, the benchmark should be the company-specific long-term interest rate in effect when the loans were taken out.

Department's Position: We disagree. During verification, we requested industry-specific FINEP loan information, including data on the relative size of, and amounts received by, each industry for the past six years. Although we obtained information on various industries that received FINEP loans, the Brazilian government did not break down the amounts provided for those industries. Therefore, we do not have sufficient information to find that FINEP long-term loans are not specifically provided to more than a specific enterprise or industry or group of enterprises or industries.

We agree that a company-specific loan benchmark is appropriate. We have recalculated the benefit and find no change in the subsidy rate.

Comment 15: The Brazilian government believes that, since sales from producers to trading companies are made at arm's length, the Department inappropriately assumed that the subsidies given to producers also confer subsidies on trading companies and service centers. If the Department believes that subsidies on this merchandise were passed through from the producers to the trading companies and service centers, it should have used an upstream subsidy test to determine the benefit. If the Department continues to assume that subsidies given to producers also confer subsidies on trading companies and service centers, it should weigh the benefits received by each trading company and service center by the amount purchased from each producer.

Department's Position: The upstream subsidy provision of the Act, 19 U.S.C. section 1677–1, only applies to situations involving an input product. (*See,* final affirmative countervailing duty determination on live swine and fresh chilled and frozen pork products from Canada (50 FR 25097, June 17, 1985)). The products which are sold to the trading companies or the service center in this case are not inputs, rather they are products which are at or near the final stage of processing. All the trading companies or the service centers do is prepare these products for the next customer. The amount of value added by the trading company or the service center is minimal. Thus, since we determine that this situation is not one involving inputs, we determine that the upstream subsidy provision of the Act is not applicable. Nor does the fact that the sale from the producer to the trading company is an arm's length transaction alter this conclusion.

Comment 16: The Brazilian government believs that the Department incorrectly determined that the suspension agreement no longer meets the requirements of the Tariff Act. The Brazilian government has fulfilled the conditions of the suspension agreement by appropriately collecting export taxes equal to the amount required by the Department, and therefore, it has not violated the agreement. Neither the agreement nor the statute requires retroactive comparison of the export tax with the net subsidy. Instead, a suspension agreement should function prospectively since the statute only requires the review of the net subsidy. Therefore, there is no need to renegotiate the suspension agreement. Further, it would be inappropriate to use the rate set in the final determination of this case instead of the rate found in this review for a deposit rate for estimated countervailing duties if an order were issued.

Department's Position: We disagree. Although the Brazilian government did not violate the suspension agreement, the original agreement lacked a mechanism that would allow the complete elimination of the net subsidy as required by the statute. Therefore, the agreement no longer met the requirements of section 704(b) and (d) of the Tariff Act. The revised agreement now has an adjustment mechanism that allows for the complete elimination of the net subsidy based on a comparison between actual export taxes paid during the period of review and the net subsidy found during the same period. Therefore, the revised agreement conforms to both the statute and the Department's practice to conduct reviews retrospectively.

Further, since we have not issued an order in this case, the issue of the appropriate cash deposit rate is moot.

Comment 17: The petitioner, the Speciality Steel Industry ("SSI"), argues that the Department lacks the authority to renegotiate the suspension agreement. The SSI believes that, because the original agreement has been violated and no longer meets the requirements of section 704 (b) and (d) of the Tariff Act, the Department is required under section 704(i) to terminate the agreement and issue a countervailing duty order.

Department's Position: We disagree. We made a preliminary determination that the original agreement no longer meets the requirements of section 704 (b) and (d) because the amount of export taxes collected did not fully offset the net subsidy. Section 355.32(b) of the Commerce Regulations allows the Department to renegotiate suspension agreements, except in the event of intentional violations, which we do not find in this case. Further, the statute does not prohibit renegotiation to bring an agreement into compliance with section 704 (b) and (d). Therefore, we believe that we have the authority to renegotiate the suspension agreement. Further, we determine that the revised agreement meets the requirements of section 704 (b) and (d).

Comment 18: The SSI argues that the Department should terminate the agreement because of the Brazilian government's past failures to collect the appropriate amount of export tax required by Brazil's tax resolutions. The SSI believes that such incidents indicate a continuing failure to comply with the terms of the agreement.

Department Position: We disagree. Although there were some initial problems with implementation of the tax resolutions governing the suspension agreement, we have found no further problems. The companies have paid to the Brazilian Government all underpayments resulting from any difference between the export tax rate set by the Brazilian government and the amount paid by the companies on specific shipments of this merchandise. Therefore, we believe that the Brazilian government and the companies have made efforts in good faith to comply with the terms of the agreement.

Comment 19: The petitioner argues that the revised suspension agreement should not forgive the difference between the net subsidy and the amount of export taxes paid during the review period and 1986. The SSI believes that the Department should rectify this difference by assessing additional countervailing duties or requiring the Brazilian government to collect additional export taxes.

Department Position: We disagree. The original suspension agreement did not allow for the retroactive correction of export taxes. Further, we have no authority to collect countervailing duties on imports covered by the agreement. The revised agreement corrects this deficiency by including a mechanism which adjusts for any under- or over-collection of export taxes on specific shipments. This mechanism will account for any differences between the net subsidy and the amount of past export taxes paid.

Comment 20: The SSI argues that the revised agreement should include a provision for the treatment of any differences between the export tax rate set by the Brazilian government and the amount paid by the companies. The SSI believes that the absence of such a provision gives exporters an incentive to underpay. Such undercollections should be treated as interest-free long-term loans.

Department's Position: We disagree. We do not believe it is necessary to include the export tax provisions suggested by the SSI in the agreement because the Department has the authority to calculate a benefit which corrects for any such discrepancies. If we find continuing problems with collection or payment of the export taxes, we will terminate the suspension agreement and issue a countervailing duty order. Further, since all payments for the review period have been appropriately made, the issue of the benchmark is moot.

Comment 21: The SSI argues that the revised agreement should correct for Brazil's inflation rate by specifying how the dollar value of the cruzado-denominated subsidy is calculated. The SSI belives that if Brazil's inflation rate exceeds the depreciation of the cruzado in relation to the dollar, the dollar value of the subsidies will be understated.

Department's Position: The SSI mistakenly believes that we can tie the benefits received by each firm from the different subsidy programs to each shipment. The dollar value of benefits received by Brazilian companies from one particular program on individual shipments may be, to a certain extent, "understand" or "overstated" by the divergence between inflation and devaluation. However, the calculation of a countervailing duty would also "understate" or "overstate" the benefit by the same amount. Since the effect of a suspension agreement and a countervailing duty order is the same, there is no reason to calculate the benefits differently.

Final Results of Review: After reviewing all of the comments received, we determine that the revised agreement now meets the requirements of sections 704(b) and (d) of the Tariff Act and that the net benefit be 28.55 percent *ad valorem* for the 1983 period, 20.97 percent *ad valorem* for 1984, and 12.18 percent *ad valorem* for 1985, the same as in the preliminary results. The Government of Brazil collected an average export tax of 18.56 percent *ad valorem* for the 1983 period, 19.83 percent *ad valorem* for 1984, and 10.81 percent *ad valorem* for 1985. In accordance with the adjustment mechanism in the revised agreement, we will instruct the Government of Brazil to set an export tax rate of 12.18 percent on all shipments of this merchandise to the United States.

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 § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 12, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

Revised Suspension Agreement

Certain Tool Steel Products from Brazil

Pursuant to section 704 of the Tariff Act of 1930, ("the Tariff Act"), and § 355.31 of the Commerce Regulations, the Department of Commerce ("the Department") and the Government of Brazil enter into the following Revised Suspension Agreement ("the Agreement"). On the basis of the foregoing, the Department shall continue to suspend its countervailing duty investigation initiated on August 18, 1982 (47 FR 36874) with respect to certain tool steel products from Brazil subject to the terms and provisions set forth below.

I. Scope of the Agreement

The Agreement applies to certain tool steel products manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States, ("certain tool steel products"). Certain tool steel products includes hot-finished tool steel, cold-finished tool steel, high speed tool steel, chipper knife and band saw steel bars and rods, currently classifiable under items 606.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2800, 607.3405, 607.3420, 607.4600, 607.5405, and 607.5420 of the Tariff Schedules of the United States Annotated ("TSUSA").

II. Basis of the Agreement

The Government of Brazil hereby agrees to offset completely the net subsidy determined by the Department to exist with respect to certain tool steel products exported directly or indirectly to the United States. The offset shall be accomplished by the imposition and collection of an export tax.

A. Export Tax. 1. The Government of Brazil shall impose and collect an export tax equal to the value of the "subsidy" found to exist, modified by an adjustment described in paragraph II.A.5. The export tax shall offset completely any benefit received through the following programs:

(a) Export credit premium for the IPI;

(b) CACEX export financing;

(c) Accelerated depreciation for Brazilian-made capital goods;

(d) CIC-CREGE 14–11 financing;

(e) Funding for expansion through IPI tax rebates;

(f) Duty-free treatment and tax exemptions on imported equipment;

(g) Incentives for trading companies;
(h) FINEX financing under Resolutions 68 and 509;
(i) Long-term loans under the FINEP program;
(j) BEFIEX;
(k) Income tax exemption for export earnings; and
(l) Any other benefits found countervailable in an administrative review in this proceeding.

2. The export tax will apply to certain tool steel products exported directly or indirectly from Brazil to the United States on or after January 1, 1987.

3. The export tax shall be imposed and collected on or before the thirtieth day after the last day of the month of export.

4. The value of the "subsidy" referred to in paragraph II.A.1. shall be equal to the most recent rate of subsidy found by the Department in this proceeding to exist with respect to exports of certain tool steel products.

5. The Adjustment referred to in paragraph II.A.1. shall be calculated as follows:
(a) The United States dollar amount of the subsidy found by the Department to exist during the course of the most recent administrative review of this Agreement, minus
(b) The United States dollar amount of the export tax paid during the period reviewed in the most recent administrative review of this Agreement.

6. The Department shall make best efforts to complete any administrative review initiated under section 751 of the Tariff Act by November 30 of the year initiated. The effective date of any change in the export tax rate, as determined in the final results of administrative review, shall be the earlier of January 1 of the year following the issuance of the final results of administrative review or 30 days after issuance of the final results of administrative review.

7. Any change in the export tax shall apply only to exports made on or after the effective date of that adjusted export tax.

III. Additional Undertakings by the Government of Brazil

A. The Government of Brazil agrees to take such steps as are necessary to ensure that this Agreement is implemented and monitored effectively, including:

1. Notifying the relevant authorities of the Government of Brazil of the terms of this agreement in order to ensure action by those agencies consistent with the terms of this Agreement;

2. Supplying any information and documentation that the Department deems necessary to demonstrate full compliance with the terms of this Agreement;

3. Permitting such verification and data collection as deemed necessary by the Department in order to monitor this Agreement;

4. Notifying the Department if it becomes aware that any producer or exporter is transshipping certain tool steel products through third countries to the United States; and

5. Notifying the Department if it alters or terminates its position with respect to any of the terms of this Agreement.

B. The Government of Brazil agrees to provide to the Department within 45 days of the end of each calendar quarter, beginning with the quarter ending March 31, 1987, all information deemed by the Department to be necessary to maintain this Agreement. The information shall include, but not be limited to:

1. A certification that the Government of Brazil continues to be in full compliance with this Agreement;

2. A certification (provided after consultation with each agency responsible for administering the programs in section II) that the exporters have paid the appropriate export tax in a timely manner; and

3. A certification of the total amount of export taxes paid during the quarter and a listing of each shipment of certain tool steel products to the United States identifying for each shipment:
(a) The name of the exporter;
(b) The volume and value of the shipment;
(c) The date of shipment;
(d) The amount of export tax paid; and
(e) The date the export tax was paid.

IV. General Provisions

A. The provision of section 704(i) shall apply if:

1. The Government of Brazil withdraws from this Agreement; or

2. The Department determines that this Agreement is being or has been violated or no longer meets the requirements of section 704 of the Tariff Act.

B. By participating in this Agreement, the Government of Brazil does not admit that any of the programs investigated or included in this Agreement constitute subsidies within the meaning of the Tariff Act or the GATT Subsidies Code.

VI. Effective Date

The effective date of this Agreement is the date of publication in the **Federal Register.**

Signed on this 1st day of December 1986, for the Government of Brazil.

Jose Artur Medeiros,

Minister Counselor, Embassy of Brazil.

I have determined, pursuant to section 704(b) of the Tariff Act, that the provisions of Section II completely eliminate the subsidies that the Government of Brazil is providing with respect to certain tool steel products exported, directly or indirectly, from Brazil to the United States. Furthermore, I have determined that the suspension of the investigation is in the public interest, that the provisions of Sections II and III ensure that this Agreement can be monitored effectively, and that this Agreement meets the requirements of the Tariff Act.

United States Department of Commerce.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-28420 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will convene a public meeting, January 26-30, 1987, in Charleston, SC, to discuss the Coastal Migratory Pelagics Fishery Management Plan; discuss large pelagics; shrimp; flounder; as well as to discuss law enforcement, finance, and other fishery management and administrative matters. A detailed agenda will be available to the public on or about January 16, 1987. For further information contact Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (303) 571-4366.

Dated: December 12, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-28432 Filed 12-17-86; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office ot Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6-473,397 (4,608,765)
Process and Apparatus for Simulating A Rolling and Drying Operation
SN 6-650,587 (4,615,532)

Improved Locking Balls for Logging Carriage
SN 6-680,615 (4,613,76Z)
Output Responsive Field Control for Wind-Driven Alternators and Generators
SN 6-696,566 (4,607,672)
Multi-Product Wood Processor
SN 6-724,013 (4,616,381)
Ova Harvesting System
SN 6-732,320 (4,606,179)
Apparatus to Improve the Operation of a Continuously Moving Harvester for Tree Crops
SN 6-749,905 (4,618,512)
Process to Impart Smooth-dry and Flame Retardant Properties to Synthetic-Cellulosic Blended Fabrics
SN 6-757,396 (4,618,497)
A Quarantine System for Papaya
SN 6-774 698 (4,619,668)
Dyed Wrinkle-Resistant and Durable-Press Cotton Fabrics
SN 6-789,298 (4,615,708)
Method for In situ Coloring Crosslinked Cellulosic Materials
SN 6-879,696
(Z)-3-Dodecen-1-ol (*E*)-2-Butenoate and Its Use in Monitoring and Controlling the Sweetpotato Weevil
SN 6-892,006
Retrofit Device for Alfalfa Valves
SN 6-904,533
Additives Useful as Crystallization Inhibitors and Activity Extenders for Trimedlure, the Mediterranean Fruit Fly Attractant

Department of Commerce

SN 6-794,590 (4,618,410)
Shale Oil Dearsenation Process

Department of Health and Human Services

SN 5-727,864 (4,051,025)
Preparative Countercurrent Chromatography with a Slowly Rotating Helical Tube Array
SN 6-3Z5,730 (4,413,985)
Hydrocephalic Antenatal Vent for Intrauterine Treatment (HAVIT)
SN 6-515,169 (4,609,991)
Automated System for Determining the Molecular Weight and/or Concentration of Macromolecules Via Sedimentation Equilibrium
SN 6-564,411 (4,620,971)
Indium-Bleomycin Complex (111 In-BLMC)
SN 6-564,515 (4,613,668)
A Short Total Synthesis of Morphinan Compounds Which Uses Cyclization of A Cycloalkylcarbonyl Compound Selected from Cyclopropylcarbonyl and Cyclobutylcarbonyl
SN 6-611,752 (4,615,886)
Utilizing a Halohydro-Carbon Containing Dissolved Water to Inactivate a Lipid Virus
SN 6-639,673 (4,616,073)
Hydrophobic Dental Composites Based on a Polyfluorinated Dental Resin
SN 6-748,Z07 (4,615,183)
Cold Plate for Laboratory Use
SN 6-776,044 (4,615,805)
Apparatus and Method for Continuous Countercurrent Foam Separation
SN 6-888,960
Monoclonal Antibody Against Ovarian Cancer Cells (OVB-3)
SN 6-903,723
Backbone Polysubstituted Chelates for Forming a Metal Chelate-Protein Conjugate
SN 6-911,863
Recombinant DNA Clone Encoding Laminin Receptor
SN 6-915,797
Cross-Axis Synchronous Flow-Through Coil Planet Centrifuge Free of Rotary Seals, Apparatus and Method for Performing Countercurrent Chromatography

Department of the Interior

SN 6-568,767 (4,613,069)
Method for Soldering Aluminum and Magnesium.
SN 6-716,440 (4,615,874)
Process for Producing Chlorine from Ferric Chloride

Department of the Air Force

SN 6-710,840 (4,607,424)
Thermal Regenerator
SN 6-746,902 (4,608,627)
Non-Dissipative Current Distribution Circuit for Magnetohydrodynamic Generator Electrodes
SN 6-756,548 (4,608 112)
Mask Aligner for Solar Cell Fabrication
SN 6-877,911
Liquid Crystal Spatial Light Modulator Optimized for Diffractive Readout
SN 6-885,117
Apparatus for Metal Organic Chemical Vapor Deposition
SN 6-891,822
Slewing Power Supply for Programmable Phase Shifter Drive
SN 6-893,846
Auxiliary Booster
SN 6-905,413
Hydrocarbon Group-Type Analyzer System
SN 6-905,712
A Sensor for Detecting Chemicals

Department of the Army

SN 6-870,216
Hybridoma Cell Lines and Monoclonal Antibodies to *Clostridium Difficile* Toxins A and B
SN 6-909,364
Interconnector Device
SN 6-909,365
Dual Battery Connector Arrangement
SN 6-910,915
Electromagnetic Injector/Railgun
SN 6-913,794
Method of Washing Solids with Liquified Gases
SN 6-913,806
Phase Scan Antenna
SN 6-915,463
Method of Making a Miniature Scale Periodic Permanent Magnet Array and Miniature Scaled Periodic Permanent Magnet Array So Formed
SN 6-919,959
Method of Making a Thermionic Field Emitter Cathode

Tennessee Valley Authority

SN 6-728,440 (4,606,897)
Method to Improve Acidulation Quality of Idaho Phosphate Rock
SN 6-773,905 (4,600,505)
Single Float Step Phosphate Ore Beneficiation
SN 6-787,823 (4,601,891)
Production of Granular Ammonium Polyphosphate from Wet-Process Phosphoric Acid

Veterans Administration

SN 5-870,090 (4,205,057)
Cerebrospinal Fluid Protein Fragments

[FR Doc. 86-28320 Filed 12-17-86; 8:45 am]
BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Security Subgroup on Technological and Operational Surprise

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Security Subgroup on Technological and Operational Surprise will meet in closed session on January 14-15, February 24-25, and March 17-18, 1987 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate the potential for technological and operational surprise in the U.S.-Soviet military competition.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 15, 1986.

[FR Doc. 86-28351 Filed 12-17-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Public Information Collection Requirement Submitted to CMB for Review

SUMMARY: The Department of Defense has submitted to CMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) title of Information Collection and Form Number, if applicable; (3) abstract statement of the need for and the uses to be made of the information collected; (4) type of Respondent; (5) An estimate of the number of responses; (6) an estimate of the total number of hours needed to provide the information; (7) to whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension of the Expiration Date of a Currently Approved Collection

Civil Aircraft Landing Permit System (DD Forms 2400, 2401, and 2402).

The Military Departments require certain information from owners of civil aircraft who desire prior authorization to land their aircraft on military installations. Civil aircraft operators must execute a Civil Aircraft Certificate of Insurance (DD Form 2400), a Civil Aircraft Landing Permit (DD Form 2401), and a Civil Aircraft Hold Harmless Agreement (DD Form 2402). This information is necessary to regulate public use of military airfields as authorized under the Federal Aviation Act of 1958.

Civil aircraft operators
Responses 6,000
Burden hours 3,000

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone number (202) 746-0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mrs. Ruth Ann Young, HQ USAF/PRPJA, Pentagon, Washington, DC 20330-5248, telephone (202) 697-5967.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 15, 1986.

[FR Doc. 86-28352 Filed 12-17-86; 8:45 am]

BILLING CODE 3810-01-M

USAF Scientific Advisory Board; Meeting

December 4, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee to Review Medical and Geophysical Opinions on Solar Flare Hazards to Man-in-Space will meet at the Pentagon, Room 5D982 on January 14-15, 1987 from 8:00 a.m. to 5:00 p.m. each day.

The purpose of the meeting is to review relevant data on solar radiation, discuss potential dangers to astronauts, and review the utility of and requirement for application of solar X ray imagers to provide advance warning of potentially dangerous solar activity.

FOR FURTHER INFORMATION CONTACT: The Scientific Advisory Board Secretariat at 202-697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-28322 Filed 12-17-86; 8:45 am]

BILLING CODE 3910-01-M

TACAN Aerospace Corp.; Intent To Grant Partially Exclusive Patent License

Pursuant to the provisions of § 841.14 of Title 32, Code of Federal Regulation (32 CFR 841, July 1, 1985), the Department of the Air Force announces its intention to grant to TACAN Aerospace Corporation of Carlsbad, California, a corporation of the State of California, a royalty bearing partially exclusive license under United States Patent No. 4,580,269 entitled "Optically Pumped Semiconductor Ring Laser", issued April 1, 1986 to Michael M. Salour, Adrian Fuchs and Dick Bebelaar.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed in writing to the addressee set forth below within 60 days from the publication of this notice. Also copies of the patent may be obtained for one dollar and fifty cents ($1.50) from the Commissioner of Patents and Trademarks, Washington, DC 20231.

All communications concerning this notice should be sent to: Mr. Donald J. Singer, Chief, Patents Division, Office of The Judge Advocate General, HQ USAF/JACP, 1900 Half Street SW., Washington, DC 20324-1000, Telephone No. 202-475-1386.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-28321 Filed 12-17-86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Yakima Firing Center Land Acquisition

AGENCY: U.S. Army, Department of the Army, Headquarters, I Corps and Fort Lewis, Fort Lewis, Washington.

ACTION: Notice of Intent to Prepare a DEIS for the Yakima Firing Center Land Acquisition.

SUMMARY:

1. Proposed Action

Due to advances in weaponry systems and deployment tactics, larger expanses of land are required for troop training exercises. At present, the Yakima Firing Center does not contain sufficient land for effective maneuver training areas. To rectify this deficiency it is proposed to acquire 63,000 acres adjacent to the Yakima Firing Center in Yakima, Kittitas, Grant and Benton Counties, Washington. Additionally, two permanent river crossing sites would be established on the Columbia River for training purposes. The DEIS will address the environmental concerns regarding the proposed land acquisition and subsequent use of the land for troop training exercises.

2. Alternatives

No viable alternatives to the proposed expansion of the Yakima Firing Center exist in the immediate area. However, opportunities to minimize social and environmental project impacts in the proposed expansion area will be investigated. Alternate river crossing sites are being examined with the expressed purpose of selecting sites which will minimize adverse environmental impacts while meeting the needs of the units for a training site.

The no-action alternative is not considered to be a viable alternative due to its adverse impact on troop combat readiness.

3. Scoping Process

a. Public Involvement Program

Scoping letters have been sent to key agencies, groups, and individuals, including landholders in the proposed expansion area.

b. Significant Concerns

Several study concerns have been identified during the initial scoping process and will be addressed in the DEIS. Some of the most important concerns are the following:

(1) Cultural Resources

A cultural resources reconnaissance is being performed to identify historic and prehistoric resources within the project area and to scope any further studies and appropriate mitigation measures.

(2) Fish and Wildlife Resources

Recommendations are being developed to avoid or minimize impacts to fish and wildlife and their habitat (e.g., Johnson Creek). This includes concern for federally listed and candidate threatened and endangered species that may occur in the proposed expansion area.

(3) Wetlands

Alternative river crossing sites are being reviewed to select sites that will minimize impacts to wetlands. Recommendations will be developed to minimize unavoidable adverse impacts to wetlands at the proposed crossing sites and other wetlands in the proposed expansion area (especially Johnson Creek).

(4) Land Use

Several sections of the proposed expansion area are adjacent or in close proximity to residential areas. The DEIS will investigate ways to minimize the impacts to these communities and other land uses, due to the proposed expansion and training exercises.

(5) Native American Concern

Scoping measures include coordination with Native American groups so as to assess the potential impacts of the proposed land acquisition on traditional use areas.

(6) Erosion

Several areas in the proposed land acquisition area contain soils which are subject to high rates of erosion when disturbed. The DEIS will address this concern and recommend measures to minimize and avoid erosion.

(7) Oil and Gas Resources

The expansion area contains segments that have been identified as having oil and gas potential. Leases currently exist for these segments. The DEIS will address this issue with reference to potential conflicts with the Yakima Firing Center's mission.

c. Environmental Review and Consultation Requirements

This investigation is being coordinated with the U.S. Fish and Wildlife Service pursuant to requirements of section 7(c) of the Endangered Species Act. Coordination with the Advisory Council on Historic Preservation Office is being conducted to fulfill requirements of the National Historic Preservation Act. Executive Order 11990 requires that all practicable alternatives to the use of wetlands be investigated and that unavoidable impacts to wetlands be minimized. As appropriate, necessary mitigation measures will be addressed in the DEIS.

4. Availability of DEIS

The DEIS is presently scheduled to become available to the public in April 1987.

ADDRESS: Additional information about the proposed action and DEIS can be obtained by contacting the environmental coordinator:

Mr. Michael Scuderi, Environmental Resources Section, Seattle District, Corps of Engineers, Post Office Box C-3755, Seattle, Washington 98124, Telephone: (206) 764-3624 (FTS 399 3624).

Dated: December 9, 1986.

Raymond C. Olmstead,

Colonel, U.S. Army, Facilities Engineer, Fort Lewis, Washington.

[FR Doc. 86-28323 Filed 12-17-86; 8:45 am]

BILLING CODE 3710-92-M

Delay of Publication of the Final Programmatic Environmental Impact Statement; Destruction of the Unitary Chemical Stockpile; Continental United States

AGENCY: Department of the Army, DOD.

ACTION: Notice of delay of the publication of the final programmatic Environmental Impact Statement covering the destruction of the unitary chemical stockpile stored within the continental United States.

1. The Army published a Notice of Availability for the Draft Programmatic Environmental Impact Statement (DPEIS) on July 7, 1986 (51 FR 24571). Many comments and concerns were provided to the Program Manager for Chemical Munitions during the public comment period. The comments were received during public hearings and by correspondence from many individuals and groups.

2. Because of the large number of comments and concerns, the Army is announcing a delay of the publication of the final PEIS from late December 1986 to late 1987, subject to completion of all required tasks.

3. This delay of the final PEIS is due, in part, to the need for additional assessment of transportation alternatives, risk analyses, emergency response plans, and other issues which arose out of concerns and comments received on the draft PEIS. The delay is also necessary to accommodate Congressional direction to have a review and evaluation of the Army's plans and assessments conducted by an independent group (Conference Report accompanying H.R. Resolution 738 on Continuing Appropriations for Fiscal Year 1987).

4. The Record of Decision will be announced no sooner than 30 days following the filing of the final PEIS. The Record of Decision, to be made by the Secretary of the Army, will be determined after review and consideration of all the aspects of the final PEIS.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA(I&L).

[FR Doc. 86-28371 Filed 12-17-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisiton Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an

extension of a currently approved information collection.

ADDRESS: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss, Office of Federal Acquisition and Regulatory Policy (202) 523-4820 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697-7268.

SUPPLEMENTARY INFORMATION:

a. Purpose

The time of delivery or performance is an essential contract element and must be clearly stated in solicitations and contracts. The contracting officer may set forth a required delivery schedule or may allow an offeror to propose an alternate delivery schedule. The information is needed to assure supplies or services are obtained in a timely manner.

b. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 3,440; responses per respondent, 5; total annual responses 17,200; hours per response, .167; and total burden hours, 2,872.

Obtaining Copies of Proposals

Requesters may obtain copies from the FAR Secretariat (VRS), Room 4041, GSA Building, Washington, DC 20405; telephone (202) 523-4755. Please cite OMB Control No. 9000-0043, Delivery Schedules.

Dated: December 2, 1986.

Margaret A. Willis

FAR Secretariat.

[FR Doc. 86-28324 Filed 12-17-86; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-C&E-87-07; OFP Case No. 50783-9334-01-12]

Acceptance of Petition From Detroit Edison Co. for Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 and Availability of Certification

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On November 21, 1986, Detroit Edison Company (Detroit Edison) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.)* ("FUA" or "the Act") based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum in an auxiliary boiler to be located at its proposed River Rouge Power Plant in the City of River Rouge, Michigan. Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new major fuel burning installation (MFBI) consisting of a boiler. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the exemption based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum are found at 10 CFR 503.32.

The project for which the exemption is requested is a natural gas fired water tube package-type boiler and will have a superheater and an economizer and capable of 150,000 pounds per hour steam peak rating.

ERA has determined that the petition for exemption is sufficient to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3 and 501.63. ERA retains the right, however, to request additional relevant information from Detroit Edison any time during the proceeding as circumstances may require. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing. The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceedings, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATE: Written comments are due on or before February 2, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket ERA-C&E-87-07 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra L. Couch, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Telephone: (202) 252-6769

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 252-6947.

SUPPLEMENTARY INFORMATION: Title II of FUA prohibits the use of natural gas or petroleum in new MFBI's that consist of a boiler unless an exemption for such use has been granted by ERA. Detroit Edison has filed a petition with ERA requesting a permanent exemption to permit the use of natural gas as the primary energy source of an auxiliary boiler steam system proposed for its Rouge Power Plant in the City of River Rouge, Michigan, in order to provide an alternative steam supply during unscheduled outages. The auxiliary boiler will be utilized for startup and shutdown of the electrical generating units, supply building heat and supply steam to Detroit Edison's steam customers when the electric generating units are out of service.

Exemption Petition

Section 212(a)(1)(A)(ii) of the Act and 10 CFR 503.32 provide for a permanent exemption for lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. In accordance with the requirements of § 503.32(c), Detroit Edison's petition includes the following evidence in order to make the demonstration required by this section:

(1) The unit will be operated less than 1500 full load hours annually;

(2) Use of mixtures is not feasible, as required under § 503.9 of these regulations; and

On February 23, 1982, DOE published in the **Federal Register** (47 FR 7676) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption for lack of alternative fuels for units operated less than 1500 hours, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. Detroit Edison has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.

DOE's Office of Environment, in consultation with the Office of General Counsel, will review the completed environmental checklist submitted by Detroit Edison pursuant to 10 CFR 503.13, together with other relevant information. Unless it appears during the proceeding on Detroit Edison's petition that the grant or denial of the exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

The acceptance of the petition by ERA does not constitute a determination that Detroit Edison is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on December 8, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-28408 Filed 12-17-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-53-NG]

Wessely Marketing Corp.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Wessely Marketing Corporation (Wessely) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 86-53-NG authorizes Wessely to import a total volume of up to 100 Bcf over a two-year period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 252-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 4, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-28406 Filed 12-17-86; 8:45 am]

BILLING CODE 6450-01-M

Proposed Consent Order With Murphy Oil Corp.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Economic Regulatory Administration (ERA) announces a proposed Consent Order between the Department of Energy (DOE) and Murphy Oil Corporation (Murphy). The agreement proposes to resolve matters relating to Murphy's compliance with the federal petroleum price and allocation regulations for the period January 1, 1973 through January 27, 1981. If this Consent Order is approved, within thirty days of the effective date Murphy will pay to the DOE a total of $7 million plus interest accruing from the date the Consent Order was executed.

ERA will then petition the Office of Hearings and Appeals (OHA) to implement a Special Refund Proceeding pursuant to 10 CFR Part 205, Subpart V, where any person who claims to have suffered injury from Murphy's alleged overcharges would have the opportunity to submit a claim.

Pursuant to 10 CFR 205.199J, ERA will receive written comments on the proposed Consent Order for thirty (30) days following publication of this Notice. ERA will consider the submissions received from the public in determining whether to reject the settlement, accept the settlement and issue a final Order, or renegotiate the agreement and, if successful, issue the modified agreement as a final Order. DOE's final decision will be published in the **Federal Register**, along with an analysis of and response to the significant written comments, as well as any other considerations that were relevant to the decision.

FOR FURTHER INFORMATION CONTACT: Emily Sommers, Office of Special Counsel, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6727.

SUPPLEMENTARY INFORMATION:

I. Results of the Audit
- A. Refinery Cost Disputes
- B. Determination of Maximum Overcharge Liability

II. Determination of Reasonable Settlement Amount

III. Terms and Conditions of the Consent Order

IV. Resolution of Litigation Matters

I. Results of the Audit

Murphy is a major petroleum refiner subject to the audit jursdiction of ERA to determine compliance with the Federal petroleum price and allocation regulations. During the period covered by this proposed Order (January 1, 1973 through January 27, 1981), Murphy engaged in, among other things, the production, importation, refining, and sale of crude oil; the sale of residual fuel oil, motor gasoline, middle distrillates, aviation fuel, propane and other refined petroleum products; and the extraction, fractionation and sale of natural gas liquids and natural gas liquid products.

ERA conducted an intensified audit of Murphy's compliance for the period beginning in 1973 to the date when Federal price and allocation controls were ended by the President (January 28, 1981, Executive Order 12287). During this audit, ERA identified areas in the pricing and sales of refined petroleum products in which it believes that Murphy had failed to comply with the requirements of the Federal price and allocation regulations. The major regulatory area of dispute between ERA and Murphy to be resolved by this Consent Order concerns alleged overstated increased costs which would affect the calculated maximum legal prices for refined products.

In the negotiation process which led to this proposed settlement, ERA analyzed the results of the audit, the nature of the alleged regulatory violations, and the "banks" of unrecouped cost increases that Murphy

was entitled to recover in previous months but did not.[1]

For these issues covered by this proposed settlement, ERA calculated that the alleged maximum refund amount based on a maximum allowable price overcharge calculation and related to sales of refined products totals approximately $3.6 million, plus an additional $6.8 million for interest which could be assessed on that amount, for a total of $10.4 million.

The settlement calls for Murphy to pay $7 million (plus interest from the date the Consent Order is executed) to discharge in full its obligations under the price and allocation regulations, except for those matters excluded from the agreement. Under the terms of the proposed Consent Order, the ERA would petition the OHA to implement a Special Refund Proceeding for disposition of these funds pursuant to 10 CFR Part 205, Subpart V. EPA has preliminarily agreed to the settlement amount after assessing the litigation risks associated with establishing the alleged overcharges, and considering the factual veracity and appropriate settlement compromises related to the various issues.

A. Refinery Cost Disputes

During the Murphy negotiations, ERA examined all the alleged refinery violations and the amount of costs it determined Murphy should be allowed in the calculation of the company's maximum allowable prices and total overcharge exposure. In its audit and in the enforcement documents filed by the ERA, ERA identified four issues related to Murphy's claimed increased product and non-product costs, and those four issues have been the subjects of administrative litigation. Both in the litigation and in the settlement discussions, the company presented information relevant to its calculations of increased costs and selling prices, which ERA verified and which enabled ERA to make adjustments and corrections to both the detriment and the benefit of Murpy. After analyzing this information for settlement purposes, ERA determined that Murphy's allegedly improper costs totalled approximately $80.1 million.

1. Product Cost Disputes

ERA has estimated that approximately $48.9 million in overstated increased product costs relating to crude oil were claimed by Murphy. These alleged cost overstatements concern the firm's claimed increased costs of imported crude oil [2] and the firm's failure to reduce its crude oil costs to reflect fee free license revenues.[3]

2. Non-product Cost Disputes

ERA estimates that Murphy's overstated increased non-product costs totalled $31.2 million. The areas of dispute include improper inclusion of certain costs related to processing for third parties and improper calculation of increased marketing costs.[4]

B. Determination of Maximum Overcharge Liability

ERA calculated the maximum amount of overcharges for which Murphy might be liable as a result of the cost issues discussed above. ERA's calculations of available costs were compared to the costs actually recovered by Murphy in its sales of its products. This comparison yielded the information necessary to determine the maximum refined product overcharge liability.

Under the regulations, a refiner was permitted to "bank" any increased costs in a given month that it was permitted to recover in its product prices but did not. Costs could be "banked" and used, subject to certain limitations, in later months in pricing products. At the conclusion of the period of regulatory controls, Murphy had accumulated a claimed "bank" in excess of $165 million in unrecovered increased costs.

However, based upon a month-by-month analysis in which ERA effected the $80.1 million adjustments discussed above to Murphy's claimed costs during the 88-month period of price controls, ERA determined that success on all of the asociated cost disputes would result in overcharges of $3.6 million, notwithstanding Murphy's ending banks exceeding $165 million.

II. Determination of Reasonable Settlement Amount

In determining a reasonable settlement amount for the allegations of regulatory violations concerning refined products, ERA reviewed its maximum overcharge determinations totalling $3.6 million plus the interest which could be assessed on those violations and determined that the total maximum overcharge plus interest would be $10.4 million. This amount is based on audit samples, estimates, projections and extrapolations and represents the estimated maximum recovery, including interest, that could result if all regulatory issues resolved by this settlement were adjudicated in ERA's favor and a maximum allowable price calculation was done on the basis of those issues. The inherent risks in litigation makes such an outcome problematic. The necessity for the government to prevail in litigation on all of the issues essential for the purposes of proving overcharges in order to

[1] For a thorough discussion of how cost matters affect banks, see the Federal Register notice proposing the Atlantic Richfield Company Consent Order, 50 FR 8366 (March 1, 1985).

[2] In Proposed Order of Disallowance ("POD") BRO-0984, issued January 9, 1980, ERA sought to disallow $4.8 million in excessive costs of Venezuelan crude oil claimed by Murphy for the period October 1973 through May 1975. That issue had previously been addressed in a Notice of Proposed Disallowance ("NOPD") issued April 27, 1974. ERA has factored the $4.8 million into its calculations as a reduction to Murphy's crude oil costs.

On July 3, 1984, ERA issued POD HRO-0240 seeking to disallow $39.5 million in excessive costs of foreign crude oil claimed by Murphy for the period January through December 1979. ERA had previously addressed that issue in an NOPD issued on January 27, 1981. ERA has factored the $39.5 million into its calculations as a reduction to Murphy's crude oil costs.

[3] This issue was addressed in Proposed Remedial Order ("PRO") PRO-0244 issued to Murphy on April 16, 1984, alleging $4 million in overstated crude oil costs for the period August 1973 through December 1978. In the settlement negotiations, ERA extrapolated this violation for the remainder of the period of controls by taking the average derived from 1977 and 1978 revenues as the most representative. This resulted in more than $600,000 in additional overstated crude costs which ERA factored into its calculations along with the original $4 million allegation as a reduction to Murphy's crude oil costs.

[4] Both of these issues were addressed in PRO HRO-0248 issued to Murphy on April 16, 1984, covering the period August 1973 through December 1978. The PRO alleged that Murphy included certain non-product costs related to processing crude oil for other entities in the prices in charged for covered products. The PRO alleged overstated costs for the four test months of $301,207. While ERA had originally extrapolated this number for the entire audit period, in its settlement discussions with Murphy the company provided the monthly percentages of crude oil it processed for others during the audit period, allowing ERA to calculate the amount of overstated costs more precisely as $9.6 million. In addition, ERA extrapolated the violation for the remainder of the period of controls by using the average monthly percentage Murphy processed for others in 1978, as the most representative year, and included that figure of over $500,000 in additional overstated non-product costs in its calculations. ERA therefore effectuated a total reduction of $10.1 million to Murphy's claimed non-product costs for the processing issue.

The PRO also alleged that Murphy improperly calculated its increased marketing costs by utilizing a per-unit rather than a total dollar cost methodology, resulting in $1,709,380 in overstated non-product costs for the four test months. While ERA had originally extrapolated this amount for the entire audit period, in the settlement discussions Murphy provided, and ERA verified, the company's exact monthly amounts of overstated marketing costs, which totaled $14.2 million during the audit period. In addition, ERA extrapolated the violation for the remainder of the period of controls by taking the average obtained from Murphy's monthly overstated marketing costs during the audit period. This resulted in an additional $6.9 in overstated marketing costs during the post-audit period which ERA included in its calculations for a total reduction in non-product marketing costs of $21.1 million.

achieve the maximum overcharge recovery from Murphy was an important consideration in ERA's preliminary determination that Murphy's agreement to pay $7 million for alleged regulatory violations is in the public interest.

In evaluating the total settlement amount for Murphy's regulatory violations, in addition to the analysis of litigation risks, ERA took into account such factors as the number and complexity of the legal and factual issues, the time and expense required for the governmnent to fully litigate every issue in order to obtain any recovery. Based on all of these considerations, ERA concludes that the resolution of these matters for $7 million is an appropriate settement and in the public interest.

III. Terms and Conditions of the Consent Order

Within thirty days of the effective date of the Consent Order, Murphy will pay the principal amount of $7 million, plus interest, to DOE. If the settlement is not made final by April 3, 1987, Murphy may withdraw from the proposed agreement. If the Consent Order is made final, ERA will petition OHA to implement a Special Refund Proceeding under the provisions of Subpart V of the regulations. In the proceeding, OHA will develop procedures for the receipt and evaluation of applications for refund in order to distribute the refund amount. The ensure that OHA has sufficient information to evaluate the claims, the proposed Consent Order required that Murphy provide necessary information to OHA.

Unless specifically excluded, Murphy and DOE mutually release each other from claims and actions arising under the subject matter covered by the proposed Consent Order. The proposed Order does not affect the right of any other party to take action against Murphy, or of Murphy or the DOE to take action against any other party.

Several matters are excluded from the settlement. The proposed Consent Order does not resolve:

(a) The issues or claims pending or arising out of the first sales of crude oil produced or sold from properties operated by Murphy and all of its subsidiaries and affiliates, including Murphy Oil U.S.A., Inc., Ocean Drilling & Exploration Company ("ODECO"), ODECO Oil and Gas (formerly known as Ocean Production Company and ODECO One Thirteen, Inc.), and Ocean Oil and Gas;

(b) Murphy's rights in all regards concerning claims under 10 CFR Part 205, Subpart V, or claims arising from violations or settlements of alleged violations of the federal petroleum price and allocation regulations by third parties; and

(c) Murphy's rights in all regards under the terms of the Final Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kansas).

Finally, this agreement only resolves certain civil liabilities and makes no attempt to resolve any criminal liability that might be established by the government against Murphy.

IV. Resolution of Litigation Matters

The proposed settlement resolves a number of enforcement matters that are being litigated by Murphy and DOE. This involves administrative litigation and includes the following cases:

Administration Litigation

Proposed Remedial Orders:

OHA Case No: HRO-0240, HRO-0244, HRO-0248, BRO-0984

Submission of Written Comments

The proposed Consent Order cannot be made effective until the conclusion of the public review process, of which this Notice is a part.

Interested parties are invited to submit written comments concerning this proposed Consent Order to: Murphy Consent Order Comments, RG-30, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, DC 20585. All comments received by the thirtieth day following publication of this Notice in the **Federal Register** will be considered before determining whether to adopt the proposed Consent Order as a final Order. Any modifications of the proposed Consent Order which significantly alter its terms or impact will be published for additional comment. If, after considering the comments it has received, ERA determines to issue the proposed Consent Order as a final Order, the proposed Order will be made final and effective by publication of a Notice in the **Federal Register**.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the provisions of 10 CFR 205.9(f). Issued in Washington, DC, on December 8, 1986.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

Office of Special Counsel—Consent Order With Murphy Oil Corp.

I. Introduction

101. This Consent Order is entered into between Murphy Oil Corporation ("Murphy") and the United States Department of Energy ("DOE). Except as specifically excluded herein, this Consent Order settles and finally resolves all civil and administrative claims and disputes, whether or not heretofore asserted, between the DOE, as hereinafter defined, and Murphy, as hereinafter defined, relating to Murphy's compliance with the federal petroleum price and allocation regulations, as hereinafter defined, during the period January 1, 1973, through January 27, 1981 (all the matters settled and resolved by this Consent Order are referred to hereafter as "matters covered by this Consent Order").

II. Jurisdiction, Regulatory Authority and Definitions

201. This Consent Order is entered into by the DOE pursuant to the authority conferred upon it by sections 301 and 503 of the Department of Energy Organization Act ("DOE Act"), 42 U.S.C. 7151 and 7193, Executive Order No. 12009, 42 FR 46267 (1977); Executive Order No. 12038, 43 FR 4957 (1978); and 10 CFR 205.199J.

202. The Economic Regulatory Administration ("ERA") was created by section 206 of the DOE Act, 42 U.S.C. 7136. In Delegation No. 0204-4, the Secretary of Energy delegated responsibility for the administration of the Federal petroleum price and allocation regulations to the Administrator of the ERA. In Delegation No. 0204-4A, the Administrator delegated to the Special Counsel authority to audit the compliance of refiners, including Murphy, with the federal petroleum price and allocation regulations and to take appropriate enforcement actions based upon such audits.

203. For purposes of this Consent Order, the phrase "federal petroleum price and allocation regulations" means all statutory requirements and administrative regulations and orders regarding the pricing and allocation of crude oil, refined petroleum products, natural gas liquids, and natural gas liquid products, including the entitlements and mandatory oil imports programs, administered by the DOE. The Federal petroleum price and allocation regulations include (without limitation) the pricing, allocation, reporting, certification, and recordkeeping requirements imposed by or under the Economic Stabilization Act of 1970, the Emergency Petroleum Allocation Act of 1973, the Fedreal Energy Administration Act of 1974, Presidential Proclamation 3279, all applicable DOE regulations codified in 6 CFR Parts 130 and 150 and 10 CFR Parts 205, 210, 211, 212, and 213, and all rules, rulings, guidelines, interpretations, clarifications, manuals, decisions, orders, notices, forms, and subpoenas relating to the pricing and allocation of petroleum products. The provisions of 10 CFR 205.199J and the definitions under the federal petroleum price and allocation regulations shall apply to this Consent Order except to the extent inconsistent herewith. Reference herein to "DOE" includes, besides the Department of Energy, the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, the Office of Special Counsel ("OSC"), the Economic Regulatory Administration and all predecessor and

successor agencies. Reference in this Consent Order to "Murphy" shall include: (1) Murphy Oil Corporation and all of its subsidiaries and affiliates, including but not limited to Murphy Oil U.S.A., Inc., Ocean Drilling & Exploration Company ("ODECO"), ODECO Oil & Gas (formerly known as Ocean Production Company and ODECO One Thirteen, Inc.), Ocean Oil & Gas Company and their predecessors and successors in interest, but only for the acts of such companies while they were subsidiaries or affiliates of Murphy, (2) all of Murphy's petroleum-related activities as refiner, crude oil producer, operator, working interest or royalty interest owner, reseller, retailer, natural gas processor, or otherwise and, except for purposes of Article IV, *infra*, and (3) Murphy's directors, officers, and employees.

III. Facts

The stipulated facts upon which this Consent Order is based are as follows:

301. During the period covered by this Consent Order, Murphy was a "refiner," "producer," and "reseller" as those terms are defined in the federal petroleum price and allocation regulations and was subject to the jurisdiction of the DOE. Murphy engaged in, among other things, the production, importation, sale, and refining of crude oil, the sale of residual fuel oil, motor gasoline, middle distillates, aviation fuel, propane, and other refined petroleum products, and the extraction, fractionation, and sale of natural gas liquids and natural gas liquid products.

302. In 1973, the DOE began an audit to determine Murphy's compliance with the federal petroleum price and allocation regulations. In 1977, pursuant to the mandate of the Secretary of Energy, OSC continued the audit on an intensified basis. The audit encompassed an examination of Murphy's policies and procedures pertaining to, and Murphy's compliance with, the Federal petroleum price and allocation regulations.

303. As part of its audit, the DOE examined Murphy's books and records relating to Murphy's compliance with the Federal petroleum price and allocation regulations and the reporting requirements imposed by those regulations. At the DOE's request, Murphy prepared and submitted to the aduitors a substantial number of specific responses to audit inquiries not necessarily limited to, or readily available from, individual books or records.

304. During the course of the DOE's audit, the enforcement proceedings instituted by the DOE and the negotiations that led to this Consent Order, the DOE raised certain issues with respect to Murphy's application of the Federal petroleum price and allocation regulations. The DOE has taken various administrative enforcement actions against Murphy, including the issuance of Notices of Probable Violation, Notices of Proposed Disallowance, Proposed Remedial Orders and Proposed Orders of Disallowance. Murphy maintains, however, that it has calculated its costs, determined its prices, sold its crude oil and petroleum products, and operated in all other respects in accordance with the Federal petroleum price and allocation regulations. The DOE and Murphy disagree in several respects concerning the proper application of the Federal petroleum price and allocation regulations to Murphy's activities with respect to the matters covered by this Consent Order, and each believes that its respective legal and factual positions on the matters resolved by this Consent Order are meritorious. These positions were emphasized in the intensive review and exchange of information conducted during the audit and subsequent negotiation process. However, in order to avoid the expense of protracted and complex litigation and the disruption of its orderly business functions, Murphy has agreed to enter into this Consent Order. The DOE believes this Consent Order constitutes a satisfactory resolution of the matters covered herein and is in the public interest.

IV. Remedial Provisions

401. In full and final settlement of all matters covered by this Consent Order, and in lieu of all other remedies which have been or might be sought by the DOE against Murphy for such matters under 10 CFR 205.199I or otherwise, Murphy shall pay a total of seven million dollars ($7,000,000), plus interest accruing at the rate specified in paragraph 404 between the date of execution by Murphy of this Consent Order and the date of payment pursuant to paragraph 402, to be disbursed as provided in paragraph 403.

402. Within thirty (30) days of the effective date of this Consent Order, Murphy shall pay to DOE seven million dollars ($7,000,000), plus interest accrued for the period described in paragraph 401.

403. OSC and Murphy agree that OSC will petition DOE's Office of Hearings and Appeals ("OHA") to implement special refund procedures pursuant to 10 CFR Part 205, Subpart V to distribute the amount specified in paragraph 402.

404. Interest shall be earned from the date of execution of this Consent Order by Murphy at an initial interest rate equal to the annual coupon equivalent for the average price bid at the most recent auction of 13-week U.S. Treasury Bills preceding said date of execution. Thereafter, the interest rate shall be periodically adjusted to the level of the annual coupon equivalent for the average price bid at the auction of 13-week Treasury Bills next following the first day of each calendar quarter, beginning with the calendar quarter next following said date of execution. The adjusted interest rate will apply on the first day after said auction and will continue to apply until and including the day of the next such auction following the first day of the next calendar quarter or until payment, whichever is earlier. Interest shall be deemed earned each day as of 2:00 p.m. Eastern Time at $\frac{1}{365}$th of the rate then in force and shall be compounded quarterly as of the date of each adjustment of the rate.

V. Issues Resolved

501. All pending and potential civil and administrative claims, whether or not known, demands, liabilities, causes of action or other proceedings by the DOE against Murphy regarding Murphy's compliance with and obligations under the Federal petroleum price and allocation regulations during the period covered by this Consent Order, whether or not heretofore raised by a Notice of Probable Violation, Notice of Proposed Disallowance, Proposed Remedial Order, Proposed Order of Disallowance, or otherwise, are resolved and extinguished as to Murphy by this Consent Order, except that this Consent Order does not cover or affect:

(a) The issues or claims pending or arising out of first sales of crude oil produced or sold from properties operated by Murphy;

(b) Murphy's rights in all regards concerning claims under 10 CFR Part 205, Subpart V, or claims arising from violations or settlements of alleged violations of the Federal petroleum price and allocation regulations by third parties; and

(c) Murphy's rights in all regards under the terms of the Final Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kansas).

502. (a) Except as otherwise provided herein, compliance by Murphy with this Consent Order shall be deemed by the DOE to constitute full compliance for administrative and civil purposes with all Federal petroleum price and allocation regulations for matters covered by this Consent Order. In consideration for performance as required under this Consent Order by Murphy, except as to those matters excluded by paragraph 501, the DOE hereby releases Murphy completely and for all purposes from all administrative and civil judicial claims, demands, liabilities or causes of action, including without limitation, claims for civil penalties, that the DOE has asserted or might otherwise be able to assert against Murphy before or after the date of this Consent Order for alleged violations of the Federal petroleum price and allocation regulations with respect to matters covered by this Consent Order. The DOE will not initiate or prosecute any such administrative or civil matter against Murphy or cause or refer any such matter to be initiated or prosecuted, nor will the DOE or its successors directly or indirectly aid in the initiation of any such administrative or civil matter against Murphy or participate voluntarily in the prosecution of such actions. The DOE will not assert voluntarily in any administrative or civil judicial proceeding that Murphy has violated the Federal petroleum price and allocation regulations with respect to the matters covered by this Consent Order or otherwise take any action with respect to Murphy in derogation of this Consent Order. However, nothing contained herein shall preclude the DOE from defending the validity of the Federal petroleum price and allocation regulations.

(b) Except for the matters excluded by paragraph 501, this Consent Order settles and finally resolves all aspects of Murphy's liability to the DOE under the federal petroleum price and allocation regulations, including but not limited to its capacity as a working interest or royalty interest owner of a crude oil producing property of which Murphy was not the operator. However, the DOE reserves the right to initiate and prosecute enforcement actions against any person other than Murphy for noncompliance

with the Federal petroleum price and allocation regulations, including suits against operators other than Murphy for crude oil overcharges when Murphy had a working interest or royalty interest in such crude oil production. Furthermore, Murphy and the DOE agree that the Consent Order and the payments hereunder do not resolve, reduce or release the liability of any other person for violations on properties of which (but only for the times during which) Murphy is or was a working interest or royalty interest owner (and not the operator) or affect any rights or obligations between Murphy and the operator or any other working interest or royalty interest owner.

(c) The DOE will not seek or recommend any criminal fines or penalties based on information or evidence presently in its possession for the matters covered by this Consent Order, provided, however, that nothing in this Consent Order precludes the DOE from (1) seeking or recommending such criminal fines or penalties if information subsequently coming to its attention indicates, either by itself or in combination with information or evidence presently known to the DOE, that a criminal violation may have occurred or (2) otherwise complying with its obligations under law with regard to forwarding information of possible criminal violations of law to appropriate authorities. Nothing contained herein may be construed as a bar, estoppel, or defense against any criminal or civil action brought by an agency of the United States other than the DOE under (i) section 210 of the Economic Stabilization Act of 1970 or (ii) any statute or regulation other than the federal petroleum price and allocation regulations. Finally, this Consent Order does not prejudice the rights of any third party or Murphy in any private action, including an action for contribution by or against Murphy.

(d) With respect to matters not excluded from this Consent Order, Murphy releases the DOE completely and for all purposes from all administrative and civil judicial claims, liabilities, or causes of action that Murphy has asserted or may otherwise be able to assert against the DOE relating to the DOE's administration of the federal petroleum price and allocation regulations. This release, however, does not preclude Murphy from asserting any factual or legal position or argument as a defense against any action, claim, or proceeding brought by the DOE, the United States, or any agency of the United States.

503. Within thirty (30) days after the effective date of this Consent Order, Murphy and the DOE will file or cause to be filed appropriate pleadings to dismiss with prejudice all proceedings against Murphy covered by this Consent Order then pending before the DOE's Office of Hearings and Appeals ("OHA") or the Federal Energy Regulatory Commission ("FERC").

504. Execution of this Consent Order constitutes neither an admission by Murphy nor a finding by the DOE of any violation by Murphy of any statute or regulation. The DOE has determined that it is not appropriate to seek to impose civil penalties for the matters covered by this Consent Order, and the DOE will not seek any such civil penalties. None of the payments or expenditures made by Murphy pursuant to this Consent Order are to be considered for any purpose as penalties, fines, or forfeitures or as settlement of any potential liability for penalties, fines or forfeitures.

505. Notwithstanding any other provision herein, with respect to the matters covered by this Consent Order, the DOE reserves the right to initiate an enforcement proceeding or to seek appropriate penalties for any newly discovered regulatory violations committed by Murphy, but only if Murphy has concealed facts relating to such violations. The DOE and Murphy also reserve the right to seek appropriate judicial remedies, other than full rescission of this Consent Order, for any misrepresentation of fact material to this Consent Order during the course of the audit or the negotiations that preceded this Consent Order.

VI. Recordkeeping, Reporting and Confidentiality

601. Murphy shall maintain such records as are necessary to demonstrate compliance with the terms of this Consent Order. To assist DOE in the distribution of the money paid pursuant to paragraph 403, Murphy shall also maintain sales volume data and customers' names and addresses regarding its sales of refined petroleum products for the transactions covered by this Consent Order until thirty (30) days after final distribution by DOE of the funds paid pursuant to paragraph 403. If requested, Murphy shall make such information available to DOE. Except as otherwise provided in this paragraph, upon completion of payment to DOE of the amount set forth in paragraph 402 of this Consent Order, Murphy is relieved of its obligation to comply with the record-keeping requirements of the federal petroleum price and allocation regulations relating exclusively to the matters settled by this Consent Order.

602. Except for formal requests for information regarding other firms subject to the DOE's information gathering and reporting authority, Murphy will not be subject to any audit requests, report orders, subpoenas, or other administrative discovery by DOE relating to Murphy's compliance with the federal petroleum price and allocation regulations relating to the matters settled by this Consent Order.

603. The DOE will treat the sensitive commercial and financial information provided by Murphy pursuant to negotiations which were conducted with respect to this Consent Order or obtained by the DOE in its audit of Murphy and related to matters covered by this Consent Order as confidential and proprietary and will not disclose such information unless required to do so by law, including a request by a duly authorized committee or subcommittee of Congress. If a request or demand for release of any such information is made pursuant to law, the DOE will claim any privilege or exemption reasonably available to it. The DOE will provide Murphy with ten (10) days actual notice, if possible, of any pending disclosure of such information, unless prohibited or precluded from doing so by law or request of Congress. The DOE will retain the audit information which it has acquired during its review of Murphy's compliance with the federal petroleum price and allocation regulations in accordance with the DOE's established records retention procedures. Notwithstanding the otherwise confidential treatment afforded such information by the terms of this Consent Order, the DOE will make such information available to the Department of Justice ("DOJ") in response to a request pursuant to the DOJ's statutory authority by a duly authorized representative of DOJ. If requested by the DOJ, the DOE shall not disclose that such a request has been made. Nothing in this paragraph shall be deemed to waive or prejudice any right Murphy may have independent of this Consent Order regarding the disclosure of sensitive commercial and financial information.

VII. Contractual Undertaking

701. It is the understanding and express intention of Murphy and the DOE that this Consent Order constitutes a legally enforceable contractual undertaking that is binding on the parties and their successors and assigns. Notwithstanding any other provision herein, Murphy (and its successors and assigns) and the DOE each reserves the right to institute a civil action in an appropriate United States district court, if necessary, to secure enforcement of the terms of this Consent Order, and the DOE also reserves the right to seek appropriate penalties and interest for any failure to comply with the terms of this Consent Order. The DOE will undertake the defense of the Consent Order, as made effective, in response to any litigation challenging the Consent Order's validity in which the DOE is named a party. Murphy agrees to cooperate with the DOE in the defense of any such challenge.

VIII. Final Order

801. Upon becoming effective, this Consent Order shall be a final order of DOE having the same force and effect as a remedial order issued pursuant to section 503 of the DOE Act, 42 U.S.C. 7139, and 10 CFR 205.199B. Murphy hereby waives its right to administrative or judicial review of this Order, but Murphy reserves the right to participate in any such review initiated by a third party.

IX. Effective Date

901. This Consent Order shall become effective as a final order of the DOE upon notice to that effect being published in the **Federal Register**. Prior to that date, the DOE will publish notice in the **Federal Register** that it proposes to make this Consent Order final and, in that notice, will provide not less than thirty (30) days for members of the public to submit written comments to ERA. The DOE will consider all written comments to determine whether to adopt the Consent Order as a final order, to withdraw

agreement to the Consent Order, or to attempt to renegotiate the terms of the Consent Order.

902. Until the effective date, the DOE reserves the right to withdraw consent of this Consent Order by written notice to Murphy, in which event this Consent Order shall be null and void. If this Consent Order is not made effective on or before the one hundred twentieth (120th) day following execution by Murphy, Murphy may, at any time thereafter until the effective date, withdraw its agreement to this Consent Order by written notice to the DOE in which event this Consent Order shall be null and void.

I, the undersigned, a duly authorized representative of Murphy, hereby agree to and accept on behalf of Murphy the foregoing Consent Order.

Dated: December 4, 1986.

Jerry W. Watkins,

Vice President, Murphy Oil Corporation.

I, the undersigned, a duly authorized representative of Murphy, hereby agree to and accept on behalf of Murphy the foregoing Consent Order.

Dated: November 26, 1986.

Milton C. Lorenz,

Special Counsel, Department of Energy.

[FR Doc. 86-28410 Filed 12-17-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-60-NG]

Natural Gas Pipeline Co. of America; Application to Amend Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application to amend authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on November 13, 1986, of an application from Natural Gas Pipeline Company of America (Natural) to extend its authorization to import up to 75,000 Mcf of Canadian natural gas per day from ProGas Limited (ProGas) through October 31, 1994, and to amend the pricing provisions of its two-part demand/commodity rate structure. Natural seeks approval of a February 1, 1986, amending agreement with ProGas that would establish incentive rates based on contract quantities taken, provide for the purchase of ProGas volumes on a pro rata basis with Natural's purchase of comparably priced domestic volumes, and allow for prices to be renegotiated at least every six months.

The application is filed with the ERA pusuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than January 20, 1987.

FOR FURTHER INFORMATION:

Tom Dukes, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9590.

Diana Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6667.

SUPPLEMENTARY INFORMATION: On May 15, 1986, in ERA Docket No. 85-24-NG, the ERA issued DOE/ERA Opinion and Order No. 124 (1 ERA ¶ 70,645; Order No. 124) granting Natural authority to import up to 75,000 Mcf of Canadian natural gas per day from ProGas through October 31, 1987, and approving the as-billed passthrough of its two-part demand/commodity rate structure. On November 13, 1986, Natural filed an application with the ERA requesting that it extend the terms of its authorization to import natural gas from ProGas through October 31, 1994, and approve certain contract amendments. The proposed amendments would give Natural the right to apply as credit toward the suceeding contract year all volumes taken in excess of 105 percent of the minimum annual contract quantities, to renegotiate prices every six months wherein prices would be redetermined based on changes in the price of natural gas and competing alternate fuels in Natural's market area, and provide for a reduction in the base commodity rate for volumes taken above 50 percent of daily contract quantities up to 75 percent of daily contract quantities.

Additionally, the amendments modify the two-part pricing structure by lowering the base commodity charge from $2.50 per MMBtu to $1.89 per MMBtu for the first 50 percent of daily contract quantities. Above the 50 percent level, the commodity rate would continue to be reduced up to 75 percent of daily contract quantities where the price would decline to $1.69 per MMBtu. For all volumes above 75 percent of daily contract quantities, the commodity rate woud be $2.25 per MMBtu. The monthly demand charge would remain at $15.21 per Mcf per month subject to semi-annual adjustment (upward or downward) based on a combination of toll charges as determined by the Canadian National Energy Board (NEB), the Government of the Province of Alberta and the Alberta Petroleum Marketing Commission. Approval of the proposed pricing amendments would result in a delivered price of $2.19 to $2.75 per MMBtu of gas depending on the percent of daily contract quantities taken by Natural. Natural states that the terms of the amended agreement are more competitive than its existing ProGas agreement and that the quantity and price provisions of the proposed amendments will allow considerable flexibility over the life of the contract.

All the volumes that Natural imports from ProGas are transported through the eastern leg of the Alaskan Natural Gas Transportation System (ANGTS). No new or additional facilities will be required.

The decision on the application to import natural gas will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets seved is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must,

however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. 20585, (202) 252-9478. They must be filed no later than 4:30 p.m., January 20, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, and oral presentation, a conference, or a trail-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and revelant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Natural's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 10, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-28407 Filed 12-17-86; 8:45am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-86-55; OFP Case No. 66021-9327-20, 21-24]

Powerplant and Industrial Fuel Use Act; Power Resources, Inc.; Correction

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Correction to Order Granting to Power Resources, Inc. Exemption From Prohibitions of The powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The November 10, 1986, **Federal Register** (51 FR 40847) referred to "12.8 MW" in the third sentence of the Supplementary Information. The Order should read "126.8 MW".

Issued in Washington, DC, on December 8, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-28409 Filed 12-17-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-144-000 et al.]

Electric Rate and Corporate Regulation Filings; Oklahoma Gas and Electric Co. et al.

December 12, 1986.

Take notice that the following filings have been made with the Commission:

1. Oklahoma Gas & Electric Co.

[Docket No. ER87-144-000]

Take notice that Oklahoma Gas and Electric Company (OG&E) on December 8, 1986, tendered for filing a new Electric Service Agreement for a new point of delivery for Arkansas Valley Electric Cooperative, Inc. Service will be provided under OG&E's FERC ELECTRIC TARIFF 1st Revised Volume No. 1. OG&E is revising its Index of Purchasers to include the new point of delivery and to delete two other cooperative points of delivery which have been discontinued.

OG&E requests an effective date of November 1, 1986, and therefore requests waiver of the Commission's notice requirements. OG&E states that copies of this filing were served on Arkansas Valley Electric Cooperative, Inc. and the Commissions of Arkansas and Oklahoma.

Comment date: December 29, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Alabama Power Co., Alabama Municipal Electric Authority

[Docket No. ER87-121-000]

Take notice that on November 25, 1986, Alabama Power Company, and Alabama Municipal Electric Company (APC and AMEA) tendered for filing Exhibit F, Delivery Point Specifications Sheet, to the Partial Requirements Service and Complementary Services Agreement between APC and AMEA which supercedes and replaces the Delivery Point Specification Sheet filed August 6, 1986.

Comment date: December 29, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. South Carolina Electric and Gas Co.

[Docket No. ES87-16-000]

Take notice that on December 5, 1986, South Carolina Electric & Gas Company (Applicant) filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue up to $150,000,000 of short-term unsecured promissory notes in the form of bank loans and commercial paper, on or before December 31, 1988, with a final maturity date of no later than December 31, 1989.

Comment date: December 29, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-28328 Filed 12-17-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3129-8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382-2712 or FTS 382-2712.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: National Survey of Pesticides in Drinking Water Wells (EPA ICR #1191). (This is a new collection.)

Abstract: EPA is conducting a survey of community system and rural domestic wells, by analyzing water samples and interviewing owners/operators. The information will be used to estimate the national level distribution of pesticide residues in wells, and to assess the relationship among pesticide residue concentrations in well waters, agricultural use of pesticides and hydrogeologic vulnerability.

Respondents: Owners/operators of community water systems and rural domestic drinking water wells.

* * * * * *

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0011, Selective Enforcement Auditing Reporting Requirements—Light-Duty Vehicles and Light-Duty Trucks, was approved 11/25/86 (OMB #2060-0064; expires 11/30/89).

EPA ICR #0158, Application for Registration of Pesticide-Producing Establishments, was approved 11/30/86 (OMB #2070-0045; expires 11/30/89).

EPA ICR #0786, Human and Environmental Survey and Analyses Programs, was approved 12/2/86 (OMB #2070-0069; expires 12/31/89).

EPA ICR #0794, Notification of Substantial Risks Under Section 8(e) of the Toxic Substances Control Act, was approved 12/1/86 (OMB #2070-0046; expires 11/30/89).

EPA ICR #1032, Statement for Residents of High-Altitude Areas Purchasing Low-Altitude Vehicles, was approved 11/25/86 (OMB #2060-0049; expires 11/30/89).

EPA ICR #1054, New Source Performance Standards for Petroleum Refineries (Subpart J)—Recordkeeping and Reporting, was approved 11/25/86 (OMB #2060-0022; expires 11/30/89).

EPA ICR #1088, NSPS for Industrial-Commercial-Institutional Steam Generating Units (PM, NO_x), was approved 11/25/86 (OMB #2060-0072; expires 11/30/89).

EPA ICR #1188, Significant New Use Rules for Existing Chemicals, was approved 12/2/86 (OMB #2070-0038; expires 12/31/89).

* * * * * *

Comments on the abstracts in this notice may be sent to:

Patricia Minami,
U.S. Environmental Protection Agency,
Office of Standards and Regulations (PM-223),
Information and Regulatory Systems Division,
401 M Street, SW.,
Washington, DC 20460
and
Rick Otis,
Office of Management and Budget,
Office of Information and Regulatory Affairs,
New Executive Office Building (Room 3228),
726 Jackson Place, NW.,
Washington, DC 20503

Dated: December 15, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86-28384 Filed 12-17-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Pikeville National Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

December 12, 1986.

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 January 7, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Pikeville National Corporation,* Pikeville, Kentucky; to acquire 100 percent of the voting shares of First Security Bank and Trust Co., Whitesburg, Kentucky.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Suburban Bancorp, Inc.,* Palatine, Illinois; to acquire 67 percent of the voting shares of Valley National Bank of Aurora, Aurora, Illinois.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Thompson Financial, Ltd.,* Fort Worth, Texas; to acquire 3.18 percent of the voting shares of Texas Security Bancshares, Inc., Fort Worth, Texas, and thereby indirectly acquire Central Bank and Trust, Fort Worth, Texas; North Fort Worth Bank, Fort Worth, Texas; and First State Bank, Grand Prairie, Texas.

Board of Governors of the Federal Reserve System, December 12, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86-28317 Filed 12-17-86; 8:45 am]

BILLING CODE 6210-01-M

Maryville/Ravenwood Bancshares, Inc., et al.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 view in writing to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than December 24, 1986.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hownig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Maryville/Ravenwood Bancshares, Inc.*, Maryville, Missouri; to acquire 100 percent of the voting shares of First Midwest Bank, Maryville, Missouri.

Board of Governors of the Federal Reserve System, December 16, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-28508 Filed 12-17-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86F-0437]

Celanese Engineering Resins, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Celanese Engineering Resins, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyarylate resin, a product of bisphenol-A with diphenylisophthalate and diphenylterephthalate, as articles or components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3965) has been filed by Celanese Engineering Resins, Inc., c/o 1150 17th St. NW., Washington, DC 20036, proposing that the food additive regulations be amended to provide for the safe use of polyarylate resin, a product of bisphenol-A with diphenylisophthalate and diphenylterephthalate, as articles or components of articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: December 10, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-28331 Filed 12-17-86; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Division of Research Grants; Meetings of Study Sections

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for January 1987, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	January 1987 meetings	Time	Location
Behavioral and Neurosciences-1, Ms. Janet Cuca, Rm. A13, Tel. 301-496-5352.	January 15-16	8:30	Room 4, Bldg. 31A, Bethesda, MD.
Behavioral and Neurosciences-2, Ms. Janet Cuca, Rm. A13, Tel. 301-496-5352.	January 12	8:30	Do.
Biomedical Sciences-1, Dr. Daniel Eskinazi, Rm. A10, Tel. 301-496-1067	January 29	8:30	Hyatt Regency Hotel, Bethesda, MD.
Biomedical Sciences-2, Dr. Daniel Eskinazi, Rm. A10, Tel. 301-496-1067	January 12-13	8:30	Do.
Biomedical Sciences-3, Dr. Charles Baker, Rm. A10, Tel. 301-496-7150	January 13-14	8:30	Holiday Inn, Bethesda, MD.
Biomedical Sciences-4, Dr. Charles Baker, Rm. A10, Tel. 301-496-7150	January 29-30	8:30	Do.
Biomedical Sciences-5, Dr. Bert Wilson, Rm. A25, Tel. 301-496-7600	January 20-23	8:30	Hyatt Regency Hotel, Bethesda, MD.
Biomedical Sciences-6, Dr. Zain-Ul-Abedin, Rm. A10, Tel. 301-496-3117	January 28-30	8:30	Ramada Inn, Bethesda, MD.
Biomedical Sciences-7, Mr. Gene Headley, Rm. A25, Tel. 301-496-7287	January 12-14	8:30	Hyatt Regency Hotel, Bethesda, MD.
Clinical Sciences-1, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510	January 14-16	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences-2, Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477	January 5-7	9:00	Room 6, Bldg. 31C, Bethesda, MD.
Clinical Sciences-3, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510	January 23	8:30	Room 7, Bldg. 31C, Bethesda, MD.

Study section	January 1987 meetings	Time	Location
Clinical Sciences-4, Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477	January 22-23	9:00	Crowne Plaza, Rockville, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: December 8, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28440 Filed 12-17-86; 8:45 am]

BILLING CODE 4140-01-M

John E. Fogarty International Center for Advanced Study in the Health Sciences; Advisory Board Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Fogarty International Center (FIC) Advisory Board, January 27, 28, 1987, in the Stone House (Building 16), at the National Institutes of Health.

The meeting will be open to the public on January 27 from 8:30 a.m. to 4:30 p.m. and on January 28 from 8:30 a.m. to 12 noon. On January 27, the agenda will include an Overview Report by Dr. Craig K. Wallace, Director of the FIC; reports from the Advisory Committee to the NIH Director; and from the Advanced Studies, Research Awards, and Resources Working Groups of the FIC Advisory Board; a discussion of the development of research agendas at the PAHO; a scientific presentation of Malaria Worldswide; and a presentation/discussion of Arctic Health Research. On January 28, the agenda will include a presentation, "The ASH Looks at the FIC," a discussion of "The Future of U.S.-U.S.S.R. Bilateral Activities in Health" and general discussions of FIC programs. Attendance by the public will be limited to space available.

In accordance with the provisions of sections 552b(c)(4) and 552(c)(6), Title 5, U.S.C., the meeting will be closed to the public on January 27, from 4:30 p.m. to adjournment for the review, discussion, and evaluation of individual research followship applications. These applications contain information of a proprietary nature, including detailed research protocols, designs, and other technical information; and personal information about individuals associated with the applications.

Myra Halem, Committee Management Officer, Fogarty International Center, Building 38A, Room 609, National Institutes of Health, Bethesda, Maryland 20892 (301–496–1491), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Coralie Farlee, Assistant Director for Planning and Evaluation, Fogarty International Center (Executive Secretary) Building 38A, Room 609, telelphone 301–491–1491, will provide substantive program information.

Dated: December 8, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28433 Filed 12-17-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting of the National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, January 26–27, 1987, at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina.

This meeting will be open to the public on January 26, from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public January 26, from approximately 1:00 p.m. to adjournment on January 27, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Winona Herrell, Committee Management Officer, NIEHS, Bldg. 31, Rm. 2B55, NIH, Bethesda, Md. 20892 (301) 496–3511, will provide summaries of the meeting and rosters of council members.

Dr. Anne Sassaman, Associate Director for Extramural Program, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7723, FTS 629–7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: December 8, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28437 Filed 12-17-86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meetings of the National Heart, Lung, and Blood Advisory Council and its Research Subcommittee and Manpower Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, February 12–13, 1987, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Manpower Subcommittee of the above Council will meet on February 11, 1987, at 1:00 p.m. and 8:00 p.m. respectively, in Building 31, Conference Rooms 9 and 10.

The Council meeting will be open to the public on February 12 from 9:00 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., section 10(d) of Pub. L. 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. on February 12 to adjournment on February 13 for the review, discussion, and evaluation of individual grant applications. The meetings of the Research Subcommittee and the Manpower Subcommittee of the above Council on February 11, will be closed from 1:00 p.m. and 8:00 p.m., respectively, to adjournment for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Council members.

Dr. David M. Monsees, Jr., Executive Secretary of the Council, Westwood Building, Room 7A-15, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-7548, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: December 8, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28434 Filed 12-17-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meetings of the National Advisory Allergy and Infectious Diseases Council, Allergy and Immunology Subcommittee, and Microbiology and Infectious Diseases Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on January 22-23, 1987, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20892.

The meeting will be open to the public on January 22 from approximately 9 a.m. to 9:30 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 5 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussions will be a report of the Sexually Transmitted Diseases Working Group and a discussion of the Inflammatory Process. On January 23 the meeting will be open to the public from approximately 8:30 a.m. to 9:30 a.m. for the reports of the Director, Acquired Immunodeficiency Syndrome Program, Director, Microbiology and Infectious Diseases Program and the Director of the Immunology, Allergic and Immunologic Diseases Program.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. 92-463, the meeting of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on January 22. The meeting of the full Council will be closed from approximately 9:30 a.m. until adjournment on January 23 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301-496-7291), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: December 8, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28435 Filed 12-17-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, January 26-27, 1987, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland, and the meeting of the Subcommittee on Planning on January 26 from 8:30 a.m. to 9:30 a.m. in Building 31, Room 2A03.

The Council meeting will be open to the public on January 26 from 9:30 a.m. until 5:00 p.m. The agenda includes a report by the Director, NICHD, and a presentation by the Pregnancy and Perinatology Branch, Center for Research for Mothers and Children. The meeting will be open on January 27 immediately following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on January 26 from 8:30 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 27 from 8:30 a.m. to completion of the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland 20892, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: December 8, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28436 Filed 12-17-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Meeting of the National Advisory General Medical Sciences Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on January 29 and 30, 1987, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on January 29, 1987, from 8:30 a.m. to 11:30 a.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 29 from 11:30 a.m. to 6 p.m., and on January 30, 1987, from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892, Telephone: 301, 496-7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 926, Bethesda, Maryland 20892, Telephone: 301, 496-7891 will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13-821, Biophysics and Physiological Sciences; 13-859, Pharmacological Sciences; 13-862, Genetics Research; 13-863, Cellular and Molecular Basis of Disease Research; and 13-880, Minority Access to Research Careers [MARC]).

Dated: December 8, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28438 Filed 12-17-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological and Communicative Disorders and Stroke; Committee Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of Neurological and Communicative Disorders and Stroke.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: National Advisory Neurological and Communicative Disorders and Stroke Council and Its Planning Subcommittee

Date: January 28, 1987 (Planning Subcommittee)

Place: National Institutes of Health, Building 31, Conference Room 8A49, 9000 Rockville Pike, Bethesda, Maryland 20892

Open: 1 p.m.-3 p.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: 3 p.m.-5 p.m.

Closure Reason: For review of grant applications.

Dates: January 29-30, 1987 (Council)

Place: National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892

Open: January 29, 9 a.m.-1 p.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: January 29, 1 p.m.—recess, January 30, 8:30 a.m.—adjournment.

Closure Reason: For review of grant applications.

Executive Secretary: John C. Dalton, Ph.D., Director, NINCDS-EAP, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9248.

Name of Committee: Neurological Disorders Program Project Review B Committee

Dates: February 12-14, 1987

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815

Open: February 12, 8 p.m.-8:30 p.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: February 12, 8:30 p.m.—recess, February 13, 9 a.m.—recess, February 14, 8 a.m.—adjournment.

Closure Reason: To review grant applications.

Executive Secretary: Dr. A. Beau White, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

Name of Committee: Neurological Disorders Program Project Review A Committee

Dates: March 1-3, 1987

Place: Holiday Inn, 233 Ben Franklin Drive, Sarasota, Florida 33577

Open: March 1, 8 p.m.—8:30 p.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: March 1, 8:30 p.m.—recess, March 2, 8 a.m.—recess, March 3, 8 a.m.—adjournment.

Closure Reason: To review grant applications.

Executive Secretary: Dr. Herbert Yellin, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223

Name of Committee: Communicative Disorders Review Committee

Dates: March 5-6, 1987

Place: Hyatt Regency—Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814

Open: March 5, 8 a.m.-9 a.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: March 5, 9 a.m.—recess, March 6, 8 a.m.—adjournment.

Closure Reason: To review grant applications.

Executive Secretary: Dr. Marilyn Semmes, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: December 8, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28439 Filed 12-17-86; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Privacy Act of 1974; Report of New Routine Use

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: New routine use.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to establish a new routine use of information maintained in the Privacy Act system of records entitled "Master Files of Social Security Number Holders, HHS/SSA/OSR, 09-60-0058." The proposed routine use would permit SSA to disclose information to persons or other entities who hire, or recruit, or refer for a fee, individuals for employment in the United States. Disclosures under this routine use would be made in connection with a pilot project which proposes to use a telephone contact in order to validate Social Security numbers (SSN's) of prospective employees.

This project has a dual purpose. Primarily, it will allow the Secretary of HHS to evaluate the use of the SSN in the workplace and indicate ways that he may more effectively carry out his responsibilities under section 205(c) of the Social Security Act. Secondarily, the results of this project may suggest possible directions for any future studies the Secretary of HHS may conduct under the provisions of section 101(e) of the Immigration Reform and Control Act (IRCA) of 1986 (Pub. L. 99-603), which requires SSA to conduct a study of the feasibility and costs of establishing an SSN validation system. We invite public comments on this publication.

DATE: The proposed routine use will become effective as proposed without further notice on January 20, 1987, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESS: Interested individuals may comment on this proposal by writing to the SSA Privacy Officer, Social Security Administration, Room L1140 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Mr. Bernard A. Oehlers, Acting SSA Privacy Officer, at the above address or by telephone on (Area Code 301) 594-6978.

SUPPLEMENTARY INFORMATION:

I. Discussion of the Proposed Routine Use

The Secretary of HHS has the responsibility and authority under section 205 of the Social Security Act to issue SSN's to individuals who are qualified to receive them, and to assure the correct crediting of earnings from employment and self-employment covered under the Social Security Act. Further, section 702 of the Social Security Act imposes upon the Secretary of HHS the duty of studying and making recommendations regarding matters of administrative policy concerning the Social Security programs and related subjects.

SSA, acting for the Secretary of HHS, and under the authority of sections 205 and 702 of the Social Security Act proposes to conduct a project, on a pilot basis, which will establish a telephone SSN validation process. The goals of this pilot project are to enable the Secretary of HHS to evaluate ways to exercise control more effectively over the issuance of SSN's, use of the SSN and SSN card in the workplace, and to lessen the incidence of earnings reported under incorrect SSN's.

This pilot process will be used by persons or other entities who hire, recruit or refer, for a fee, prospective employees. Those persons or other entities will be able to call a special telephone number and, after identifying themselves as proper recipients of SSA data and giving a minimum amount of identifying information (e.g., name, SSN and date of birth) about a prospective employee, receive from SSA information as to whether the name and SSN agree according to SSA records. In those cases in which the identifying information and SSN did not agree with our records, SSA would ask the requesting person or other entity to advise the prospective employee to contact SSA to resolve the issue. Because the IRCA specifies the SSN card as one piece of documentation to be used to establish employment authorization, we expect a need for increased certainty that SSN's are properly issued and used. As custodian of the SSN file, we also anticipate an increase in the number of requests from employers and others mentioned above that we validate SSN's. Enforcement by the Immigration and Naturalization Service of the new employment verification system under the IRCA begins in early June, 1987. While SSA does not have any enforcement role, it does have an essential service role. Accordingly, we would like to have as much experience as possible under this project before the employment verification system is enforced so that we are in a position to decide the best way to be of service to employees and employers.

The pilot project will be conducted in a limited geographical area beginning in early 1987. We anticipate it will be of short duration, but of sufficient scope and time to determine whether the SSN telephone validation process is effective and thus appropriate for wider application.

Implementation of the pilot will require that we disclose information as to whether the name and SSN provided by the prospective employee agrees with information in our records. To comply with the Privacy Act, before disclosing any information to these parties, we are proposing to revise the **Federal Register** notice of the Master Files of Social Security Number Holders system of records (the system of records from which information will be disclosed), to include a statement of routine use which provides for the following disclosure:

Upon receipt of a request from a person or other entity who hires a job applicant, or recruits or refers for a fee, a job applicant for employment in the United States, SSA will disclose information necessary to validate the SSN of the job applicant in the conduct of a pilot SSN validation process under the provisions of sections 205 and 702 of the Social Security Act.

II. Compatibility of the Proposed Routine Use

The Privacy Act (5 U.S.C. 552a(a)(7) and 552a(b)(3)) and our disclosure regulation (20 CFR Part 401) both permit us to disclose information under a routine use for purposes which are compatible with the purpose for which we collect the information. Section 401.310 of the regulation permits us to disclose information under a routine use for the purpose of administering our programs or administering similar income-maintenance or health-maintenance programs of other agencies. In the subject instance, we will disclose information for use in a pilot telephone validation process, which is authorized under sections 205 and 702 of the Social Security Act, to assist the Secretary of HHS in carrying out his responsibilities for the proper issuance of SSN's and the maintenance of records of earnings covered under the Social Security Act. Thus, the routine use is appropriate and meets the criteria in the Privacy Act and the regulation.

III. Effect of the Proposed Routine Use on the Rights of Individuals

We will disclose information under the proposed routine use for the purpose of ascertaining whether information in our records is correct. Thus, we do not anticipate that the disclosures to employers or other entities would have any unwarranted adverse affect on the rights of individuals.

Dated: December 15, 1986.

Dorcas R. Hardy,

Commissioner of Social Security.

09-60-0058

SYSTEM NAME:

Master Files of Social Security Number Holders, HHS/SSA/OSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of Systems Operations, 6401 Security Boulevard, Baltimore, MD 21235

Social Security Administration, Office of Central Operations, Office of Central Records Operations, Metro West Building, 300 N. Greene Street, Baltimore, MD 21201

Social Security Administration, Office of System Requirements, 6401 Security Boulevard, Baltimore, MD 21235

Records also may be maintained at contractor sites (contract the system manager at the address below to obtain contract addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains a record of each individual who has applied for and/or obtained a Social Security number (SSN).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains all of the information received on original applications for SSN's (e.g., name, date and place of birth, both parents names, and race/ethnic data) and any changes in the information on the applications that are submitted by the SSN holder. Cross-references may be noted where multiple numbers have been issued to the same individual and an indication may be shown that a benefit claim has been made under a particular SSN(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 205(a) and 205(c)(2) of the Social Security Act.

PURPOSE(S):

Information in this system is used by the Social Security Administration (SSA) to assign SSN's. The information also is used for a number of administrative purposes such as:

- By SSA components for various title II, XVI and XVIII claims purposes including usage of the SSN itself as a case control number and a secondary beneficiary cross-reference control number for enforcement purposes and use of the SSN record data for verification of claimant identity factors and for other claims purposes related to establishing benefit entitlement;
- By SSA as a basic control for retained earnings information;
- By SSA as a basic control and data source to prevent issuance of multiple SSN's;
- As the means to identify incorrectly reported names or SSN's on earnings reports;
- For resolution of earnings discrepancy cases;
- For statistical studies;
- By the Department of Health and Human Services (HHS) Audit Agency for auditing benefit payments under Social Security programs;
- By the HHS Office of Child Support Enforcement for locating parents who owe child support;
- By the National Institute of Occupational Safety and Health for epidemiological research studies required by the Occupational Safety and Health Act of 1974;
- By the SSA Office of Refugee Resettlement for administering Cuban refugee assistance payments; and
- By the HHS Health Care Finance Administration for administering title XVIII claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. Employers are notified of the SSN's of employees in order to complete their records for reporting wages to the SSA pursuant to the Federal Insurance Contributions Act and section 218 of the Social Security Act.

2. To State welfare agencies, upon written request, of the SSN's of Aid to Families with Dependent Children applicants or recipients.

3. To the Department of Justice (Federal Bureau of Investigation and United States attorneys) for investigating and prosecuting violations of the Social Security Act.

4. To the Department of Justice (Immigration and Naturalization Service) for the identification and location of aliens in the United States pursuant to requests received under section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

5. To a contractor for the purpose of collating, evaluating, analyzing, aggregating or otherwise refining records when the SSA contracts with a private firm. (The contractor shall be required to maintain Privacy Act safeguards with respect to such records.)

6. To the Railroad Retirement Board for:

(a) Administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment; and

(b) Administering the Railroad Unemployment Insurance Act.

7. To the Department of Energy for its study of the long-term effects of low-level radiation exposure.

8. To the Department of the Treasury for:

(a) Tax administration as defined in 26 U.S.C. 6103 of the Internal Revenue Code; and

(b) Investigating the alleged theft, forgery, or unlawful negotiation of Social Security checks.

9. To a congressional office in response to an inquiry from the office made at the request of the subject of a record.

10. To the Department of State for administering the Social Security Act in foreign countries through facilities and services of that agency.

11. To the American Institute on Taiwan for administering the Social Security Act on Taiwan through facilities and services of that agency.

12. To the Veterans Administration (VA), Philippines Regional Office, for administering the Social Security Act in the Philippines through facilities and services of that agency.

13. To the Department of Interior for administering the Social Security Act in the trust territory of the Pacific Islands through facilities and services of that agency.

14. To the Department of Labor for:

(a) Administering provisions of the Black Lung Benefits Act; and

(b) Conducting studies of the effectiveness of training programs to combat poverty.

15. To the VA for the following purposes:

(a) For the purpose of validating of SSN's of compensation recipients/pensioners in order to provide the release of accurate pension/compensation data by the VA to SSA for Social Security program purposes.

(b) Upon request, for purposes of determining eligibility for or amount of VA benefits, or verifying other information with respect thereto.

16. To Federal agencies which use the SSN as a numerical identifier in their recordkeeping systems, for the purpose of validating SSN's.

17. To the Department of Justice in the event of litigation where the defendant is:

(a) HHS, any component of HHS or any employee of HHS in his or her official capacity;

(b) The United States where HHS determines that the claim, if successful, is likely to directly affect the operations of HHS or any of its components; or

(c) Any HHS employee in his or her individual capacity where the Justice Department has agreed to represent such employee;

HHS may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

18. State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations.

19. Information necessary to adjudicate claims filed under an international Social Security agreement that the United States has entered into pursuant to section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.

20. To Federal, State or local agencies (or agents on their behalf) for the purpose of validating SSN used in administering cash or noncash income maintenance programs or health maintenance programs (including programs under the Social Security Act).

21. To third party contacts in situations where the party to be contacted has, or is expected to have, information which will verify documents when SSA is unable to determine if such documents are authentic.

22. Upon request, information on the identity and location of aliens may be disclosed to the Department of Justice (Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating and, where appropriate, taking legal action against suspected Nazi war criminals in the United States.

23. To the Selective Service System for the purpose of enforcing draft registration pursuant to the provisions of the Military Selective Service Act (50 U.S.C. App. 462, as amended by section 916 of Pub. L. 97–86).

24. Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

25. Validated SSN information may be disclosed to organizations/agencies such as prison systems which are required by law to furnish SSA with SSN information.

26. Nontax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration and the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984.

27. Upon receipt of a request from a person or other entity who hires a job applicant, or recruits or refers for a fee, a job applicant for employment in the United States, SSA will disclose information necessary to validate the SSN of the job applicant in the conduct of a pilot SSN validation process under the provisions of sections 205 and 702 of the Social Security Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in paper form (e.g., paper lists and punch cards); magnetic media (e.g., magnetic tape and disk with on-line access) and in microfilm and microfiche form.

RETRIEVABILITY:

Records in this system are indexed by both SSN and name.

SAFEGUARDS:

Safeguards for automated records have been established in accordance with the HHS Automated Data processing Manual, "Part 6, ADP System Security." This includes maintaining the magnetic tapes and disks within a secured enclosure attended by security guards. Anyone entering or leaving this enclosure must have a special badge issued only to authorized personnel.

For computerized records electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail. All microfilm, microfiche, and paper files are accessible only by authorized personnel who have a need for the records in the performance of their official duties.

Expansion and improvement of SSA's telecommunications systems has resulted in the acquisition of terminals equipped with physical key locks. The terminals also are fitted with adapters to permit the future installation of data encryption devices and devices to permit the identification of terminals users.

RETENTION AND DISPOSAL:

All paper forms are retained for 5 years after they have been filmed or entered on tape and the accurracy has been verified. They then are destroyed by shredding. All tape, disks, microfilm and micorofiche files are updated periodically. Out-of-date magnetic tapes and disks are erased. The out-of-date microfiche is disposed of by the application of heat.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Pre-Claims Requirements, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him/her by providing his/her name, signature and SSN, or if the SSN is not known, name, signature, date and place of birth, mother's maiden neme, and father's mame, and evidence of identity to the address shown under system manager above. (Furnishing the SSN is not voluntary, but it makes searching for an individual's record easier and avoids delay.) (See Appendix K to this publication for documentation individuals may be required to furnish to establish their identity when requesting information pertaining to themselves from SSA.) These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Also, requesters should reasonably specify the record contents they are seeking. These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Also, requesters should reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate or irrelevant. These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from SSN applicants (or individuals acting on their behalf). The SSN itself is assigned to the individual as a result of internal processes of this system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86-28395 Filed 12-17-86; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-940-87-4121-11; C-43574]

Colorado: Invitation for Coal Exploration License Application; Consolidation Coal Co.

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to Title 43, Code of Federal Regulations, Subpart 3410, members of the public are hereby invited to participate with Consolidation Coal Company in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Moffat County, Colorado:

Moffat County, CO

Township 3 North, Range 90 West, 6th P.M.
- Sec. 2, lots 1 to 4, inclusive, S½N½, SW¼, and N½SE¼;
- Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 5, lots 1 and 2, S½NE¼, and SE¼;

Township 4 North, Range 90 West, 6th P.M.
- Sec. 19, lots 1 to 4, inclusive, SW¼NE¼, and SE¼;
- Sec. 20, S½N½ and S½;
- Sec. 21, S½NW¼, SW¼, and S½SE¼;
- Sec. 26, SW¼SW¼;
- Sec. 27, S½NW¼ and S½;
- Sec. 28, all;
- Sec. 29, all;
- Sec. 30, lots 1 and 2, E½, and E½W½;
- Sec. 31, lots 1 and 2, E½, and E½W½;
- Sec. 32, all;
- Sec. 33, all;
- Sec. 34, all;
- Sec. 35, NW¼, S½NE¼, and S½;

Township 4 North, Range 91 West, 6th P.M.
- Sec. 13, lots 2 to 7, inclusive, and lots 10 to 12 inclusive, SE¼SW¼, and W½SE¼;
- Sec. 22, lots 1 to 15, inclusive;
- Sec. 23, lots 1 to 16, inclusive;
- Sec. 24, lots 1 to 12, inclusive, N½NE¼, SW¼NE¼, and NE¼NW¼;
- Sec. 25, lots 1 to 16, inclusive;
- Sec. 26, lots 1 to 16, inclusive;
- Sec. 27, lots 1 to 16, inclusive;
- Sec. 35, lots 1, 2, 7, and 8;
- Sec. 36, lots 1 to 8, inclusive.

The area described contains approximately 13,046.23 acres, more or less.

The application for coal exploration license is available for public inspection during normal business hours under serial number C-43574 at the BLM Colorado State Office, Public Room, 2850 Youngfield Street, Lakewood, Colorado and at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado.

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate. Written Notice of Intent to Participate should be addressed to the following and must be received by them within thirty (30) days after the publication of this Notice of Invitation in the **Federal Register**:

Chief, Mineral Leasing Section, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215, and

Randy Stockdale, Consolidation Coal Company, 2 Inverness Drive East, Englewood, Colorado 80112

Evelyn W. Axelson,

Chief, Mineral Leasing Section.

[FR Doc. 86-28340 Filed 12-17-86; 8:45 am]

BILLING CODE 4310-JB-M

[CO-010-07-4322-02]

Craig District Grazing Advisory Board; Meeting

Notice is hereby given, in accordance with Pub. L. 92-463, that a meeting of the Craig District Grazing Advisory Board will be held on February 6, 1987, at the Craig District Office of the Bureau of Land Management, 455 Emerson Street, Craig, Colorado. The meeting will convene at 10:00 a.m.

Agenda items will include:

1. Area reports including updates on land use and activity planning;
2. Status report on FY87 range improvement projects; and
3. Expenditure of Grazing Advisory Board Funds

The meeting is open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m., February 6, 1987, or file written statements for the Board's consideration.

Dated: December 11, 1986.

Larry P. Bauer,

Acting District Manager.

[FR Doc. 86-28346 Filed 12-17-86; 8:45 am]

BILLING CODE 4310-JB-M

[NM-010-07-4333-02]

District Advisory Council Meeting; Albuquerque District, NM

AGENCY: Bureau of Land Management.

ACTION: Notice of District Advisory Council Meeting.

SUMMARY: The Bureau of Land Management's Albuquerque District Advisory Council will meet on Monday, January 5, 1986, at 10:00 a.m., in the BLM Albuquerque District Office Building located at 435 Montano NE, in Albuquerque, New Mexico.

The Council will address three major issues:

1. A report from the Off Road Vehicle subcommittee.
2. Proposed land ownership adjustment decisions in the Taos Resource. Management Plan affecting scattered public lands around Santa Fe, New Mexico.
3. The Malpais—Torrence County land exchange between BLM and the State of New Mexico.

Time will be provided for public comments during the appropriate agenda items. The Albuquerque District Advisory Council is managed in accordance with the Federal Land Policy and Management Act of 1979, the Federal Advisory Committee Act of 1972, and the Rangeland Improvement Act of 1979. Minutes of the meeting will be made available for review within 30 days following the meeting.

For additional information, contact Alan Hoffmeister, Public Affairs Specialist, 435 Montano NE, Albuquerque, New Mexico 87107, (505) 766-4504.

L. Paul Applegate,

District Manager.

[FR Doc. 86-28345 Filed 12-17-86; 8:45 am]

BILLING CODE 4310-FB-M

[Alaska AA-48558-AC]

Proposed Reinstatement of a Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48558-AC has been received covering the following lands:

Copper River Meridian, AL

T. 7 S., R. 1 W.,
- Sec. 23, S½SW¼;
- Sec. 34, N½NW¼.

(160 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $10 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from June 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48558-AC as

set out in sections 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective June 1, 1986, subject to the terms and conditions cited above.

Dated: December 8, 1986.

Kay F. Kletka,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 86-28326 Filed 12-17-86; 8:45 am]

BILLING CODE 4310-JA-M

[CO-942-06-4520-12]

Filing of Plats of Survey; Colorado

December 8, 1986.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., December 8, 1986.

The plat, in two sheets, representing the dependent resurvey of a portion of the south, east, west, and north boundaries, a portion of the subdivisional lines, certain mineral claims, and portions of the South Platte Forest Reserve Boundary, in sections 25 and 26, T. 7 S., R. 70 W., Sixth Principal Meridian, Colorado, Group No. 761, was accepted November 14, 1986.

This survey was executed to meet certain administrative needs of the Denver Water Board and the U. S. Forest Service.

The plat representing the dependent resurvey of the Eighth Standard Parallel North, a portion of Range 2 West, through Range 3 West, a portion of the east and west boundaries, subdivisional lines, and subdivision of certain sections, T. 32 N., R. 3 W., New Mexico Principal Meridian, Colorado, Group No. 764, was accepted November 20, 1986.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Jack A. Eaves,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 86-28327 Filed 12-17-86; 8:45 am]

BILLING CODE 4310-JB-M

Filing of plat of Survey; New Mexico

December 11, 1986.

The Plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on December 11, 1986.

The supplemental plat showing new lottings in section 33, Township 21 North, Range 9 East, New Mexico Principal Meridian, New Mexico, under Group 781, NM, was approved November 24, 1986.

This survey was requested by the District Manager, Albuquerque, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

William S. DeGroot,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 86-28339 Filed 12-17-86; 8:45 am]

BILLING CODE 4310-FB-M

Filing of Plat of Survey; New Mexico

December 11, 1986.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on December 11, 1986.

The survey representing the dependent resurvey of a portion of the north boundary of the rejected San Antonio del Rio Colorado Grant, and a portion of certain lot boundaries, and the survey of lots 30-35, Township 29 North, Range 12 East, New Principal Meridian, New Mexico.

This survey was requested by the District Manager, Albuquerque, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

William S. DeGroot,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 86-28341 Filed 12-17-86; 8:45 am]

BILLING CODE 4310-FB-M

[A-20346-P]

Realty Action; Exchange of Public Lands, Maricopa, LaPaz, Yuma, Pima, and Yavapai Counties, AZ; Phoenix District Office

AGENCY: Bureau of Land Management (BLM), Interior.

REALTY ACTION: Exchange of public lands, Maricopa, La Paz, Yuma, Pima, and Yavapai Counties, Arizona.

SUMMARY: BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following public land is being considered for exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

Aguila/Wenden/Salome Area

T. 5 N., R. 12 W.,
Sec. 6.
T. 5 N., R. 13 W.,
Secs. 5, 23, 24, 25.
T. 6 N., R. 11 W.,
Secs. 8, 9, 10, 17.
T. 6 N., R. 12 W.,
Secs. 16, 21.
T. 6 N., R. 13 W.,
Secs. 27, 28, 32.
T. 7 N., R. 5 W.,
Sec. 35.
T. 7 N., R. 6 W.,
Secs. 17, 18, 26, 27, 34, 35.
T. 7 N., R. 7 W.,
Secs. 16, 33.
T. 8 N., R. 7 W.,
Secs. 1, 3, 10-15, 22-24, 26, 27, 34, 35.
T. 8 N., R. 9 W.,
Sec. 25.

The area described above aggregates 17,702.02 acres.

I-10 Area

T. 1 S., R. 6 W.,
Secs. 4, 5.
T. 1 S., R. 7 W.,
Sec. 1.
T. 1 N., R. 3 W.,
Sec. 3.
T. 1 N., R. 4 W.,
Secs. 11-14.
T. 1 N., R. 6 W.,
Secs 17, 20.
T. 2 N., R. 5 W.,
Sec. 36.
T. 2 N., R. 6 W.,
Sec. 7.
T. 2 N., R. 9 W.,
Sec. 8.
T. 2 N., R. 10 W.,
Secs. 2, 11.
T. 3 N., R. 9 W.,
Sec. 31.
T. 3 N., R. 10 W.,
Sec. 8.
T. 3 N., R. 11 W.,
Sec. 2.
T. 3 N., R. 12 W.,
Sec. 16.
T. 4 N., R. 15 W.,
Sec. 25.

The area described above aggregates 6,533.83 acres.

Peeples and Skull Valley Area

T. 12 N., R. 5 W.,
Secs. 9, 16, 22.
T. 12 N., R. 9 W.,
Secs. 11, 14.
T. 13 N., R. 4 W.,
Sec. 33.
T. 14 N., R. 4 W.,
Secs. 24, 25, 35.

The area described above aggregates 2,211.87 acres.

Lower Gila South Area

T. 8 S., R. 14 W.,
Secs. 5–8, 17, 18.
T. 7 S., R. 11 W.,
Secs. 6–8, 13, 15, 30, 31.
T. 7 S., R. 12 W.,
Secs. 21, 22, 25, 27, 28, 33, 34.
T. 7 S., R. 14 W.,
Sec. 24.
T. 6 S., R. 4 W.,
Sec. 31.
T. 6 S., R. 7 W.,
Sec. 15.
T. 6 S., R. 10 W.,
Secs. 5–8, 18–20, 29–33.
T. 6 S., R. 11 W.,
Secs. 13, 23, 24, 27.
T. 6 S., R. 12 W.,
Secs. 4, 5.
T. 6 S., R. 13 W.,
Secs. 17–19.
T. 6 S., R. 14 W.,
Secs. 34, 35.
T. 5 S., R. 10 W.,
Sec. 18.
T. 1 S., R. 5 W.,
Sec. 17.
T. 1 S., R. 9 W.,
Secs. 14, 16.
T. 1 N., R. 10 W.,
Secs. 13, 14.
T. 3 N., R. 12 W.,
Sec. 27.
T. 4 N., R. 15 W.,
Sec. 36.

The area described above aggregates 12,859.64 acres.

The total acreage of all areas aggregates 39,307.36 acres more or less. A complete list of legal descriptions for the lands listed in this notice is available at the Phoenix District Office and will be sent upon request.

Final determination on exchange will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this notice will segregate the public lands, as described in this notice, from appropriation under the public land laws, including the mineral laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a Notice of Termination of the Segregation; or the expiration of two years from the date of publication, whichever occurs first.

This Notice will cancel and replace the segregative effects of all previously published Notices on the public lands described herein.

For a period of forty-five (45) days from the date of publication interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: December 11, 1986.

Marlyn V. Jones,

District Manager.

[FR Doc. 86–28325 Filed 12–17–86; 8:45 am]

BILLING CODE 4310-32-M

[A-21945 through A-21951]

Sale of Public Lands in Yavapai County, AZ; Phoenix District Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of notice of realty action.

On Page 19615 of Vol. 51, No. 104 of the **Federal Register** published May 30, 1986, the Phoenix District published a Notice of Realty Action for serial numbers A–21945 through A–21951. This notice segregated the subject public lands for a period of 270 days. Upon publication of this notice that segregation will be extended through June 30, 1987.

Dated: December 11, 1986.

Marlyn V. Jones,

District Manager.

[FR Doc. 86–28348 Filed 12–17–86; 8:45 am]

BILLING CODE 4310-32-M

[CA-010-07-4331-12]

Temporary Vehicle Use Restriction, Red Dog Area, Nevada County, CA; Folsom Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary vehicle use restriction in the Red Dog Area within Nevada County in the Folsom Resource Area, Bakersfield District, California.

SUMMARY: This action places restrictions on vehicle use on BLM-administered public land in the Red Dog Area in Nevada County, California, due to damage to an historic townsite. Maps of the affected area are available at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California. All vehicle use in this area is prohibited, except for administrative and rehabilitative purposes. Persons allowed to drive in the area will be designated by an authorized officer. This closure will continue to apply until December 31, 1988.

The public lands affected by this closure are located in portions of T. 16 N., R. 10 E., MDM, Section 30, Lots 8, 18, 19, and California Placer unpatented mining claim.

SUPPLEMENTARY INFORMATION: Due to concentration and intensification of off-road vehicle use within the historic townsite of Red Dog, this significant cultural property is being degraded. Creation and deepening of vehicle trails has uncovered concentrations of historic materials and has resulted in scattering and crushing of artifacts. Constant vehicle use prevents growth of vegetative cover and renders archeological materials highly visible and inviting to unauthorized collectors and excavators. This situation adversely affects the archeological information present in the site, and it compromises the integrity of the site's historic setting. In order to stabilize conditions and allow re-establishment of vegetation, a temporary vehicle closure will be imposed. Authority for this vehicle closure is contained in CFR Title 43, Chapter II, Part 8364.1(a).

DATES: This vehicle closure is effective from December 31, 1986, through December 31, 1988.

FOR FURTHER INFORMATION CONTACT: Deane Swickard, Folsom Resource Area Manager, Folsom Resource Area, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630; (916) 985–4474.

Dated: December 10, 1986.

David Harris,

Acting Resource Area Manager.

[FR Doc. 86–28347 Filed 12–17–86; 8:45 am]

BILLING CODE 4310-40-M

[AZ-010-07-4212-12; 4310-32; (A-20348)]

Land Exchange, Mohave and Coconino Counties, AZ; Realty Action

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action-exchange of Federal lands for State lands in Mohave and Coconino Counties, Arizona.

SUMMARY: The following described public land has been determined to be suitable for disposal by state exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Selected Public Lands

Gila and Salt River Meridian, Mohave County, Arizona 880.89 acres

T. 39 N., R. 16 W.,
Sec. 14, SW¼SE¼;
Sec. 22, W½NW¼;
T. 40 N., R. 15 W.,
Sec. 3, SE¼NE¼, N½SE¼;
T. 40 N., R. 16 W.,
Sec. 33, SW¼SE¼;
Sec. 34, W½NE¼,NW¼SE¼;
T. 41 N., R. 12 W.,

Sec. 5, Lots 3 & 4, S½NW¼;
Sec. 6, S½NE¼;
T. 41 N., R. 13 W.,
Sec. 1, Lots 1, 2, 3 & 4, E½SW¼;

Gila and Salt River Meridian, Coconino County, Arizona 1,260.83 acres

T. 41 N., R. 2 W.,
Sec. 9, S½NE¼,SE¼NW¼,E½SW¼,SE¼;
Sec. 21, Lots 1 & 3, NE¼,NE¼SE¼;
Sec. 27, All.

In exchange for the above described 2,141.72 acres of public land in Mohave and Coconino Counties, the Bureau of Land Management will receive an acreage of equal value from the Arizona State Land Department land listed below. These lands are located in Grand Canyon National Park and BLM wilderness areas.

Offered State Lands

Gila and Salt River Meridian, Mohave County, Arizona 3,529.76 acres

T. 29 N., R. 11 W.,
Sec. 36
T. 34 N., R. 9 W.,
Sec. 16
T. 35 N., R. 14 W.,
Sec. 36
T. 41 N., R. 6 W.,
Sec. 10
T. 41 N., R. 13 W.,
Sec. 16
T. 41 N., R. 14 W.,
Sec. 2
Sec. 16

Gila and Salt River Meridian, Coconino County, Arizona 8,665.75 acres

T. 38 N., R. 4 E.,
Sec. 2
T. 38 N., R. 5 E.,
Sec. 2
Sec. 16
T. 38 N., R. 6 E.,
Sec. 2
Sec. 32
T. 39 N., R. 3 E.,
Sec. 36
T. 39 N., R. 6 E.,
Sec. 2
Sec. 36
T. 40 N., R. 6 E.,
Sec. 36
T. 40 N., R. 7 E.,
Sec. 2
Sec. 16
T. 41 N., R. 4 E.,
Sec. 16
T. 41 N., R. 5 E.,
Sec. 2
Sec. 16
T. 42 N., R. 3 E.,
Sec. 36
T. 42 N., R. 4 E.,
Sec. 36
T. 42 N., R. 5 E.,
Sec. 32
T. 42 N., R. 6 E.,
Sec. 32

The Public land to be conveyed to the State of Arizona will be subject to the following reservations and exceptions:

A. Excepting and Reserving to the United States

. . . rights-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

B. Subject to

All valid existing rights of record.

This exchange will be on an equal value basis. A final appraisal will be completed to determine the value of the disposal and acquired lands. On the basis of the appraisal, all or a portion of the lands will be exchanged to provide an equal value exchange.

Publication of this Notice will segregate the subject lands from all appropriations under the public lands laws, including the mining laws, but not mineral leasing laws. This segregation will terminate upon issuance of a patent or two years from the date of publication of this Notice in the **Federal Register**, or upon publication of a Notice of Termination.

Detailed information concerning this exchange can be obtained from the Shivwits Resource Area Office, 225 North Bluff Street, St. George, UT 84770. Within forty-five (45) days from the date of publication of this notice in the **Federal Register** interested parties may submit comments to the District Manager, Arizona Strip District Office, 196 East Tabernacle, St. George, UT 84770. Any adverse comments will be evaluated by the Arizona State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

Raymond D. Mapston,

Acting Arizona Strip District Manager.

December 12, 1986.

[FR Doc. 86-28430 Filed 12-17-86; 8:45 am]

BILLING CODE 4310-32-M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Institute a Groundwater Monitoring Program; E.I. DuPont de Nemours and Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *E.I. DuPont de Nemours and Company* v. *Christopher J. Daggett, as Regional Administrator of the United States Environmental Protection Agency, Region II,* Civil Action No. 85-0626-E, was lodged with the United States District Court for the Western District of New York on December 5, 1986. The consent decree requires E.I. DuPont de Nemours to undertake a monitoring program designed to determine the extent and nature of contamination emanating from E.I. DuPont's Necco Park, Niagara Falls, New York facility pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.* and requires payment of a civil penalty of $25,000 by E.I. DuPont de Nemours and Company.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *E.I. DuPont de Nemours and Company* v. *Christopher J. Daggett, as Regional Administrator of the United States Environmental Protection Agency, Region II,* D.J. Ref. No. 90-7-1-287.

The consent decree may be examined at the office of the United States Attorney, Western District of New York, 502 U.S. Courthouse, Court & Franklin Streets, Buffalo, New York 14202; at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $4.60 (10 cents per page reproduction charge) payable to the Treasurer of the States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-28337 Filed 12-17-86; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Proposed Consent Order in Action Under the Clean Air Act; James River Rochester, Inc., Rochester, MI

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed Consent Order in *United States of America* v. *James River-Rochester, Inc.,* Civil No. 84-CV0843-DT was lodged with the United States District Court for the Eastern District of Michigan, on December 4, 1986.

The complaint, which was brought under section 113 of the Clean Air Act,

alleged that defendant at its facility in Rochester, Michigan was violating the requirements of the Michigan State Implementation Plan ("SIP") promulgated pursuant to the Clean Air Act. Under the proposed Consent Order, compliance with the Michigan SIP is to be achieved by defendant with respect to its paper saturating line at the Rochester, Michigan facility by December 31, 1987. The proposed Order also provides for defendant to meet certain interim compliance requirements. The proposed Order provides for stipulated penalties to be paid by defendant if it fails to meet any of the requirements of the Order. The proposed Order also provides for defendant to pay a civil penalty in the amount of $110,000, within two weeks after entry of the Order.

The Department of Justice will receive written comments relating to the proposed Consent Order for a period of thirty days (30) from the date of this publication. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Washington, DC 20530 and should refer to *United States of America* v. *James River-Rochester, Inc.*, D.J. Ref. 90-5-2-1-634.

The proposed Consent Order may be examined at the offices of the United States Attorney, 817 Federal Building, 231 W. Lafayette, Detroit, Michigan 48226, at the Region V Office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Office of the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Order may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.90 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-28338 Filed 12-17-86; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree in Action To Enjoin Discharge of Water Pollutants; Ranno Electro Plating Corp.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Ranno Electro Plating Corporation*, Civil Action No. CV-85-5736(JHS), was lodged with the United States District Court for the District of New Jersey on October 7, 1986. The consent decree establishes a compliance program for the Saddle Brook, New Jersey plant owned and operated by Ranno Electro Plating Corporation, to bring the plant into compliance with the Clean Water Act, 33 U.S.C. 1251 *et seq.* and the applicable pretreatment regulations relating to the discharge of pollutants and requires payment of a civil penalty of $41,000.00.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Ranno Electro Plating Corporation*, D.J. Ref. No. 90-5-1-1-2477.

The consent decree may be examined at the office of the United States Attorney, District of New Jersey, Federal Building, 970 Broad Street, Newark, New Jersey 07102; at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-28336 Filed 12-17-86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of Assistant Secretary

Veteran's Employment Committee; Meeting

The Secretary's Committee on Veterans' Employment was established under section 308, Title III, Pub. L. 97-306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Thursday, January 15, 1987, at 10:00 a.m., in the Secretary's Conference Room, S-2508, FPB.

Item to be discussed are the programs administered by the Veterans Administration.

The public is invited.

Signed at Washington, DC, this 10th day of December, 1986.

Donald E. Shasteen,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 86-28401 Filed 12-7-86; 8:45 am]

BILLING CODE 4510-79-M

Mine Safety and Health Administration

[Docket No. M-86-160-C]

Baisden Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Baisden Coal Company, H.C. #61, Box 1470, Hatfield, Kentucky 41514 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-15076) located in Pike County, Kentucky. The petition is field under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is located in the Taylor seam ranging from 38 to 50 inces in height, with consistent ascending and descending grades creating dips in the coal bed.

3. Petitioner states that the use of a canopy on the mine's equipment would result in a diminution of safety for the miners affected because it would limit the equipment operator's visibility and destroy roof support.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 20, 1987. Copies of the petition

are available for inspection at that address.

Dated: December 8, 1986.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 86-28403 Filed 12-17-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-139-C]

Little Buck Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Little Buck Coal Company, R.D. #4, Box 400, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Little Buck Slope (I.D. No. 36-07547) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 20, 1987. Copies of the petition are available for inspection at that address.

Dated: December 8, 1986.

Particia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 86-28404 Filed 12-17-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-185-C]

Mon River Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Mon River Mining Co., Inc.; P.O. Box 235, Maidsville, West Virginia 26541 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its No. 1 Mine (I.D. No. 46-06647) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 20, 1987. Copies of the petition are available for inspection at that address.

Dated: December 10, 1986.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 86-28402 Filed 12-17-86; 8:45 am]

BILLING CODE 4510-43-M

MERIT SYSTEMS PROTECTION BOARD

Initial Appeals and Petitions for Review; Processing Time

AGENCY: Merit Systems Protection Board.

ACTION: Announcement of processing time for initial appeals and policy on processing petitions for review.

SUMMARY: The Merit Systems Protection Board is announcing a modification of its previously announced policy with respect to the time limits within which it expects to complete processing of initial appeals and petitions for review.

FOR FURTHER INFORMATION CONTACT: Matthew Shannon, (202) 653-7262.

EFFECTIVE DATE: December 18, 1986.

SUPPLEMENTARY INFORMATION: The Merit Systems Protection Board is required to establish and publicly announce the date by which it intends to complete action on appeals filed with the Board. The Board published notice on February 13, 1979 (44 FR 9446) that all appeals processed by it pursuant to 5 U.S.C. 7701 or 7702 will be decided within 120 days of the filing of the appeal. On July 20, 1984 (49 FR 29492) notice was published of the Board's general policy to attempt to complete action on petitions for review within 110 days. On December 10, 1985, (50 FR 50372) notice was published concerning completion of action on cases subject to delay due to external events such as stays imposed by courts. The announced times for completion of action have proven to be adequate in most cases.

However, experience has shown that a significant number of petitions for review require a longer period for consideration, particularly in cases involving novel or complex issues, and where the issues involved are under consideration by a reviewing court. Experience also has shown that, in cases affected by external events, announcement of a uniform time for decision, applicable to both court-ordered suspensions of processing and to those deemed appropriate by the Board, is a more efficient method of providing notice. The previously published notices are cancelled and the following notice is substituted.

Merit Systems Protection Board; Initial Appeals and Petitions for Review; Processing Time Announcement

Pursuant to 5 U.S.C. 7701(i)(1), the Merit Systems Protection Board hereby announces that it will attempt to complete action on initial appeals processed by it pursuant to 5 U.S.C. 7701(a) or 7702(a)(1) within 120 days of the filing of the appeal. The Board will attempt to complete action on petitions for review of initial decisions pursuant to 5 U.S.C. 7701(e)(1) within 110 days of the filing of the petition. With respect to currently pending petitions for review which have been under consideration more than 110 days, or which will have been under consideration for more than 110 days by April 1, 1987, the Board will attempt to complete action by April 1, 1987. After April 1, 1987, with respect to petitions for review which have been pending 110 days and are expected to require more than 30 days to complete action, the Board periodically will identify cases that have not been completed and announce new target dates for decisions. In cases subject to external events, the Board will attempt to complete action within 120 days of the date the external impediment to decision is removed.

Dated: December 12, 1986.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 86-28313 Filed 12-17-86; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before January 20, 1987.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-786-0233) and Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202-395-6880).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennyslvania Avenue, NW., Washington, DC 20506 (202-786-0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category Revisions

Title: Applications and Instruction Forms for the Publication Subvention Category

Form Number: Not applicable

Frequency of Collection: Annual

Respondents: Publishers of works in the humanities

Use: Application for funding

Estimated Number of Respondents: 127 per year

Estimated Hours for Respondents to Provide Information: 24 per respondent

Susan Metts,

Director of Administration.

[FR Doc. 86-28358 Filed 12-17-86; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289]

GPU Nuclear Corporation, et al.; Environmental Assessment and Finding of No Significant Impact

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of Appendix R to 10 CFR Part 50 to GPU Nuclear Corporation (the licensee) for Three Mile Island Nuclear Station, Unit No. 1 (TMI-1) located in Dauphin County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The exemptions are related to Sections III.G.2, III.G.3, and III.J of Appendix R to 10 CFR Part 50, "Fire Protection For Nuclear Power Facilities Operating Prior to January 1, 1979". Section III.G of Appendix R requires fire protection for equipment important to safe shutdown. Such fire protection is achieved by various combinations of fire barriers, fire suppression systems, fire detectors, and separation of safety trains (III.G.2) or alternate safe shutdown equipment free of the fire area (III.G.3). The objective of this protection is to assure that one train of equipment needed for hot shutdown would be undamaged by fire, and that systems needed for cold shutdown could be repaired within 72 hours (III.G.1). Section III.J Of Appendix R requires that emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

The Need for the Proposed Action

Because it is not possible to predict the specific conditions under which fire may occur and propagate, the design basis protective features are specified in the rule rather than the design basis fire. Plant specific features may require protection different from the measures specified in Sections III.G and III.J. In such cases, the licensee must demonstrate, by means of a detailed fire hazards analysis, that existing protection in conjunction with proposed modifications will provide a level of safety equivalent to the technical requirements of sections III.G and III.J. of Appendix 4.

Environmental Impacts of the Proposed Action

The proposed exemptions provide a level of safety equivalent to the technical requirements of Sections III.G and III.J Of Appendix R. The exemptions will not change the types, or allow an increase in the amounts, of effluents that may be released offsite. The exemptions would not result in an increase in individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemptions.

With regard to potential nonradiological impacts, the proposed exemptions involve features located entirely within the restricted areas as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemptions.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for Three Mile Island Nuclear Station, Unit 1.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the letters requesting the exemptions dated February 11, 1985, November 7, 1985, May 17, 1986 and August 19, 1986, which are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, DC, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 12th day of December 1986.

For the Nuclear Regulatory Commission.

Gordon E. Edison,

Acting Director PWR Project Directorate #6, Division of PWR Licensing-B.

[FR Doc. 86-28392 Filed 12-17-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District (the licensee), for operation of the Rancho Seco Nuclear Generating Station located in Sacramento County, California.

The amendment would revise the provisions in the Technical Specifications (TSs) relating to Main Steam Safety Valve operability requirements, in accordance with the licensee's application for amendment dated November 14, 1985. Existing TS Section 3.4.2.1 allows critical operation of the reactor plant to continue as long as "seventeen of the eighteen main steam system safety valves are operable". This proposed amendment would allow the reactor to remain in a critical condition with no more than six main steam safety valves inoperable.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 20, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitoner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days for the notice period, it is requested that the petitioner or

representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i) through (v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 14, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Dated at Bethesda, Maryland, this 11th day of December, 1986.

For The Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate No. 6, Division of PWR Licensing-B.

[FR Doc. 86-28393 Filed 12-17-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-483]

Union Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of footnote d-2(c) of Appendix A to 10 CDR Part 20, to the Union Electric Company (the licensee) for the Callaway Plant located at the licensee's site in Callaway County, Missouri.

Environmental Assessment

Identification of Proposed Action

The exemption would relax the requirement in Footnote d-2(c) of Appendix A to 10 CFR Part 20 which states, "No allowance is to be made for the use of sorbents against radioactive gases or vapor." The exemption would allow the use of a radioiodine protection factor of 50 for certain respiratory protection canisters used by workers at the licensee's Callaway Plant. The staff's technical evaluation of this request will be published in a report entitled "Safety Evaluation Report Related to the Use of Radioidine Protection Factor for Sorbent Canisters at Callaway."

The exemption would be responsive to the licensee's application for exemption dated October 22, 1985, supplemented by letter dated August 29, 1986.

The Need for the Proposed Action.

The proposed exemption is needed because the features described in the licensee's request are potential means to reduce occupational exposure to radiation for some tasks at the Callaway facility.

Environmental Impacts of the Proposed Action

The proposed exemption will most likely reduce the work effort and occupational exposure for some tasks at the Callaway Plant. As stated in the staff's Safety Evaluation Report:

> The utilization of air purifying respirators in lieu of air-supplied or self-contained apparatuses, where possible, can result in person-rem reductions estimated overall at 30% for tasks requiring radioiodine protection, and up to 50% for several major tasks. The light weight, less cumbersome air purifying respirators (i.e., sorbent canisters) can provide increased comfort and mobility in most cases, and result in increased worker efficiency and decreased time on-the-job. The licensee has provided a task analysis which shows that the use of sorbent canisters at Callaway Plant can result in significant dose savings and should be an effective ALARA measure.

With regard to potential radiological impacts to the general public, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect the potential for or consequences of radiological accidents and does not affect radiological plant effluents. The exemption has no effect on non-radiological impacts of facility operation. Therefore, the Commission concludes that there are no significant environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since we have concluded that the environmental effects of the proposed action are negligible, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statements (construction permit and operating license) for the Callaway Plant.

Agencies and Persons Consulted

The NRC Staff reviewed the licensee's request and consulted with an NRC contractor at Los Alamos National Laboratory.

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 details with respect to this action, see the request for exemption dated October 22, 1985 and supplemented August 29, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Dated at Bethesda, Maryland, this 15th day of December 1986.

For The Nuclear Regulatory Commission.

B.J. Youngblood,

Director, PWR Project Directorate #4, Division of PWR Licensing-A.

[FR Doc. 86-28394 Filed 12-17-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-15469; 811-4091]

Asset Exchange Fund, Inc.; Notice of Application for Deregulation

December 10, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("1940 Act").

Applicant: Asset Exchange Fund, Inc.

Relevant 1940 Act Section: Order requested under section 8(f).

Summary of Application: The application seeks an order declaring that Applicant has ceased to be an investment company. Applicant has never sold or issued securities.

Filing Date: The application was filed on November 4, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC no later than 5:30 p.m., on December 31, 1986. Request a hearing in writing giving the nature of your interest, the reasons for the request, and the issues contested. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary, SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary, SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549; Applicant, 3858 Carson Street, Suite 300, Torrance, CA 90503.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Meryl Dewey (202) 272-3038 or Special Counsel H.R. Hallock, Jr. (202) 272-3030.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a Maryland corporation registered under the 1940 Act as a diversified management investment company.

2. Applicant never made a public offering or sold any of its securities.

3. Applicant never had any assets or liabilities.

4. Applicant is not a party to any litigation or administrative proceeding.

5. Applicant is not engaged, nor does it propose to engage, in any business activity other than those necessary to wind up its affairs.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28357 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15472; 811-3547]

Koenig Tax-Advantaged Liquidity Fund, Inc.; Notice of Application for Order

December 10, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for order under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: Koenig Tax-Advantaged Liquidity Fund, Inc. ("Applicant").

Relevant 1940 Act Sections: Order requesting deregistration under section 8(f) and Rule 8f-1.

Summary of Application: Applicant seeks an order declaring that Applicant has ceased to be an investment company subject to the 1940 Act.

Filing Date: The application on Form N-8f was filed October 8, 1986, and an amendment thereto filed on December 3, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on January 5, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW, Washington, DC 20549. Applicant, c/o F. Martin Koenig, 22 Lenape Trail, Chatham, New Jersey 07928.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272-2847 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant was organized as a Maryland corporation and registered as an open-end, non-diversified, management investment company under the 1940 Act.

2. As of September 1, 1986, Applicant had six shareholders of record. During the period from September 1, 1986 to September 30, 1986, all of the outstanding shares of the Applicant were voluntarily redeemed at their then net asset value by shareholders in the ordinary course of business. No securities of the Applicant have been issued or sold since September 30, 1986.

3. On October 1, 1986, Applicant's Board of Directors adopted resolutions directing that Applicant cease doing business, authorizing the filing of this application, and ordering the liquidation and dissolution of Applicant as a corporation under Maryland State law.

4. On November 28, 1986, Applicant was dissolved as a corporation under Maryland State law. Applicant intends to surrender its authority to do business as a foreign corporation in the state of New York.

5. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust.

6. Applicant is not now engaged nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

7. All expenses incurred and to be incurred in connection with the liquidation of Applicant either have been or will be allocated and paid by its investment adviser, F. Martin Koenig and Company. Applicant has no other outstanding liabilities and is not a party to any litigation or administrative proceeding.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28362 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15468; 811-2805]

RES Investment Corp.; Notice of Application for Deregistration

December 10, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("1940 Act").

Applicant: RES Investment Corporation.

Relevant 1940 Act Section: Order requested under section 8(f).

Summary of Application: Notice of application for a SEC order declaring that Applicant has ceased to be an investment company. Applicant no longer exists as a result of the sale of its assets to another company.

Filing Date: The application was filed on October 10, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC no later than 5:30 p.m., on December 31, 1986. Request a hearing in writing giving the nature of your interest, the reasons for the request, and the issues contested. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary, SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary, SEC.

ADDRESS: Secretary, SEC, 450 5th Street NW., Washington, DC 20549; Applicant, 6301 Stevens Forest Road, Columbia, MD 21045.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Meryl Dewey (202) 272-3038 or Special Counsel H.R. Hallock, Jr. (202) 272-3030) (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant registered under the 1940 Act in February 1978 as a nondiversified, closed-end, management investment company.

2. Applicant sold substantially all of its assets to T. Rowe Price Tax-Free Income Fund, Inc. ("Fund") on September 22, 1986, pursuant to an Agreement and Plan of Reorganization ("Agreement") dated September 15, 1986. Applicant's common stock were converted into shares of the Fund's capital stock at net asset value. The conversion ratio was 1.5480177 shares of the Fund for each share of Applicant. A total of 419,848.731 shares of the Fund, having a value of $4,110,319.08, were issued to Applicant's shareholders pursuant to the Agreement and Plan of Complete Liquidation adopted by Applicant's shareholders.

3. Immediately preceding the reorganization, Applicant had 271,217 shares of common stock outstanding, total net assets of $4,110,319.08, and a per share net asset value of $15.16.

4. Applicant's legal existence ceased on September 30, 1986, pursuant to the laws of Maryland, under which Applicant was created.

5. Applicant has retained approximately $33,253 to pay liabilities and expenses associated with the reorganization. Applicant now has no other assets, debts or outstanding liabilities remaining.

6. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant is not engaged, nor does it propose to engage, in any business activity other than those necessary to wind up its affairs.

8. There are no security holders of Applicant to whom distributions in complete liquidation of their interest have not been made.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28363 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-16080]

Application and Opportunity for Hearing; Citicorp

December 12, 1986.

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeships of United States Trust Company of New York (the "Trust Company") under four existing indentures, and two Pooling and Servicing Agreements each dated as of September 1, 1986 under which certificates evidencing interests in a pool of mortgage loans have been issued, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trust Company from acting as Trustee under either of such indentures or the Agreements.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such a conflicting interest, either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of an obligor upon the indenture securities are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of the subsection another indenture under which other securites of the same obligor are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under both the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

The Applicant alleges that:

(1) The Trust Company currently is acting as Trustee under four indentures in which the Applicant is the obligor. The indenture dated as of February 15, 1972 involved the issuance of Floating Rate Notes due 1989; the indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated Notes; the indenture dated as of August 25, 1977 involved the issuance of Rising-Rate Notes, Series A; and the indenture dated as of April 21, 1980 involved the issuance of various series of unsecured and unsubordinated Notes. Said indentures were filed as, respectively, Exhibits 4(a), 2(b), 2(b), and 2(a) to Applicant's respective Registration Statements Nos. 2-42915, 2-58355, 2-59396 and 2-64862 filed under the Securities Act of 1933, and have been qualified under the Trust Indenture Act of 1939. Said four indentures are hereinafter called the "Indentures" and the securities issued pursuant to the Indentures are hereinafter called the "Notes."

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On September 26, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of September 1, 1986 (the "1986-M Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on September 26, 1986 Mortgage Pass-Through Certificates,

Series 1986–M 9.00% Pass-Through Rate (the "Series 1986–M Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–M Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $75,706,239.11 at the close of business on September 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–M Certificates. On September 16, 1986, Applicant, the parent of Citibank, N.A., entered into a quaranty of even date (the "1986–M Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1986–M Certificates, to be liable for 7.0% of the initial aggregate principal balance of the 1986–M Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–M Guaranty. The 1986–M Guaranty states the Applicant's obligations thereunder rank *pari Passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–M Guaranty would rank on a parity with the obligations evidence by the Notes. The Series 1986–M Certificates were registered under the Securites Act of 1933 (Registration Statement on Forms S–11 and S–3, File No. 33–6358) as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–M Certificates were offered by a Prospectus Supplement Dated September 12, 1986, supplemental to a Prospectus dated September 12, 1986. The 1986–M Agreement has not been qualified under the Trust Indenture Act of 1939.

(4) On September 26, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of September 1, 1986 (the "1986–N Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on September 26, 1986, Mortgage Pass-Through Certificates, Series 1986–N 9.50% Pass-Through Rate (the "Series 1986–N Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–N Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $119,459,389.21 at the close of business on September 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–N Certificates. On September 26, 1986, Applicant, the parent of Citibank, N.A., entered into a Guaranty of even date (the "1986–N Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1986–N Certificates, to be liable for 7.5% of the initial aggregate principal balance of the 1986–N Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–N Guaranty. The 1986–N Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–N Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–N Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S–11 and S–3, File No. 33–6358) as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–N Certificates were offered by a Prospectus Supplemental dated September 12, 1986 supplemental to a Prospectus dated September 12, 1986. The 1986–N Agreement has not been qualified under the Trust Indenture Act of 1939.

The 1986–M Agreement and the 1986–N Agreement are hereinafter called the 1986 Agreements and the 1986–M Guaranty and the 1986–N Guaranty are hereinafter called the 1986 Guarantees.

(5) The obligations of Applicant under the Indentures and the 1986 Guarantees are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1986 Guarantees are unlikely to cause any conflict of interest among the trusteeships of the Trust Company under the 1986 Agreements.

(6) The Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–16080, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC.

Notice is Further Given that an interested person may, not later than December 29, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549.

At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–28356 Filed 12–17–86; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 35–24258]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); National Fuel Gas, Co. et al.

December 11, 1986.

Notice is hereby given that the following filings) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 5, 1987, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall indentify 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 the matter. After said date, the application(s) and/or declaration(s), as

filed or as amended, may be granted and/or permitted to become effective.

National Fuel Gas Co., et al. (70-7046)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, and its subsidiary, Seneca Resources Corporation ("Seneca"), 10 Lafayette Square, Buffalo, New York 14203, have filed a post-effective amendment to their declaration pursuant to sections 6(a), 7, and 12(b) of the Act and Rules 45 and 50 thereunder.

National presently has authority to issue and sell by competitive bidding up to one million authorized but unissued shares of its common stock, no par value, and to make capital contributions to Seneca up to the amount of the proceeds through December 31, 1986 (HCAR No. 23559, December 31, 1984). As of the date hereof, no such shares have issued and National hereby requests an extension for the same authority through December 31, 1988.

National Fuel Gas Co. (70-7334)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, has filed a declaration pursuant to sections 6(a), 7, and 12(e) of the Act and Rules 62 and 65 promulgated thereunder.

National proposes to amend its Restated Certificate of Incorporation ("Certificate") to increase the number of its authorized shares of common stock from 20 million shares, of which 11,928,496 are currently issued and outstanding, to 100 million shares. National's proposal to increase the number of authorized shares will require, for its adoption, the affirmative vote of a majority of the votes cast by the holders of shares of National's Common Stock entitled to vote at National's 1987 Annual Meeting, to be held on February 19, 1987. National has filed its proxy solicitation material and requests authority to solicit proxies for voting at the Annual Meeting. National may do so.

In addition, National proposes to delete from its Certificate all references to its 9.20% Series of Preferred Stock, to reflect its redemption. This amendment can be effectuated by action of National's Board of Directors.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28360 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 7-9459]

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

December 10, 1986

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

British Gas PLC

American Depository Shares (File No. 7-9459)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 2, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary,

[FR Doc. 86-28364 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-23882; File No. SR-CBOE-86-34]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Market-Maker Obligations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 28, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The proposed rule change provides for various modifications to Exchange rules concerning market-maker obligations. The modifications are intended primarily to clarify the articulation of these obligations. By these rule changes, the Exchange hopes to cause these rules to become more enforceable and to improve market quality. The specific rule changes are summarized as follows.

A new subpart (c) is being added to Rule 8.3, to limit market-maker appointments to the options classes at three trading stations. This would limit appointments to approximately ten option classes, since most stations have three or four classes. Currently, market-markers are appointed to thirty classes. The new provision also allows the Market Performance Committee to exempt a market-maker from this limitation, which will assure that, where necessary for the market, market-makers can have additional appointments.

Rule 8.7 is being amended to add more detailed articulation of a market-maker's obligations. Current Subpart (b)(ii) of the rule is being made part of a guideline, at Interpretation .02(b).

The bid-ask differential subpart of Rule 8.7 is being amended. The changes to the bid-ask differential rule have three purposes. The first purpose is to increase from $.50 to $1 the price of options which can only be quoted at a one-quarter point spread. Second, the proposal allows the bid-ask differential on in-the-money options during expiration week, and any option that is 10 points or more in the money at anytime, to be as wide as the quotations in the underlying stock. Third, the proposal eliminates the general allowance of differentials of up to twice the maximum allowable differential, which has been allowed in the furthest term options.

The articulation of market-making obligations states that market-makers should compete to make the best markets, make markets for a reasonable size and update market quotations on changed market conditions.

Interpretations .02, .05 and .06 further articulate these concepts. In addition to setting forth the "one point" rule as a guideline, Interpretation .02 provides that it is a violation to buy a call or sell a put ¼ point or more below parity, absent circumstances justifying such a trade. Interpretation .02 also clarifies that the "one point" rule applies to inter-

day and intra-day transactions within the time limit specified therein.

Interpretation .05 interprets new section (b)(ii) of the Rule, calling for a market-maker to make markets which will ordinarily be honored to a reasonable number of contracts. Interpretation .05 defines reasonable as five contracts, unless an option class is exempted by the Market Performance Committee. Rule 6.44, which provides that a bid or offer is deemed to be for one contract, is being made subject to Rule 8.7. Interpretation .06 provides that a bid or offer implies, respectively, an offer or bid at the price differential allowed under Rule 8.7(b)(iv).

Interpretation .01 to Rule 8.7 has been modified to extend the price continuity obligation form one day to the next, except in unusual conditions. Currently, the rule limits price continuity to transactions the same day. Interpretation .02 to Rule 8.7 is new. It includes price continuity guidelines, including a guideline on bidding below parity (.02(a)), and a guideline on price continuity (.02(b)).

Interpretation .03, concerning in-person transactions, has been modified (1) to perform calculations on a quarterly basis not monthly (.03), and (2) to allow the Market Performance Committee to exempt options classes from the 25 percent in-person transaction calculation.

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 concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change provides for various modifications to Exchange rules concerning market-maker obligations. The modifications are intended primarily to clarify the articulation of these obligations. In some respects, the requirements have been substantively modified. By these rule changes, the Exchange hopes to cause these rules to become more enforceable and to improve market quality. The specific rule changes are summarized as follows.

A new subpart (c) is being added to Rule 8.3, to limit market-maker appointments to the options classes at three trading stations. This would limit appointments to approximately ten option classes, since most stations have three or four classes. Currently, market-makers are appointed to thirty classes. Statistically, most market-makers are active in less options and it is unrealistic to expect them to have primary market-making obligations in thirty classes. The new provision also allows the Market Performance Committee to exempt a market-maker from this limitation, which will assure that, where necessary for the market, market-makers can have additional appointments.

Rule 8.7 is being amended to add more detailed articulation of a market-maker's obligations. Current Subpart (b)(ii) of the rule is being made part of a guideline, at Interpretation .02(b).

The bid-ask differential subpart of Rule 8.7 is being amended. The changes to the bid-ask differential rule have three purposes. The first purpose is to increase from $.50 to $1 the price of options which can only be quoted at a one-quarter point spread. Second, the proposal allows the bid-ask differential on in-the-money options during expiration week, and any option that is 10 points or more in the money at anytime, to be as wide as the quotations in the underlying stock. This is to reflect realistically that in-the-money options, particularly just prior to expiration, trade very much like the underlying stock. Third, the proposal eliminates the general allowance of differentials of up to twice the maximum allowable differential, which has been allowed in the furthest term options.

The articulation of market-making obligations states that market-makers should compete to make the best markets, make markets for a reasonable size and update market quotations on changed market conditions. These are not novel concepts and the Exchange believes that this articulation of these concepts will assist in reminding members as to their affirmative obligations under Rule 8.7.

Interpretations .02, .05 and .06 further articulate these concepts. In addition to setting forth the "one point" rule as a guideline, Interpretation .02 provides that it is a violation to buy a call or sell a put ¼ point or more below parity, absent circumstances justifying such a trade. Interpretation .02 also clarifies that the "one point" rule applies to inter-day and intra-day transactions within the time limit specified therein.

Interpretation .05 interprets new Section (b)(ii) of the Rule, calling for a market-maker to make markets which will ordinarily be honored to a reasonable number of contracts. Interpretation .05 defines reasonable as five contracts, unless an option class is exempted by the Market Performance Committee. Rule 6.44, which provides that a bid or offer is deemed to be for one contract, is being made subject to Rule 8.7. This will allow Rule 8.7 to increase the market-maker's normal minimum bid or offer, initially to five contracts under Interpretation .05. Interpretation .06 provides that market-makers, who are expected to maintain two-sided markets, are deemed to be making two-sided markets by bidding or offering for an options contract. Thus, Interpretation .06 provides that a bid or offer implies, respectively, an offer or bid at the price differential allowed under Rule 8.7(b)(iv).

Interpretation .01 to Rule 8.7 has been modified to extend the price continuity obligation from one day to the next, except in unusual conditions. Currently, the rule limits price continuity to transactions the same day. Interpretation .02 to Rule 8.7 is new. It includes price continuity guidelines. including a guideline on bidding below parity (.02(a)), and a guideline on price continuity (.02(b)). These provisions are presented as guidelines rather than rules because rigid requirements can be inappropriate in changing market conditions.

Interpretation .03, concerning in-person transactions, has been modified (1) to perform calculations on a quarterly basis not monthly (.03), and (2) to allow the Market Performance Committee to exempt options classes from the 25 percent in-person transaction calculation. These modifications to this Interpretation are minor calculation adjustments, and are consistent with the existing rule's purposes. The final change, to allow exemptions, is intended to exempt from the in-person requirement option classes where one need not be encouraged to be in-person. The only likely candidate for this exemption at present is the Standard & Poor's 100 Index option class. This latter change is expected to encourage market-makers to trade in person in non-exempt options while enabling them to send orders to exempt classes without interfering with their in-person trading calculation. Conversely, if a market-maker trades exclusively in exempt classes, he will not run afoul of the 25 percent in-person requirement, since no trades will be done in non-exempt classes either in person or by order.

The proposed rule change is consistent with the Securities Exchange Act of 1934, and in particular section 6(b)(5) thereof, in that it is designed to protect investors and the public interest by more detailed articulation of market-makers obligations and narrowing permissible bid-ask differentials.

(B) Self-Regulatory Organization's on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange's Equity Floor Procedure and Market Performance Committees have reviewed and discussed the modifications provided in this proposed rule change and have both voted in favor of these changes to Exchange rules.

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 rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 8, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 11, 1986.

Jonathan G. Katz,

Secretry.

[FR Doc. 86-28354 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 7-9458]

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

December 10, 1986

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

British Gas PLC

26,000,000 American Depository Share (File No. 7-9458)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 2, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28365 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15475; File No. 812-5990]

CMA Tax-Exempt Fund, et al.; Application Permitting Certain Affiliated Transactions

December 11, 1986.

Notice is hereby given that CMA Tax-Exempt Fund, California Municipal Series Trust, Merrill Lynch Multi-State Tax-Exempt Series Trust, Merrill Lynch Municipal Bond Fund, Inc., The Municipal Fund Investment Accumulation Program, Inc., all at Box 9011, Princeton, New Jersey 08543-9011, Merrill Lynch Institutional Tax-Exempt Fund, at 265 Broadway, New York, New York 10080, (collectively, the "Funds"), Fund Asset Management, Inc. ("Fund Asset") and Merrill Lynch Asset Management, Inc. ("Merrill Lynch Asset") (Fund Asset and Merrill Lynch Asset, collectively, the "Advisers"), at Box 9011, Princeton, New Jersey 08543-9011 and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") at 125 High Street, Boston, Massachusetts 02110, (collectively, "Applicants") filed an application on November 23, 1984, and amendments thereto on June 6, 1985 and August 7, 1986, for an order of the Commission pursuant to sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act"), to permit the Funds and the Future Funds (as defined below) to engage in certain principal transactions involving high quality, Short-Term Tax-Exempt Securities (as defined below) with MLPF&S, subject to certain conditions. 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 a complete text of all pertinent provisions thereof.

According to the application, each Fund is registered under the Act as a diversified, open-end, management investment company. Applicants state that each Fund seeks income exempt from Federal income taxes by investing in a diversified portfolio of obligations issued by or on behalf of states, territories and possessions of the United States and the District of Columbia and their political subdivisions, agencies and instrumentalities, the interest on which is exempt from Federal income tax ("Tax-Exempt Securities", and with remaining maturities of one year or less, "Short-Term Tax-Exempt Securities"). Applicants also state that each Fund has an investment advisory or management agreement with Fund Asset pursuant to which Fund Asset, subject to the general supervision of the Directors (or Trustees) of the Fund, provides

investment advisory and management services. Applicants request that the exemption apply to the Funds and any other registered investment companies which invest primarily in a portfolio of Tax-Exempt Securities and for which the Advisers serve in the future ("Future Funds") (references herein to the Funds shall be deemed to include Future Funds when applicable).

Applicants represent that Merrill Lynch Asset, a wholly-owned subsidiary of Merrill Lynch & Co., Inc., ("Merrill Lynch") and Fund Asset, a wholly-owned subsidiary of Merrill Lynch Asset, are both registered investment advisers under the Investment Advisers Act of 1940. The Advisers have substantially the same identity, with the same directors and executive officers, and, insofar as investment company operations are concerned, the same employees. In its respective contracts with the Funds, Fund Asset is responsible for managing the portfolios, subject to the supervision of the Board of Directors (or Trustees) of the Funds, for making investment decisions and for the placement of portfolio transactions. Applicants represent that MLPF&S is also a wholly-owned subsidiary of Merrill Lynch. MLPF&S, a registered broker-dealer, conducts a diversified securities business and through its investment banking division, Merrill Lynch Capital Markets, participates as an underwriter in a substantial number of public offerings of Short-Term Tax-Exempt Securities and acts as a major dealer in Short-Term Tax-Exempt Securities. MLPF&S believes that it is one of the top two underwriters and dealers in the primary and secondary market in most types of Short-Term Tax-Exempt Securities. MLPF&S represents that it managed or co-managed approximately 30% of all underwritten transactions (46% not including project notes, a type of Short-Term Tax-Exempt Security) in 1983, 29% (33% not including project notes) in 1984 and 49.4% in the first quarter of 1985. Applicants state that MLPF&S and the Advisers are "affiliated persons" of the Funds and of each other within the meaning of section 2(a)(3) of Act. While such corporations are under common control, Applicants state that MLPF&S and the Advisers have their own separate officers and employees, each is separately capitalized and each maintains its own separate books and records and operates as an independent profit center.

Applicants state that, with over $4.5 billion invested in Short-Term Tax-Exempt Securities, the Funds are the largest purchaser of Short-Term Tax-Exempt Securities with a strong need for a constant flow of large quantities of high quality Short-Term Tax-Exempt Securities. Applicants state that the Funds are having difficulty in obtaining Short-Term Tax-Exempt Securities due to the fact that there currently exist a shortage of such securities in the market place suitable for investment by the Fund. Applicants believe that access to MLPF&S, a major force in the tax-exempt money market, will help to alleviate the problems experienced by the Fund in obtaining suitable portfolio securities.

Applicants represent that the policy of the tax-exempt money funds of investing in securities with short maturities, combined with the active portfolio management techniques employed by Fund Asset results in high portfolio activity and the need to make numerous purchases and sales of securities in the tax-exempt money market. Such high portfolio activity makes the need to obtain suitable portfolio securities and best price and execution especially compelling. Applicants also represent that MLPF&S is such a major factor in the tax-exempt money market that being unable to deal directly with it may, upon occasion, deprive the Funds of obtaining best price and execution. Applicants further represent that the tax-exempt money market is highly competitive, and that removing a competitive factor as important as MLPF&S from the dealers with which the Funds may conduct principal transactions may deprive the Funds of obtaining best price and execution even when the Funds trade with unaffiliated dealers. Applicants submit that the dealers function as the information sources in the tax-exempt money market and being deprived of dealing with MLPF&S restricts the Funds from access to a major information source.

Applicants propose certain restrictions on the price at which principal transactions in Short-Term Tax-Exempt Securities may be conducted with MLPF&S, which are designed to insure that the Funds are not disadvantaged in term of price. With respect to solicited principal transactions, the price available from MLPF&S must be "better than" (as defined below) the prices available from other sources with respect to the same type of security. In the case of unsolicited principal transactions, the price available from MLPF&S must be at least as favorable as the prices available from other sources with respect to the same type of security. Applicants further propose to apply the "no less favorable" price test to solicited transactions in fixed price dealer offerings, but only if such fixed price securities are unavailable from other dealers and only if such transactions comply with the conditions set forth in paragraphs (d) and (e) of Rule 10f-3 under the Act. In such instances, the Funds would benefit from being able to obtain securities which would otherwise be unavailable.

Applicants have applied for an exemption permitting principal transactions in Short-Term Tax-Exempt Securities between the Funds and MLPF&S in the secondary maket or in fixed price dealer offerings not involving underwriting syndicates, subject to the terms and conditions set forth below. As set forth in the application, the rationale behind the proposed order is based upon the shortage of Short-Term Tax-Exempt Securities, the significant role played in the tax-exempt money market by MLPF&S and the special requirements of the Funds with respect to their portfolio transactions.

Applicant agree to the following set of terms and conditions:

(1) Principal purchase or sale transactions may be conducted only in Short-Term Tax-Exempt Securities which have one of the two highest investment grade ratings from at least one nationally recognized rating agency.

(2) A determination must be made with respect to each such principal transaction as to whether such transaction is unsolicited (i.e., the contact between the Funds or their Advisers and MLPF&S with regard to a specific transaction is initiated by the Funds or their Advisers) or solicited, (i.e., all other transactions) and the trade ticket evidencing such transactions must be marked either solicited or unsolicited. With respect to solicited principal secondary market transactions, a determination will be required in each instance, based upon the information available to the Funds and the Advisers, that the price available from MLPF&S is "better than" the prices available from other sources with respect to the same type of Short-Term Tax-Exempt Security, (i.e., municipal notes, project notes, tax-exempt commercial paper or variable rate demand notes) with the same rating, maturity and yield. To be considered "better than" that available from other sources, the MLPF&S quotation must be at least one basis point better than that available from other sources if the quotation is made in terms of yield basis; if the quotation is made in terms of dollar price, it must be at least 1/64 of a dollar better than the quotations from other sources. In the

case of unsolicited principal secondary market transactions, the price available from MLPF&S must be at least as favorable as the prices available from other sources with respect to the same type of security with the same rating, maturity and yield.

(3) Before any principal transaction may be conducted pursuant to the order, the Funds or the Advisers must obtain such information as they deem necessary to determine that the price test applicable to such transaction has been satisfied. Before any solicited principal transaction may be conducted pursuant to the order, the Funds or the Advisers must obtain and document competitive quotations from at least two other dealers with respect to the specific proposed transaction, except that if quotations are unavailable from two such dealers, only one other competitive quotation is required. In the case of unsolicited principal transactions, the Funds or the Advisers must make and document a good faith determination with respect to compliance with the price test based upon current price information obtained through the contemporaneous solicitation of bona fide offers with respect to the type of security involved. With respect to prospective purchases of securities, these dealers must be those who have Short-Term Tax-Exempt Securities of the categories and the type desired in their inventories and who are in a position to quote favorable prices with respect thereto. With respect to the prospective principal disposition of such securities, these dealers must be those who, in the experience of the Funds and the Advisers, are in a position to quote favorable prices. For purposes of the order, principal transactions shall be deemed to include primary or secondary fixed price dealer offerings of Short-Term Tax-Exempt Securities not made pursuant to an underwriting syndicate. In the case of fixed price dealer offerings, solicited transactions can be conducted pursuant to the "no-less favorable" price test only if the securities are unavailable from other sources and if such transactions comply with conditions (d) and (e) of Rule 10f-3 under the Act.

(4) Principal transactions conducted pursuant to the order shall be limited to no more than an aggregate of 20% of all portfolio transactions conducted by each Fund. This calculation shall be measured on an annual basis and shall be computed both with respect to number of transactions and dollar volume thereof.

(5) MLPF&S's dealer spread regarding any transaction with the Funds will be no greater than its customary dealer spread, which in turn will be consistent with the average or standard underwriting spread charged by dealers in Short-Term Tax-Exempt Securities for the type of security and the size of the transaction involved.

(6) The Advisers will continuously monitor the ratings on the Short-Term Tax-Exempt Securities purchased in transactions pursuant to the order and retained in the portfolios of the Funds. Should any of such ratings be reduced by a nationally organized rating organization below the requirements set forth above, as the case may be, the Advisers, subject to procedures adopted by the Directors (or Trustees) of the Funds, shall reevaluate such security to determine whether the instrument continues to be of high quality with minimal credit risks to the Fund. Merrill Lynch will not have any involvement with respect to proposed transactions between the Funds and MLPF&S and will not attempt to influence or control in any way the placing by the Fund or the Advisers of orders with MLPF&S.

(7) The exemption will be made subject to any regulations promulgated by the Commission under section 11(a)(2)(B) of the Securities Exchange Act of 1934 which would otherwise prohibit or restrict in any way the ability of the Funds and/or the Advisers to conduct principal transactions with MLPF&S.

(8) The exemption will be vaild only so long as the Advisers and MLPF&S operate as separate entities within the holding company framework of Merrill Lynch with their own separate officers and employees, separate capitalization and separate books and records. The Funds and the Advisers will maintain records with respect to their transactions conducted pursuant to the order, including documentation of whether the transactions are solicited or unsolicited and that the price test and price verification procedures have been met. A schedule of all transactions with MLPF&S will be filed with the periodic reports filed by the Funds with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act.

(9) The legal departments of MLPF&S and the Advisers will prepare guidelines for personnel of MLPF&S and the Advisers to make certain that transactions conducted pursuant to the order comply with the conditions set forth in the order and that the parties generally maintain arms-length relationships. In the training of MLPF&S personnel, particular emphasis will be placed upon the fact that the Funds are to receive rates as favorable as other institutional purchasers buying the same quantities; in the training of the Advisers' personnel, particular emphasis will be given to the distinction between solicited and unsolicited transactions. The legal departments will periodically monitor the activities of MLPF&S and the Advisers to make certain that the conditions set forth in the order are adhered to.

(10) The Audit Committees of the Board of Directors (or Trustees) of the Funds, consisting of the non-interested Directors (or Trustees), will prepare guidelines for the Funds and the Advisers to make certain that the transactions conducted pursuant to the exemption comply with the conditions set forth therein and that the above procedures are followed in all respects. The respective Audit Committees will periodically monitor the activites of the Funds and the Advisers in this regard to insure that these matters are being accomplished.

Applicants believe that the granting of the exemption will work to the benefit of the shareholders of the Funds by providing the Funds access to the primary and secondary market for Short-Term Tax-Exempt Securities necessary to insure the availability of suitable portfolio securities and the best price and execution. Applicants also believe that the procedures to be followed with respect to principal transactions with MLPF&S are structured in such a way as to insure that such transactions will be in all instances reasonable and fair and will not involve overreaching on the part of any person concerned and that such exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 2, 1987, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. 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 Commssion, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28353 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 7-9441, et al.]

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

December 10, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Atari Corporation
Common Stock, $.01 Par Value (File No. 7-9441)
Affiliated Publications, Inc.
Common Stock, $.01 Par Value (File No. 7-9442)
Aristech Chemical Corporation
Common Stock, $1.00 Par Value (File No. 7-9443)
Cal Fed Income Partners, L.P.
Depository Units (File No. 7-9444)
Carolco Pictures, Inc.
Common Stock, $.01 Par Value (File No. 7-9445)
Commonwealth Mortgage Co. of America, L.P.
Depository Units (File No. 7-9446)
Countrywide Mortgage Investments, Inc.
Common Stocks, $.01 Par Value (File No. 7-9447)
James River Corporation
3.375 Cumulative Convertible Exchangeable Preferred Series K Stock (File No. 7-9448)
Kleinwort Benson Australian Income Fund, Inc.
Common Stock, $.001 Par Value (File No. 7-9449)
MFS Municipal Income Trust
Shares of Beneficial Interest, No Par Value (File No. 7-9450)
News Corp. LTD
American Depository Shares (File No. 7-9451)
Pilgrim's Pride Corporation
Common Stock, $.01 Par Value (File No. 7-9452)
Rhodes, Inc.
Common Stock, $1.00 Par Value (File No. 7-9453)
Royce Value Trust, Inc.
Common Stock, $.001 Par Value (File No. 7-9454)
Stifel Financial Corporation
Common Stock, $0.15 Par Value (File No. 7-9455)
Pengo Industries, Inc.
Common Stock, No Par Value (File No. 7-9456)
Phlcorp, Inc.
Common Stock, $1.00 Par Value (File No. 7-9457)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 2, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28366 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 7-9438, et al.]

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

December 10, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Aristech Chemical Corporation
Common Stock, $1.00 Par Value (File No. 7-9438)
Ametek, Inc.
Common Stock, $1.00 Par Value (File No. 7-9439)
Reebok International, Ltd.
Common Stock, $0.01 Par Value (File No. 7-9440)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 2, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28367 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-23869; File No. SR-NYSE-86-31]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc. Relating to the Extension of the Effectiveness of the "Procedures for Competing Specialists" From November 1, 1986 to February 1, 1987

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 31, 1986 the New York Stock Exchange, Inc. ("Exchange" or "NYSE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule change would extend the effectiveness of the Exchange's "Procedures for Competing Specialists", as described in File No. SR-NYSE-77-6 and Amendment No. 1 thereto,[1] until February 1, 1987. The

[1] These procedures were previously approved by the Commission for a six month period in Securities Exchange Act Release No. 23202, May 5, 1986, 51 FR 17424.

procedures provide Exchange members with a clear statement of the qualifications required to become a competing specialist and the procedures to be followed. The procedures are also designed to guide the Exchange's Market Performance Committee in its consideration and approval of such applications to compete.

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 concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's "Procedures for Competing Specialists" to February 1, 1987.

As described in more detail in File No. SR-NYSE-77-6, and Amendment No. 1 thereto, the "Procedures for Competing Specialists" reflect the Exchange's endorsement of a system of competition between Exchange specialists by reaffirming the ability of Exchange members to register and act as specialists in stocks which are also assigned to another specialist.

The Commission approved the "Procedures for Competing Specialists" for a six-month period. In its order the Commission requested the Exchange to respond to nine areas relating to the application of specified Exchange rules and policies to competing specialists situations. The Commission also anticipated that rules and procedures other than those specified may require amendments as the Exchange monitors the activities of competing specialists during the six-month period of effectiveness.

The Exchange intends to request permanent approval of the "Procedures for Competing Specialists", and to respond to the Commission's nine specific requests for information concerning the application of specified Exchange rules and policies as to competing specialist situations, prior to February 1, 1987.

However, the Exchange believes that additional experience monitoring the activities of competing specialists is needed before it can determine whether the application of specified Exchange rules and policies, as well as rules and procedures other than those specified, relating to competing specialist situations may require amendments. Therefore, the Exchange is requesting this extension of the "Procedures for Competing Specialists."

(2) Basis Under the Act for Proposed Rule Change

The procedures and policies as to competing specialist situations will facilitate and enable the implementation of a system of competing specialists; and they are, therefore, based on section 11(b) of the Securities Exchange Act of 1934 which provides for Exchange rules to permit members to be registered as specialists; and section 11A(a)(1)(C)(ii) which states the Congress finds that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The procedures and policies as to competing specialist situations will facilitate the implementation of a system of competing specialists on the Exchange Floor; thus, they do not impose any burden on competition but rather provide for increased competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the file number in the caption above and should be submitted by January 8, 1987.

IV. Findings and Order Granting Accelerated Approval

As noted above, the Commission previously approved, for a six month period, the NYSE's procedures for competing specialists.[2] The procedures approved were designed to facilitate and permit the implementation of a system of competing specialists. The procedures set forth the qualifications necessary for a competing specialist and the procedures that must be followed to apply for a competing specialist position. In addition, the Commission's order called upon the Exchange to assess the adequacy of these procedures and other NYSE rules as they applied to competing specialists and to submit to the Commission, pursuant to Rule 19b-4, appropriate amendments to NYSE rules needed to accommodate competing specialist activity. The Commission was particularly concerned that this review include assesments of current NYSE rules and procedures as they applied to the operation of competing specialists.[3]

The Commission believes it is appropriate to extend, until February 1, 1987, the period of effectiveness of the procedures for competing specialists because it will enable the NYSE to obtain additional experience monitoring the activities of competing specialists. This should help facilitate the NYSE's review of the effectiveness of these procedures and the effect of other NYSE rules and procedures as they apply to competing specialists. The extended period will also provide the NYSE with sufficient time and experience to adequately respond to the Commission's concerns discussed above. For these reasons, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing.

[2] See note 1, *supra*.

[3] Among the specific areas of concern noted by the Commission was: Location of competing specialists on the Exchange floor; routing of orders through the DOT system; trade and quote reporting though the Intermarket Trading System; and, the execution of limit orders, block orders and percentage orders by competing specialists.

Based on the above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved, effective retroactively at the opening of business on November 1, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 9, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28355 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-23883; File No. SR-PHLX-86-39]

Self-Regulatory Organizations; Philadelphia Stock Exchange; Order Approving Proposed Rule Change

The Philadelphia Stock Exchange ("PHLX") submitted on October 30, 1986, copies of a proposed rule change, (SR-PHLX-86-39), which would reflect the PHLX' use of the amended Uniform Application for Securities Registration or Transfer (Form U-4) as part of its program of registration and oversight of member firm personnel.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission release (Securities Exchange Act Release No. 23771) and by publication in the **Federal Register** (51 FR 40869, November 10, 1986). No comments were received with respect to the proposed filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the PHLX and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby, is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: December 11, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28361 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15477; File No. 812-6470]

Integrated Resources Life Insurance Co., et al.; Application for Exemption

Dated: December 12, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Integrated Resources Life Insurance Company (the "Company"), ICAP Variable Life Account One ("Variable Life Account"), Integrated Capital Services, Inc. ("ICSI")

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 2(a)(32), 22(c), 27(c)(1) and 27(d) and Rules 22c-1, 6e-3(T)(b) (12)(ii), 6e-3(T)(b)(13(iv) and 6e-3(T)(c)(1).

Summary of Application: Applicants seek an order to permit them to issue flexible premium variable life insurance contracts (the "Contracts") which provide for a deferred administration charge and a general account funding option.

Filing Date: The Application was filed on September 3, 1986, and amended on November 12, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on January 6, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of hearing by writing to the Secretary of the SEC.

ADDRESSES: SEC, 450 5th Street NW., Washington, DC 20549. The Company and the Account, One Bridge Plaza, Fort Lee, NJ 07024; ICSI, 733 Third Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Clifford E. Kirsch (202) 272-3032 (Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations and Statements of Facts

1. The Company is the depositor and sponsor of the Variable Life Account. The Company is a stock life insurance company organized under the laws of Iowa in 1962. All of the outstanding stock of the Company is owned by Integrated Resources Life Companies, Inc. All of the outstanding capital stock of Integrated Resources Life Companies, Inc. is owned by Integrated Resources Life Holding Company, Inc., a wholly-owned subsidiary of Integrated Resources, Inc. The Company is engaged in the business of reinsurance of life insurance policies and acts as a direct writer of life insurance policies and annuities.

2. The Company established the Variable Life Account on August 28, 1985, pursuant to Iowa insurance law. The Variable Life Account is a segregated asset account of the Company and is registered with the SEC as a unit investment trust pursuant to the provisions of the Act. The Variable Life Account was established to act as the funding entity for the Contract.

3. Premiums under the Contract may be allocated to the Variable Life Account, which in turn will invest in Integrated Resources Series Trust ("Series Trust"), presently the only eligible investment of the Variable Life Account. Premiums are invested at net asset value in accordance with the selection made by the Contractowner. The Variable Life Account consists of a series of sub-accounts each of which invests in a corresponding Portfolio of the Series Trust.

4. The Series Trust is an open-end diversified management investment company which is deemed to be of the series type. The Series Trust is organized under the laws of Massachusetts as a Massachusetts Business Trust. It is currently comprised of five portfolios: IR Money Market Portfolio, IR Government Securities Portfolio, IR Fixed Income Portfolio, IR Growth Portfolio and IR High Yield Portfolio. Integrated Resources Asset Management Corp., an affiliate of the Company, is the investment manager for the Trust. Wellington/TDP&L serves as the sub-adviser for all of the Portfolios of the Trust.

5. Upon acceptance, premiums will be allocated to sub-accounts of the Variable Life Account and/or to the General Account of the Company. With respect to amounts allocated to the Variable Account, the Cash Value and, under certain circumstances, the death benefit of the contract may increase or

decrease depending on the investment experience of the Variable Life Account. The Contractowners bears the investment risk. There is no guaranteed death benefit.

6. The Mortality and Expense Risk Charge is equal, on an annual basis, to .90% of the daily net asset value of the Sub-Account. The Administration Charge is equal, on an annual basis, to .55% of the daily net asset value of each Sub-Account for the first eight contract years and .20% thereafter. This charge reimburses the Company for the administration of the Contract and the Variable Life Account. Such administration includes the costs associated with the evaluation of the application for insurance, issuance of the Contract and establishing accounting records for the Contract, maintenance of Contract records, Contractowner service, reports to Contractowners, and all accounting, reserve calculations, regulatory and reporting requirements, and auditing of the Variable Life Account. Premium taxes are not deducted at the time the initial premium is paid. When an additional premium is made, the Company will deduct a charge for premium taxes upon receipt of the premium payment. This charge is 2.5% of the premium. The Company pays any state premium taxes due as a result of the issuance of the Contract. The Company does not expect to profit from this charge. To the extent that such charge is in excess of the administrative costs, the Company will reduce this charge. To the extent that such charge is insufficient to cover administrative costs, the Company will assume the loss.

7. The portion of the Administration charge attributable to Contract issue costs is .10% of the daily net asset value of each Sub-Account for the first eight Contract Years. The portion of the charge attributable to the Premium Tax is .25% of the daily net asset value of each Sub-Account for the first eight Contract Years. In establishing this charge, the Company estimated that the average premium tax rate was 2.5% of the initial premium for all states and that the cost of Contract issuance was 1.0% of the initial premium.

8. The portion of the Administration Charge attributable to Contract administration plus any amounts deducted from Cash Value will not exceed the cost of administration.

9. The portion of the Administration Charge to Premium Taxes plus any amounts deducted from Cash Value will not exceed the estimated cost of the Premium Taxes.

10. If the Contract is surrendered within the first eight Contract Years, the Company will deduct from the Cash Value of the Contract the percentage of initial premium for the applicable Contract Year shown in the table below. The Company has established this table as a means of providing Contract Owners who wish to surrender their Contracts with specific information regarding deductions to be made at the time of the surrender.

11. The percentage of the Initial Premium charged by Contract Year upon surrender to Recover Issue and Premium Tax Costs is:

Contract year	Percentage of premium
1	2.82
2	2.42
3	2.08
4	1.69
5	1.29
6	.88
7	.47
8	.04

12. Applicants state that if it were not for the deferred nature of the Administration Charge there would be no question as to their ability to deduct the Administration Charge pursuant to paragraph (b)(13)(iii) of Rule 6e-3(T). The Administration Charge is not contingent. As noted above, the portion of the Administration Charge that is attributed to the Contract Issue Costs, and the Premium Tax, is determined when the Contract is issued. If the Contract is surrendered during the first eight Contract years there is deducted from the Cash Value the portion of the Administration Charge attributed to Policy Issue Costs and the Premium Tax which is deemed not to have been previously deducted pursuant to the daily charge for the administration.

13. The daily charge for administration has been set at a level to cover the annual cost of contract maintenance and the costs associated with the administration of the Variable Life Account. In addition, the additional charge for the first eight Contract Years has been set at a level to cover the Contract Issue Costs and the Premium Taxes. Applicants represent that the Administration Charge and the manner in which it is deducted, has been designed so that the Company only recovers some of its Contract Issue Costs and the Premium Tax. The Company, in establishing the Administration Charge, did so with the intent of complying with the "at cost" requirement of Rule 6e-3(T). Thus, in establishing the level of the Administration Charge, the Company took into account the amortization of the Contract Issue Costs and the Premium Tax.

14. The deduction of the unamortized portion of the Contract Issue Costs and the Premium Taxes upon lapse or surrender is fair to both surrendering and persisting Contractowners. While the Company is willing to finance these costs out of its surplus and then recover the costs from the Administration Charge for Contractowners who persist, it is not possible to so recover such costs from Contractowners who lapse or surrender in the early Contract Years.

If the Company is not permitted to charge for these costs in the manner described, it would have to deduct such a charge from all Contractowners at the time the Policy is issued, thus denying persisting Contractowners the benefit of having such costs amortized and deducted as part of the daily charge for administration. Applicants represent that the Administration Charge does not take into account the likelihood that not all Contractowners will lapse or surrender their Contracts or that some Contractowners may redeem later than others (which would increase the charge for those surrendering or lapsing over what they would have paid had all Contractowners been required to pay the Contract Issue Costs and the Premium Taxes at the time the Contract is issued).

15. The Administration Charge has been set with no margin included for profit, in accordance with paragraph (b)(13)(iii)(A) of Rule 6e-3(T). The Administration Charge does not take into account the time value of money (which would increase the charge to factor in the investment cost to the Company of deferring the collection of the Contract Issuance Costs and the Premium Taxes).

16. There are various advantages to Contractowners regarding their proposed Administration Charge. Among those advantages are: (1) Contractowners can realize an advantage of increased earnings because they have more to invest under their Contracts; (2) the deductions for the cost of insurance may be lower because the net amount at risk may be less when the administrative charges are deferred rather than deducted up front; (3) deferring the Administration Charge until surrender or lapse means that the charge is not deducted from death benefits and as a result Contractowners receive the primary benefit of the Contract which is insurance protection; and (4) the deduction of the charge only upon lapse

or surrender means that in many cases such a charge may not be incurred at all.

General Account Funding

17. Amount allocated to the General Account earn interest at a guaranteed interest rate. Allocation or transfer of funds to the General Account does not entitle a Contractowner to share in the investment experience of the General Account.

18. Applicants assert that because 6e-3(T)(c)(1) does not explicitly require exclusive funding by a separate account, the Commission intended to permit allocation of premiums, and transfer of cash value, to general accounts as well as separate accounts. Applicants further assert that the requested relief is consistent with the Commission's administration of flexible premium variable life insurance under the Act prior to and after the adoption of Rule 6e-2 under the Act, and consistent with the Commission's administration of the Act in the context of variable annuities. Applicants believe that the General Account option will be beneficial to Contractowners because it provides an additional funding option under the Contract. Applicants represent that the charges under the Contract that are equally applicable to the Cash Value allocated to the General Account and to the Cash Value allocated to the Sub-Account of the Variable Life Account will be applied uniformly.

19. Any Commission order granting exemptive relief in this regard will not constitute a judgement of the Commission as to the propriety or impropriety of registration or non-registration of the interests in the General Account as securities under the Securities Act of 1933 or the General Account as an investment company under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28412 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23886; File No. SR-CBOE-86-33]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change

On October 10, 1986, the Chicago Board Options Exchange, Incorporated ("CBOE") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, a proposed rule change to adopt one half point strike prices in Canadian Dollar ("CD") options traded on the CBOE.

The proposed rule change was noticed in Securities Exchange Act Release No. 23811, (November 14, 1986) 51 FR 42956, (November 26, 1986). No comments have yet been received on the proposed rule change.

The purpose of this proposed rule change is to allow the listing of additional exercise prices in CD currency option contracts. Because the CD is much less volatile than the United States dollar, few near-the-money strike prices are available for CD options trading. The addition of half point strike prices wil provide investors with greater precision in hedging positions in CD's, and greater flexibility in the use of CD options.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in order to allow the exchange to respond promptly to customer interest in half point strike prices and implement such strike prices for the next expiration cycle with suffient time remaining until expiration to make trading in such series feasible. The proposed rule change will provide investors with greater flexibility and precision, and will provide market makers with more viable exercise prices in what has traditionally been a non-volatile contract. The proposal has been noticed for 20 days and no comments have yet been received.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 12, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28411 Filed 12-17-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2262]

Commonwealth of the Northern Mariana Islands; Declaration of Disaster Area

As a result of the President's major disaster declaration on December 10, 1986, I find that the Islands of Saipan and Tinian in the Commonwealth of the Northern Mariana Islands constitute a disaster loan area because of Typhoon Kim beginning on December 3, 1986. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on February 9, 1987, and for economic injury until the close of business on September 10, 1987, at:

Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, California 95825

or other locally announced locations.

The interest rates are:

	(In percent)
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	7.500
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	9.500

The number assigned to this disaster is 226206 for physical damage and for economic injury the number is 647600.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 11, 1986.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-28344 Filed 12-17-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0499]

Issuance of a Small Business Investment Company License; Genesee Funding, Inc.

On September 23, 1986, a notice was published in the **Federal Register** (51 FR 33828) stating that an application has been filed by Genesee Funding, Inc., with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1985)) for a license as a small business investment company.

Interested parties were given until close of business October 23, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-0499 on November 26, 1986, to Genesee Funding Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 11, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-28343 Filed 12-17-86; 8:45 am]

BILLING CODE 8025-01-M

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing; Adoption of the Revised Comprehensive Plan; Management and Development; Water Resources

The Susquehanna River Basin Commission (SRBC) will hold a series of public hearings to receive comments from citizens, government agencies and others on the adoption of the revised Comprehensive Plan for the Management & Development of the Water Resources of the Susquehanna River Basin. Two hearings have been scheduled in New York State. The first one is at the Holiday Inn, 1 Holiday Plaza, Elmira, NY on February 10, 1987 at 7:00 p.m. and the second one is at the Holiday Inn, The Arena, 2-8 Hawley St., Binghamton, NY at 7:00 p.m.

The Susquehanna River Basin Compact, Pub. L. 91-575, 84 Stat. 1509 et seq., requires the Commission to maintain a Comprehensive Plan for the immediate and long-range use, management and development of the water and related resources of the basin. Initially adopted in December 1973, the Plan provides a basinwide strategy to guide the Commission and others in the management, use and conservation of the basin's resources. The Plan is also used to evaluate proposed water resource developments that the Commission must, by law, approve. Signatory agencies must exercise their powers in a manner that does not substantially conflict with the Comprehensive Plan.

In the thirteen years since it was originally adopted, the Comprehensive Plan has been amended numerous times by the addition of new projects, goals, objectives and guidelines. These amendments, coupled with evolving concepts in the field of water resources management and changing conditions, led the Commission to authorize the publication of a new Plan document consolidating all previous amendments and, where necessary, updating existing goals, objectives, guidelines and background information. A first draft of this document was produced by staff in July 1986 and reviewed by the Commission and signatory agencies. Signatory comments were incorporated in a second draft which was approved by the Commission for public hearing on November 13, 1986.

The February 10 and 11, 1987 hearings will be informal in nature. Interested parties are invited to attend the hearing and to participate by making oral or written statements presenting their data, views and comments on the proposed adoption of the revised Plan. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person wno wishes will be given an opportunity to be heard whether or not they have given such notice. After the hearing the Commission will evaluate all relevant material. Following the completion of all revised Plan hearings the Commission will decide whether to adopt as proposed, modify or not adopt the revised Plan.

Copies of the revised Comprehensive Plan and a Brief Summary of Major Revisions can be obtained by contacting the Secretary, Richard A. Cairo, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, Pa. 17102-2391, (717) 238-0423. The revised Plan may also be reviewed at the Corning Public Library, Nasser Civic Center Plaza, Corning, NY and Broome County Public Library, 78 Exchange St., Binghamton, NY.

Dated: December 11, 1986.

Robert J. Bielo,

Executive Director.

[FR Doc. 86-28335 Filed 12-17-86; 8:45 am]

BILLING CODE 7040-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 86-069]

The Boat Safety Account of the Aquatic Resources Trust Fund; Availability of Fiscal Year 1987 Financial Assistance

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability of FY 87 financial assistance.

SUMMARY: Pursuant to Title 46 United Stats Code section 13103(c), the Coast Guard is seeking to enter into financial assistance agreements with national nonprofit public service organizations for national boating safety activities. The Coast Guard has fiscal year 1987 funds available to subsidize selected national boating safety activities. This announcement seeks proposals for all types of projects that will promote boating safety on a national level.

DATE: All proposals must be submitted to the following address by February 27, 1987.

ADDRESS: Specific information on organization eligibility, proposal requirements, award procedures, financial administration procedures and application forms (SF424) may be obtained from Commandant (G-BP/42), U.S. Coast Guard, 2100 Second Street SW. Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: Mr. Ladd Hakes by telephone at (202) 267-0954 or at U.S. Coast Guard Headquarters (G-BP/42), 21100 Second Street SW. Washington, DC 20593-0001.

SUPPLEMENTARY INFORMATION: Title 26, Unitd States Code, section 9504 establishes the Boat Safety Account of the Aquatic Resources Trust Fund. The Coast Guard may award annually up to 5 percent of the available funds to national nonprofit public service organizations for national boating safety activities. Up to $900,000 is available for the fiscal year ending September 30, 1987. Fifteen awards totaling $702,012 were made in fiscal year 1986; awards ranged from $10,000 to $137,078. Nothing in this announcement should be construed as committing the Coast Guard to dividing available funds among all qualified applicants or awarding any specified amount.

It is anticipated that several awards will be made by the Chief, Office of Boating, Public, and Consumer Affairs, U.S. Coast Guard. Applicants must be responsible, nongovernmental, nonprofit public service organizations and must establish that their activities are, in fact, national in scope.

Areas of particular interest include: Promoting increased wearing of personal flotation devices (PFDs); Promoting boating safety education; Creating a boating safety awareness among persons who use their boats as platforms for other sports activities, for example, fishing and hunting; Creating greater boating safety awareness among boaters at the marine dealer level; and Promoting an awareness of the adverse effects of sun, glare, wind, waves and other stressors on boater performance. This list should not constrain submission of proposals addressing other boating safety concerns. Innovative approaches are welcome.

The Boating Safety Financial Assistance Program is listed in § 20.005 of the Federal Domestic Assistance Catalog.

Dated: December 15, 1986.

J.T. Matteson,

Read Admiral (Lower Half), U.S. Coast Guard, Chief Office of Boating, Public and Consumer Affairs.

[FR Doc. 86-28389 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-14-M

[CGD 86-075]

Houston/Galveston Navigation Safety Advisory Committee; Offshore Waterway Management Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Offshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, January 8, 1987 in the Conference Room, U.S. Coast Guard, Port Safety Station, 9640 Clinton Drive, Houston, Texas. The meeting is scheduled to begin at 10:30 a.m. and end at 12:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order
2. Discussion of previous recommendations made by the full Advisory Committee and the Offshore Waterway Management Subcommittee
3. Presentation of any additional new items for consideration to the Subcommittee
4. Adjournment

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide his/her name, address, and, if applicable, the organization he/she is representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander D. F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: December 8, 1986.

Peter J. Rots,

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

[FR Doc. 86-28390 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-14-M

[CGD 86-076]

Houston/Galveston Navigation Safety Advisory Committee; Inshore Waterway Management Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Inshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, January 8, 1987 in the Conference Room, U.S. Coast Guard, Port Safety Station, 9640 Clinton Drive, Houston, Texas. The meeting is scheduled to begin at 9:00 a.m. and end at 10:30 a.m. The agenda for the meeting consists of the following items:

1. Call to Order
2. Discussion of previous recommendations made by the full Advisory Committee and the Inshore Waterway Management Subcommittee
3. Presentation of any additional new items for consideration to the Subcommittee
4. Adjournment

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide his/her name, address, and, if applicable, the organization he/she is representing. any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander D.F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: December 8, 1986.

Peter J. Rots,

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

[FR Doc. 86-28391 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Monterey Peninsula Airport, Monterey, CA; Noise Compatability Program Findings

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Monterey Peninsula Airport District under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) (ASNA) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On March 26, 1986, the FAA determined that the noise exposure maps submitted by the Monterey Peninsula Airport District under Part 150 were in compliance with applicable requirements. On October 7, 1986, the Administrator approved the Monterey Peninsula Airport noise compatibility program. Twenty-six of thirty-one recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Monterey Peninsula Airport noise compatibility program is October 7, 1986.

FOR FURTHER INFORMATION CONTACT: Herbert W. Hyatt, Environmental Protection Specialist, AWP-611.2, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, (213) 297-1534. Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for the Monterey Peninsula Airport, effective October 7, 1986.

Under ASNA, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and

prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties, including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with FAR Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor, with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government;

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the Navigable Airspace and Air Traffic Control Systems, or adversely affecting other powers and responsibilities of the Administrator, prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action, or approval to implement specific noise compatibility measures, may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program, nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office, in Burlingame, California.

The Monterey Peninsula Airport District submitted to the FAA on June 19, 1985 the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from October 1984 through January 1986. The Monterey Peninsula Airport District noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 26, 1986. Notice of this determination was published in the **Federal Register** on April 15, 1986.

The Monterey Peninsula Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion through the year 2000. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on April 7, 1986, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained thirty-one proposed actions for noise mitigation. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator, effective October 7, 1986.

Outright approval was granted for twenty-six of the thirty-one specific program elements. Four measures dealing with modified flight tracks, training restrictions, military operating procedures, and designated helicopter routes were not recommended for action at this time. These four measures relate to the use of flight procedures for noise mitigation which have been determined to require further FAA evaluation and coordination with the airport proprietor. ASNA provides that such measures are not subject to the 180-day review period applicable to all other proposed measures. Therefore, no action to approve or disapprove was required at this time.

One measure concerning growth limits and lease restrictions was disapproved pending submission to the FAA of additional analysis. This measure was disapproved because it was not described in sufficient detail to allow an informed analysis by the FAA under section 104(b) of the Aviation Safety and Noise Abatement Act of 1979. This disapproval does not reflect an FAA determination with respect to the substance of the proposal. The measure may be reconsidered by the FAA if developed in greater detail and resubmitted to the FAA under Part 150. These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on October 7, 1986. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Monterey Peninsula Airport District.

Issued in Hawthorne, California, on November 25, 1986.

Herman C. Bliss,

Manager, Airports Division, FAA, Western-Pacific Region.

[FR Doc. 86-28309 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

Proposed Advisory Circular 29.571-X, Fatigue Evaluation of Transport Category Rotorcraft Structure (Including Damage Tolerance)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Availability of proposed advisory circular (AC) and notice of public meeting.

SUMMARY: Advisory Circular 29.571-X proposes to replace AC 20-95, Fatigue Evaluation of Rotorcraft Structure, for transport rotorcraft and provide new guidance material in the damage tolerance area.

DATES: Commenters must identify AC 29.571-X, and comments must be received on or before April 3, 1987.

A public meeting will be held on March 5-6, 1987. This meeting will be held in conjunction with a meeting for the notice for adding damage tolerance to the transport rotorcraft fatigue evaluation requirements (51 FR 33704; September 22, 1986).

ADDRESSES: Send all comments on the proposed AC in duplicate to: Regulations Program Management, ASW-111, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The meeting will be held in the training room, Room 167, Building 3B,

FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. R.T. Weaver, Regulations Program Management, ASW-111, Rotorcraft Standards Staff, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-5122 or FTS 734-5122.

SUPPLEMENTARY INFORMATION: A copy of proposed AC 29.571-X has been mailed to all known, affected industry and government entities, foreign and domestic. Any interested person who did not receive a copy of this proposed AC should contact the person named under **"FOR FURTHER INFORMATION CONTACT."**

Comments Invited

Interested persons are invited to comment on the proposed advisory circular. The proposed guidance material includes two types of acceptable substantiation techniques to demonstrate that damage tolerance of rotorcraft structure is achieved. These are: Safe crack growth and flaw tolerant safe life. The safe crack growth techniques use fracture mechanics methodology for metallic structure and the guidance of AC 20-107A for advanced materials/composites. The flaw tolerant safe life techniques (labeled "enhanced safe life" by some sources) use the Miner's cumulative damage equation with S-N curves plotted from constant amplitude fatigue test results. The use of either crack growth or flaw tolerant safe life substantiation techniques is considered advisable to allow for the most effective methodology in substantiating the damage tolerance designs of future helicopters. Since there is limited experience with either substantiation technique in helicopter programs, comments are solicited concerning the application of these techniques to the high frequency load environment of helicopter parts. In particular, comments concerning available data for either flaw tolerant safe life or crack growth from flaws under helicopter type of loads are requested. Like all advisory material, these proposed procedures provide an acceptable means but not the only means of demonstrating compliance with the applicable regulatory standards.

Issued in Fort Worth, Texas, on November 19, 1986.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 86-28310 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

Proposed Changes, Advisory Circulars 27-1, Certification of Normal Category Rotorcraft, and 29-2, Certification of Transport Category Rotorcraft; Public Meeting Date Change

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting, date change.

SUMMARY: This notice announces that the public meeting previously scheduled to discuss Change 1, Advisory Circular (AC) 27-1, Certification of Normal Category Rotorcraft, and Change 3, AC 29-2, Certification of Transport Category Rotorcraft (51 FR 32992; September 17, 1986), has been rescheduled from February 25, 1987, to March 5-6, 1987, to permit additional time for comment by the public. These proposed changes contain guidance material for demonstrating acceptable means of compliance with Parts 27 and 29 of the Federal Aviation Regulations.

DATES: The public meeting will begin at 9 a.m. on March 5, 1987, and conclude on March 6, 1987.

ADDRESS: The meeting will be held in the Training Room (Room 167), Building 3B, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Ms. Debra H. Myers, Regulations Program Management, ASW-111, Aircraft Certification Division, FAA, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-5118.

Issued in Fort Worth, Texas, on November 19, 1986.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 86-28311 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Fulton County, GA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Fulton County, Georgia.

FOR FURTHER INFORMATION CONTACT: David H. Densmore, District Engineer, Federal Highway Administration, Suite 300, 1720 Peachtree Road, NW., Atlanta, Georgia 30367, telephone (404) 347-4750, or Peter Malphurs, State Environment/Location Engineer, 3993 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696-4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal to extend existing Mansell Road from the intersection with Old Roswell Road in Roswell, Georgia easterly on new location to a point on Old Alabama Road in the vicinity of the intersection of Old Alabama Road with Turner Road located in unincorporated Fulton County. The proposal includes a new interchange addition connecting the Mansell Road extension with Georgia 400/U.S. 19. The proposed project is identified as FR-056-1(45).

The Mansell Road extension would be constructed on a minimum of 150 feet of right-of-way width and would consist of two 12-foot wide lanes in each direction of travel separated by a 20-foot wide raised median. A full diamond interchange would be constructed to connect the Mansell Road extension with Georgia 400/U.S. 19. Total length of the proposal is approximately 3.0 miles.

Alternatives under consideration include: (1) The extension of Mansell Road and an interchange with Georgia 400/U.S. 19 and (2) the no-build alternative.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and the U.S. Army Corps of Engineers has been requested as a cooperating agency. In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing. A draft EIS will be made available for public and agency review and comment. No formal scoping meeting is planned.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action on the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number is 20.205 *Highway Research Planning and Construction.* The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Issued on December 8, 1986.

David H. Densmore,

District Engineer, Atlanta, Georgia.

[FR Doc. 86-28334 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Petitions for Exemption or Waiver of Compliance; Tuscola and Saginaw Bay Railroad Co., Inc.

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for an exemption from or waiver of compliance with certain requirements of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST-84-21) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before February 3, 1987, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

Tuscola and Saginaw Bay Railway Company, Inc.
[Waiver Petition Docket Number RSGM-86-17].

The Tuscola and Saginaw Bay Railway Company, Inc. (TSBY) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for one locomotive, #466. This locomotive is replacing TSBY locomotives #2394 and #5594, which were operating under an existing FRA glazing waiver, RSGM-80-33. The TSBY states that the locomotive operates over approximately 55 miles of track located in rural east central Michigan near the Village of Vassar.

The TSBY indicates they have not had any problem with vandalism since they began operations in 1977. The petitioner currently operates one locomotive under the existing glazing waiver and feels that the installation or certified glazing in this additional unit would be an unnecessary cost.

Santa Cruz, Big Trees and Pacific Railway Company
[Waiver Petition Docket Number RSGM-86-18].

The Santa Cruz, Big Trees and Pacific Railway Company (SCBT&P) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for one locomotive. The locomotive operates at a maximum speed of 10 mph over approximately nine miles of track located in a remote area of central California near Felton. The SCBT&P states that they have not experienced any incidences of vandalism and, therefore, feel that the cost of installing certified glazing is not warranted.

Wilmington and Western Railroad
[Waiver Petition Docket Number RSGM-86-19].

The Wilmington and Western Railroad seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for two switching locomotives. The locomotives operate once a week over approximately 3,000 feet of track located in a rural area near Wilmington, Delaware. The petitioner states that vandalism has not been a problem to locomotives operating in this area and feels that the cost of installing certified glazing would be an unnecessary financial burder.

Belfast and Mossehead Lake Railroad Company
[Waiver Petition Docket Number RSGM-86-22].

The Belfast and Moosehead Lake Railroad Company (B&ML) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for one passenger coach and two locomotives.

The equipment operates through a rural area on 33 miles of track between Belfast, Maine, and Burnham Junction, Maine. The petitioner states that the rate of vandalism on the B&ML during the past 5 years has been negligible. The B&ML currently operates four locomotives and two cabooses under an existing FRA glazing waiver and feels that installing certified glazing in these additional units would be an unnecessary cost.

Winchester and Western Railroad Company
[Waiver Petition Docket Number RSGM-86-23].

The Winchester and Western Railroad Company seeks a temporary waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) of six locomotives. The locomotives will be operated over approximately 50 miles of track in rural southern New Jersey near Bridgeton, New Jersey. The petitioner seeks a temporary waiver to allow time to complete their retrofitting of these recently purchased locomotives with certified glazing.

Alabama and Florida Railroad
[Waiver Petition Docket Number RSGM-86-24].

The Alabama and Florida Railroad seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for six locomotives. The locomotives operate between Georgiana, Alabama, and Geneva, Alabama, a distance of approximately 77 miles and between Crestview, Florida, and Lockhart, Alabama, a distance of about 28 miles. The petitioner states that the areas of operation are rural and they have not experienced any problems with vandalism that would warrant the use of certified glazing. The petitioner, therefore, feels that replacing the existing glazing with FRA certified glazing would impose an unneeded burden.

Issued in Washington, DC, on December 12, 1986.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86-28414 Filed 12-17-86; 8:45 am]

BILLING CODE 4910-06-M

Corrections

Federal Register
Vol. 51, No. 243
Thursday, December 18, 1986

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency-prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

[Docket No. 86-046P]

Fee Increase for Inspection Services

Correction

In proposed rule document 86-27689 beginning on page 44306 in the issue of Tuesday, December 9, 1986, make the following correction:

On page 44307, in the second column, in the fourth line from the bottom, "$32.92" should read "$35.92".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Safety and Health Standards

CFR Correction

In the July 1, 1986, revision of Title 29 (Parts 1900 to 1910) of the Code of Federal Regulations, on page 196, Table G-18 appearing in paragraph (b) of § 1910.96 was published incorrectly. Table G-18 is republished in its entirety.

§ 1910.96 Ionizing radiation.

* * * * *

(b) * * *

Table G-18

	Rems per calendar quarter
Whole body: Head and trunk; active blood-forming organs; lens of eyes; or gonads	1¼
Hands and forearms; feet and ankles	18¾
Skin of whole body	7½

* * * * *

BILLING CODE 1505-02-D

federal register

Thursday
December 18, 1986

Part II

Department of Agriculture

Farmers Home Administration

7 CFR Part 1864, etc.

Implementation of Provisions of the "Food Security Act of 1985" (Pub. L. 99-198) for Debt Settlement-Farmer Programs and Single Family Housing; Final Rule

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1864, 1900, 1903, 1944, 1951, 1955, 1956, 1962, and 1965

Implementation of Provisions of the "Food Security Act of 1985" (Pub. L. 99-198) for Debt Settlement-Farmer Programs and Single Family Housing

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is issuing a new regulation for settlement of FmHA debts for Farmer Program and Single Family Housing (Section 502 and 504 of the Housing Act of 1949) loans. The major reason for issuing the new regulation is to implement Section 1309 of the "Food Security Act of 1985" (Pub. L. 99-198). The intended major effects of the action is to increase the State Director's debt settlement approving authority and remove many of the restrictions and time intervals required in the existing debt settlement regulation.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: William Krause, Director, Emergency Loan Division, Farmers Home Administration, USDA, Room 5420, Washington, DC 20250, Telephone: (202) 382-1632.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will not be an annual affect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or significant adverse affects 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.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans, Farm Operating Loans, Farm Ownership Loans and Low Income Housing Loans are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loans Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.410—Low Income Housing Loans (Section 502 Rural Housing Loans)
10.416—Soil and Water Loans

Environmental Impact Statement

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

Background

The settlement of Farmer Program and Single Family Housing Program debts owed the United States and administered by the FmHA is governed mainly by the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1921-1996). The major purpose for revising the FmHA regulations at this time is to implement section 1309 of the Food Security Act of 1985 (Pub. L. 99-198) which provides greater flexibility to the Secretary in administering debt settlement claims.

Difficult conditions in the farm sector have placed a number of farmers and their families under severe financial stress. While some farms of all sizes have been experiencing financial stress, these problems have been most pronounced for family-size farms that depended on loans from FmHA as a lender of last resort. The prolonged period of excess supply and weak commodity demand has kept farm income under pressure, and has reduced the value of farm assets. These borrowers have total debts that exceed the value of their assets; thus these borrowers are insolvent and face serious financial problems. The implementation of these changes will provide greater flexibility to compromise, adjust, cancel, or charge-off of certain debts owed FmHA. The Farmers Home Administration amends its insured Farmer Program and Single Family Housing loan servicing regulations to implement changes authorized or required by "The Food Security Act of 1985," Pub. L. 99-198 (99th Congress, 1st Session 1985), and where applicable certain other program regulations to update certain references and forms to correct certain inconsistencies, to delete obsolete material, and clarifying the wording in a few paragraphs in various regulations. A number of the changes are mainly for administrative purposes and are published at this time for convenience.

The amendments are to 7 CFR Parts 1864, 1900, 1903, 1944, 1951, 1955, 1962, and 1965. 7 CFR Part 1956 is added. The proposed rule was published on July 3, 1986, in the **Federal Register** (51 FR 24356) with a 60-day comment period which ended on September 2, 1986.

Discussion of Comments

Seven written comments were received. The following is a discussion of comments received from an attorney and 6 FmHA employees which include the National Association of County Supervisors of FmHA and the chairman, Management Committee, National Association of County Supervisors.

One FmHA employee commented that the county supervisors would be under pressure with the increased release of liability authority. This is changed so that only the State Director and the Administrator or designee can approve the release of liability.

Three FmHA employees commented that the State Director approving authority be increased beyond the $150,000. FmHA feels any greater State Director approving authority would remove practically all internal control and review and cannot be justified at this time.

One FmHA employee commented that the $600 value of the security which may be retained be increased to $1,000. FmHA feels any amount greater than $600 would not be in the area of minimum need.

The FmHA employee comment on the extension of time to pay the adjustment offer from 3 years to 5 years is too generous. The increasing of an adjustment offer period to 5 years does not mean the adjustment must be spread over a 5 year period but only gives the debtor that option, they can pay it over any period they wish up to a limit of 5 years.

There are other comments by FmHA employees which are not applicable to this regulation. Some typographical

errors were mentioned which are corrected. Also other subjects which are internal administrative management will be addressed in Administrative Notices, or are already included in regulations.

The comment from the attorney regarding the acceptance of lump sum settlements from third parties in full satisfaction for a borrower's indebtedness is provided for as an adjustment or a compromise offer. The further comment regarding the cost of liquidation is not applicable to the debt settlement procedure but is adequately addressed in other FmHA regulations.

The proposed rule is adopted as published except to correct three typographical errors, update a reference, add the OMB Control Number in item 18 and change the approval authority for the release of liability. A reference to Chapter 12 of the Bankruptcy Code, Pub. L. 99–554, is added in paragraph 1956.57 (h). One error is in the title in § 1956.66(c). The word "doctor's" is corrected to read "debtor's". Another error is in the third sentence of § 1956.70(b)(2). The word "contracts" is corrected to read "contacts." The third error is in the introductory § 1956.75(b). The word "with" is corrected to read "without." The updated reference is in § 1956.98(c). Section 1956.100 is added for the OMB Control Number.

Highlights

A summary of the major items are as follows:

1. Part 1864 (FmHA instruction 456.1) "Debt Settlement," is revised to remove settlement of debts owed under Farmer Programs and Single Family Housing (section 502 and 504 of the "Housing Act of 1949") programs. These programs are now covered under a new Subpart B of Part 1956 of this chapter.

2. Subpart B of Part 1900 is to be amended to reference the new Subpart B of Part 1956 of this chapter.

3. Subpart A of Part 1903 is to be amended to reference the new Subpart B of Part 1956 of this chapter.

4. Subpart A of Part 1944 is to be amended to reference the new Subpart B of Part 1956 of this chapter.

5. Subparts A, B and G of Part 1951 are to be amended to reference the new Subpart B of Part 1956 of this chapter.

6. Subpart A of Part 1955 is to be amended to provide that if the FmHA County Committee recommends release of liability for a borrower's debt on a voluntary conveyance of real estate security, the State Director may approve the release of liability for a debt up to $150,000. This subpart is also amended to clarify that any appeal must be concluded before cases are referred to the Office of General Counsel (OGC) for processing of foreclosure; and removes the requirement that release of liability where the FmHA debt secured by chattels, less their market value, exceeds $25,000 must be signed by the FmHA Administrator.

7. Subpart B of Part 1956 is added. The policy and authority for the settlement of debts and claims for Farmer Programs and selected Rural Housing loans in Part 1864 (FmHA Instruction 456.1) is now in Subpart B of Part 1956. Provisions of section 1309 of the "Food Security Act of 1985"; (Pub. L. 99–198) are added; and the general policies is further clarified.

The major changes from Part 1864 are:

(a) Section 1956.57(b) provides guidance on collecting information for debt settlement.

(b) Section 1956.57(c) changes the maximum period of time which payments on adjustment offers are to be made from 3 to 5 years.

(c) Section 1956.57(g) provides that a settlement will to be approved when an investigation of fiscal irregularity is pending.

(d) Section 1956.57(g)(3) provides guidance in handling the settlement of claims referred to the United States Attorney and judgments obtained by the United States Attorney.

(e) Section 1956.57(j) provides additional guidance on the settlement of accounts where joint debtors are involved.

(f) Section 1956.58 (a) and (b) increase the State Director's debt settlement approval authority and clarify the processing of debt settlement offers after approval.

(g) Section 1956.58(d) clarifies when debtors will be notified of a rejected debt settlement offer.

(h) Section 1956.66 (a)(1) and (b) provide additional guidance for determining the value of security when evaluating compromise or adjustment offers and eliminate the $20,000 limitation on debts that can be compromised when a borrower is able to pay in full but refuses to do so.

(i) Section 1956.66(b)(3) authorizes a discount for the cost of litigation and administration when the cost of collecting will not justify enforcing the collection of the entire debt.

(j) Section 1956.70 (b)(2) and (b)(3) eliminate the requirement that disappeared debtors be absent for at least 5 years before the debt can be cancelled; and clarifies that, in cases of bankruptcy, the debt is not discharged if the debtor has reaffirmed the debt prior to discharge.

(k) Section 1956.75 (a)(2), (b) and (b)(1) provide a method to charge off judgment debts if 2 years have elapsed since any collections were made; eliminates the consideration of good faith for the charge off of nonjudgment debts; and authorizes debts of up $600 to be charged off when the cost of collection will exceed recovery.

(l) Section 1956.98 provides for stamping as satisfied promissory notes that are settled by adjustment, compromise, or cancellation and for disposing of those notes.

(m) Section 1956.99 provides an exception authority whereby the FmHA Administrator may, in individual cases, make an exception to any provision when it is determined that application of the provision would adversely affect the Government's interest.

8. Amends Subpart A of Part 1962 to reference the new Subpart B of Part 1956 of this chapter and remove the restriction that requires the Administrator's approval of a release of liability when the transferor's remaining outstanding debt after the transfer exceeds $25,000. The State Director's approval authority is increased to $150,000. Due to the enactment of the "Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986," references to Chapter 12 bankruptcies are added in the final rule to provide immediately needed administrative direction to FmHA personnel concerning administration of this new provision of the bankruptcy law.

9. (a) Amends Subpart A of Part 1965 to revise § 1965.24(a) to reference Subpart B of Part 1956 of this chapter.

(b) Revise § 1965.26(f) to remove the restriction that requires the Administrator's approval of release of liability when the borrower's remaining outstanding debt after a cash sale exceeds $25,000 and to reference the new Subpart B of Part 1956 of this chapter. The State Director's approval authority is increased to $150,000.

(c) Revise § 1965.27 to allow release of liability when real estate indebtedness is assumed and repayment is scheduled for terms that exceed five (5) years and to remove the restriction that requires the Administrator's approval of release of liability when the remaining debt after a transfer and assumption exceeds $25,000. The State Director's approval authority is increased to $150,000.

List of Subjects

7 CFR Part 1864

Accounting, Loan programs—Agriculture, Rural areas.

7 CFR Part 1900

Appeals, Credit, Loan programs—Agriculture, Loan programs—Housing and Community development.

7 CFR Part 1903

Accounting, Loan programs—Agriculture and Rural areas.

7 CFR Part 1944

Home improvement, Low and moderate income housing—Rental, Mobile homes, Mortgages, Rural housing, Subsidies.

7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Mortgages.

7 CFR Part 1955

Foreclosure, Government acquired property.

7 CFR Part 1956

Accounting, Loan programs—Agriculture, Rural areas.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

7 CFR Part 1965

Foreclosure, Loan programs—Agriculture, Rural areas.

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1864—DEBT SETTLEMENT

1. The authority citation for Part 1864 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

2. Section 1864.1 is revised to read as follows:

§ 1864.1 Purpose and scope.

This part sets forth the policies and procedures for settlement of debts owed the United States and administered by the Farmers Home Administration (FmHA) under any of its programs, except Farmer Program loans, Housing loans, non-program (NP) loans, Economic Opportunity (EO) loans, and Claims Against Third Party Converters. This regulation does not cover releases from personal liability in transfer or voluntary conveyance cases. Debts owed under Farmer Programs or Single Family Housing Programs will be settled in accordance with Subpart B of Part 1956 of this chapter. Settlement of claims against third party converters and settlement of non-program (NP) loans, Economic Opportunity (EO) loans, and housing loans other than single family housing is not authorized under this part and proposed settlements of these types of claims should be submitted to the National Office for settlement pursuant to the Federal Claims Collection Standards, 4 CFR Parts 101 through 105.

PART 1900—GENERAL

3. The authority citation for Part 1900 continues to read as follows:

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

Subpart B—Farmers Home Administration Appeal Procedure

4. § 1900.51 is amended by revising paragraph (b) to read as follows:

§ 1900.51 General.

* * * * *

(b) Debt settlement action found in Part 1864 (FmHA Instruction 456.1) or Subpart B of Part 1956 of this chapter.

* * * * *

PART 1903—VOLUNTARY DEBT ADJUSTMENT

5. The authority citation for Part 1903 continues to read as follows:

Authority: 7 U.S.C. 1989; CFR 2.23, 2.70.

Subpart A—Voluntary Debt Adjustment

6. Section 1903.2 is amended by revising paragraph (b) to read as follows:

§ 1903.2 Policy.

* * * * *

(b) Debts owed to the FmHA will not be adjusted pursuant to this subpart but will be considered for settlement in accordance with Part 1864 (FmHA Instruction 456.1) or Subpart B of Part 1956 of this chapter or for release of personal liability in accordance with Subpart A of Part 1955, Subpart A of Part 1962, and Subpart A or C of Part 1965 of this chapter.

PART 1944—HOUSING

7. The authority citation for Part 1944 continues to read as follows:

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

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

8. Section 1944.4 is amended by revising paragraph (c) to read as follows:

§ 1944.4 Loan restrictions.

* * * * *

(c) A loan will not be made to an applicant whose previous FmHA debts have been settled pursuant to Part 1864 of this chapter (FmHA Instruction 456.1) or Subpart B of Part 1956 of this chapter or by release from personal liability under Subpart A of Part 1955 of this chapter as reflected by the County Office records, or where settlement under such regulation is contemplated, unless failure to pay the indebtedness was the result of circumstances beyond the applicant's control, or the conditions which necessitated the debt settlement or release, or than weather hazards, disasters, or price fluctuations, have been removed or will be removed by making the loan. Before approving the property or causing such an applicant to incur any expense in connection with the loan the County Supervisor will complete Form FmHA 431-2, "Farm and Home Plan," or Form FmHA 431-3, "Household Financial Statement and Budget," and send it with the application, any available case folders, and recommendations to the State Office for a determination as to whether to proceed with the development of the loan docket.

* * * * *

PART 1951—SERVICING AND COLLECTIONS

9. The authority citations for Part 1951, Subparts A and G, continue to read as follows:

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

Subpart A—Account Servicing Policies

10. Section 1951.15 is amended by revising paragraph (e) to read as follows:

§ 1951.15 Return of paid-in-full or satisfied notes to borrower.

* * * * *

(e) *Debt settlement case.* See Subpart B of Part 1956 of this chapter for the handling of notes in debt settlement cases.

* * * * *

Subpart B—Collections

11. The authority citation for Subpart B, continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C 301; sec. 10 of Pub. 93-357; 88 stat. 392; 7 CFR 2.23; CFR 2.70; 29 FR 14764; 33 FR 9850.

12. § 1951.51 is amended by revising paragraph (a) to read as follows:

§ 1951.51 Purpose.

(a) Checks, money orders, and similar items to be remitted as payments on accounts of the Farmers Home Administration (FmHA) should be made payable to the FmHA, except that offers in compromise of judgment accounts authorized in Part 1864 or Subpart B of Part 1956 of this chapter will be made payable to the Treasurer of the United States and transmitted to the State Director for referral to the appropriate United States and transmitted to the State Director for referral to the appropriate United States Attorney through the representative of the Office of the General Counsel (OGC). All collection items in any form other than coin and currency will be accepted subject to collection, that is, subject to the items being paid. Any remittance items which currently are not payable, including postdated checks, will not be accepted for payment on indebtedness due FmHA. When such items are received, they will be returned immediately to the remitter.

* * * * *

Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts

13. § 1951.315 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 1951.315 Servicing a note-only loan.

* * * * *

(a) *Sale of real property improved, with note-only funds.* When property improved with note-only funds is sold, the County Supervisor should attempt to collect the balance owed on the loan. If collection cannot be made, the debt may be assumed by the purchaser of the property on the terms of the note. If collection or assumption cannot be effected, the debt should be settled under Subpart B of Part 1956 of this chapter, if possible, or reclassified to collection-only if the borrower has assets and a judgment is to be sought.

(b) *Note-only in connection with secured loan(s).* When a borrower owes both secured and RH note-only loans and the security property is transferred to a party who will assume the secured loan(s), the amount to be assumed will be the total of the secured and unsecured loans, not to exceed the market value of the security property. When all of the transferor's debt is not assumed, the balance will be collected, secured by a judgment if there are assets from which collection may be made, or settled under Subpart B of Part 1956 of this chapter.

(c) *Deceased borrower.* When a note-only borrower dies, the County Supervisor will determine whether there are assets in the borrower's estate from which a claim may be collected. If there are assets, a claim against the decedent's estate may be recommended under § 1962.49 of Suppart A of Part 1962 of this chapter. If not, the debt will be settled under Subpart B of Part 1956 of this chapter.

PART 1955—PROPERTY MANAGEMENT

14. The authority citation for Part 1955 continues to read as follows:

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

Subpart A—Liquidation of Loans Secured by Real Estate and Acquistion of Real and Chattel Property

15. § 1955.10 is amended by revising paragraph (a)(1) and by revising the introductory text of paragraph (f)(2) to read as follows:

§ 1955.10 Voluntary conveyance of real property by the borrower to the Government.

* * * * *

(a) * * *

(1) *Loans to individuals.* The County Supervisors, District Directors and State Directors are authorized to accept voluntary conveyance if the total indebtedness against the property (including prior and junior liens) does not exceed the respective loan approval authority for the type of loan (or combination of types) involved as outlined in Exhibits A through E of FmHA Instruction 1901–A (available in any FmHA office).

* * * * *

(f) * * *

(2) *Consolidated Farm and Rural Development Act (CONACT) loans to individuals.* For CONACT loans to individuals as defined in § 1955.3 of this subpart where the FmHA indebtedness plus any prior liens exceeds the market value of the property, the County Committee must make the following certification if it is to recommend that the borrower and any cosigner be released from liability. The certification will be made on Form FmHA 440–2, "County Committee Certification or Recommendation," in the blank space following Item No. 10:

In our opinion (*Name of Borrower(s) and any cosigner*) does not have reasonable ability to pay all or a substantial part of the balance of the debt owed after the voluntary conveyance, taking into consideration his or her assets and income at the time of the conveyance. The borrower has cooperated in good faith, used due diligence to maintain property against loss, and has otherwise fulfilled the covenants incident to the loan to the best of his or her ability. Therefore, we recommend that the borrower and any cosigner be released from personal liability for any balance due on the secured indebtedness upon conveyance of the property to the Government.

If the County Committee does not recommend release from liability, the borrower must be informed that the indebtedness cannot be satisfied but a credit can be given equal to the market value, and the borrower will determine if he/she wishes to make a new offer on that basis. If a new offer is made and accepted, the account will be handled as an unsatisfied account as outlined in § 1955.18 (f) of this subpart. When the FmHA debt less the market value and prior lien exceeds $150,000, release of liability must be approved or disapproved by the Administrator or designee; otherwise, the State Director must approve or disapprove the release of liability. All cases requiring a release of liability will be submitted for review in accordance with Exhibit A of Subpart B of Part 1956 of this chapter (available in any FmHA office).

* * * * *

16. § 1955.15 is amended by revising paragraph (d)(5) to read as follows:

§ 1955.15 Foreclosure by the Government of loans secured by real estate.

* * * * *

(d) * * *

(5) *Appeals of foreclosure actions.* All appeals will be handled pursuant to Subpart B of Part 1900 of this chapter. Foreclosure actions will be held in abeyance while an appeal is pending. No case will be referred to OGC for processing of foreclosure until a borrower's appeal and appeal review have been concluded, or the time during which appeal or request for review may be made has elapsed. In Farmer Program cases (except graduation cases under Subpart F of Part 1951 of the chapter), the borrower must have received Forms FmHA 1924–14, 1924–25, and 1924–26, and any appeal must have been concluded.

* * * * *

17. § 1955.20 is amended by revising paragraph (b)(2) to read as follows:

§ 1955.20 Acquisition of chattel property.

* * * * *

(b) * * *

(2) *Acceptance of offer release from liability.* Before accepting an offer to convey chattels to FmHA, the concurrence of the State Director must be obtained. When chattel security is

voluntarily conveyed to the Government and the borrower and cosigner(s), if any, are to be released from liability, the servicing official will stamp the note(s) "Satisfied by Surrender of Security and Borrower Released from Liability." The State Director is authorized to release the borrower and cosigner, if any, from liability except when the FmHA debt secured by the chattels less their market value exceeds $150,000, in which event the release of liability must be approved by the Administrator or designee. All cases requiring a release of liability will be submitted in accordance with Exhibit A of Subpart B of Part 1956 of this chapter (available in any FmHA office). Form FmHA 1955-1 will be executed by the servicing official showing acceptance by the Government, and the satisfied note(s) and a copy of Form FmHA 1955-1 will be furnished to the borrower.

* * * * *

18. Part 1956 is added to read as follows:

PART 1956—DEBT SETTLEMENT

Subpart A—[Reserved]

Subpart B—Debt Settlement—Farmer Programs and Single Family Housing

Sec.

1956.51 Purpose.
1956.52-1956.53 [Reserved]
1956.54 Definitions.
1956.55-1956.56 [Reserved]
1956.57 General provisions.
1956.58 Approval or rejection.
1956.59-1956.65 [Reserved]
1956.66 Compromise and adjustment of nonjudgment debts owed FmHA.
1956.67-1956.69 [Reserved]
1956.70 Cancellation.
1956.71-1956.74 [Reserved]
1956.75 Chargeoff.
1956.76-1956.84 [Reserved]
1956.85 Payments and receipts.
1956.86-1956.95 [Reserved]
1956.96 Delinquent adjustment agreements.
1956.97 [Reserved]
1956.98 Disposition of promissory notes.
1956.99 Exception authority.
1956.100 OMB control number.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—[Reserved]

Subpart B—Debt Settlement—Farmer Programs and Single Family Housing

§ 1956.51 Purpose.

This subpart delegates authority and prescribes policies and procedures for settlement of debts owed the United States for Farmers Home Administration (FmHA) Farmer Program and Single Family Housing loans. Settlement of claims against third party converters and settlement of non-program (NP) loans, Economic Opportunity (EO) loans, and housing loans other than single family housing is not authorized.

§§ 1956.52-1956.53 [Reserved]

§ 1956.54 Definitions.

(a) *Adjustment.* The reduction of a debt or claim conditioned upon completion of payment of the adjusted amount at a specific future time or times, with or without the payment of any consideration when the adjustment offer is approved. An adjustment is not a final settlement until all payments under the adjustment agreement(s) have been made.

(b) *Cancellation.* The final discharge of a debt without any payment on it.

(c) *Chargeoff.* The writing off of a debt and termination of collection activity without release of personal liability.

(d) *Compromise.* The satisfaction of a debt or claim by the acceptance of a lump-sum payment of less than the total amount owed on the debt or claim.

(e) *Debtor.* The borrower of funds under any of the FmHA programs. This includes co-signors, guarantors and persons or entities that initially obtained or assumed a loan.

(f) *Farmer program loans.* Farm Ownership (FO), Operating (OL), Soil and Water (SW), Economic Emergency (EE), Emergency (EM), Recreation (RL), and Special Livestock (SL) loans and/or Rural Housing loans for farm service buildings (RHF).

(g) *Principal amount of debt.* The outstanding balance of the amount loaned including principal and interest plus any outstanding advances, including interest, made by the Government on behalf of the borrower.

(h) *Servicing office.* The FmHA office that is responsible for the account.

(i) *Settlement.* The compromise, adjustment, cancellation, or chargeoff of a debt owed to FmHA. The term "settlement" is used for convenience in referring to compromise, adjustment, cancellation, or chargeoff actions, individually or collectively.

(j) *Single family housing loans.* Rural Housing (RH) loans made under section 502 or section 504 of the Housing Act of 1949.

(k) *United States Attorney.* An attorney for the United States Department of Justice.

§§ 1965.55-1956.56 [Reserved]

§ 1956.57 General provisions.

(a) *Application of policies.* All debtors are entitled to impartial treatment and uniform consideration under this subpart. Accordingly, FmHA personnel charged with any responsibility in connection with debt settlement will adhere strictly to the authorizations, requirements, and limitations in this subpart, and will not substitute individual feelings or sympathies in connection with any settlement.

(b) *Collection efforts.* When debtors are contacted in an effort to collect, the employee in charge of the account should obtain from them essential information concerning their financial condition. If it appears that a debtor will not be able to pay in full and the indebtedness is eligible for settlement under this subpart, action should be taken, if possible, to avoid unnecessary litigation to enforce collection. If the debt is eligible for settlement, the debt settlement authorities of FmHA should be explained and the privileges thereof extended to the debtor. The information obtained from the debtor should be documented on Form FhHA 456-1, "Application for Settlement of Indebtedness."

(c) *Negotiating a settlement.* District Directors and County Supervisors cannot approve debt settlement actions; therefore, they will make no statements to a debtor concerning the action that may be taken upon a debtor's application. In negotiating a settlement, all of the factors which are pertinent to determining ability to pay will be discussed to assist the debtor in arriving at the proper type and terms of a settlement. The present and future repayment ability of a debtor, the factors mentioned in this subpart, and any other pertinent information will be the basis of determining whether the debt should be collected in full, compromised, adjusted, cancelled, or charged off. It is impossible in cases eligible for debt settlement to forecast accurately the debtor's future repayment ability over a long period of time; consequently, the period of time during which payments on settlement offers are to be made should not exceed five years. Debtors have the right to make voluntary settlement offers in any amount should they elect to do so. Settlement offers will not be approved in any case unless there is reasonable assurance that the debtor will be able to make the payments as they become due.

(d) *Disposition of property.* Ordinarily, except for paragraph (i) of this section or § 1956.66(a), all security will have been disposed of before processing a debt settlement action. Security can be retained only under the conditions specified in § 1956.66(a) of this subpart.

(e) *Proceeds from the sale of security.* Prior to considering any debt settlement

action, proceeds from the sale of security must first be applied on the debtor's account, irrespective of an application for debt settlement unless the conditions specified in §1956.66(a) are met. When a debtor has sold the security and wishes to use the proceeds as part or all of the offer, the employee in charge of the account will explain that such funds must be credited on the debt and cannot be used as part of the settlement offer. After such funds are received for credit to the debtor's account, the debtor then may apply for settlement of the remaining indebtedness.

(f) *County Committee review.* The County Committee will not review proposed settlement action for Single Family Housing loans. Except for the cancellation of those debts discharged in bankruptcy where there is no remaining security, proposed settlement actions for Farmer Program loans will be reviewed for approval or rejection by the County Committee, and no settlement shall be approved if it is more favorable to the debtor than recommended by the appropriate County Committee.

(g) *Settlement when legal or investigative action has been taken, recommended, or is contemplated.*

(1) Debts cannot be settled:

(i) If the matter has been referred either to the Office of Inspector General (OIG) under § 1962.49(a) of Part 1962, Subpart A of this chapter or to OGC because of suspected criminal violation, or criminal prosecution is pending because of an illegal act(s) committed by the debtor in connection with the debt or the security for that debt, unless, if sent to OIG, the OIG has declined to investigate the matter or, if sent to OGC, OGC is consulted first, or, if in the hands of the United States Attorney, the procedure outlined in paragraph (g)(3) of this section is followed.

(ii) If a request for referral to the United States Attorney to institute a civil action to protect the interest of the Government has been made by FmHA.

(iii) Except as provided in paragraph (g)(3) of this section, if the case has been referred to the United States Attorney and is not closed.

(2) If a debtor's account is involved in a fiscal irregularity investigation in which final action has not been taken or the account shows evidence that a shortage may exist and an investigation will be requested, the account will not be approved for settlement.

(3) When a claim has been referred to, or a judgment has been obtained by, the United States Attorney, and the debtor requests settlement, the employee in charge of the account will explain to the debtor that the United States Attorney has exclusive jurisdiction over the claim or judgment, that FmHA has no authority to agree to a settlement offer when the United States Attorney's file is not closed, and that if the debtor wishes to make a compromise or adjustment offer when the United States Attorney's file is not closed, it will be submitted with any related payment directly to the United States Attorney for a decision on the settlement offer.

(h) *Advice from the OGC.* State Directors will obtain, when necessary, advice from the OGC in handling proposed debt settlement actions which involve legal problems.

(i) *Settlement of claims against estates.* Settlement of a claim against an estate under the provisions of this subpart will be based on the recovery that may reasonably be expected, taking into consideration such items as the security, costs of administration, allowances for minor children and surviving spouse, allowable funeral expenses, and dower and courtesy rights, and specific encumbrances on the property having priority over claims of the Government.

(j) *Joint debtors.* Settlements may not be approved for one joint debtor unless approved for all debtors. "Joint debtors" includes all parties (individuals, partnerships, joint operators, cooperatives, corporations, estates) who are legally liable for payment of the debt.

(1) Separate and individual adjustment offers from joint debtors must be accepted and processed only as a joint offer. Joint debtors must be advised that all debtors will remain liable for the balance of the debt until all payments due under the joint offer have been made.

(2) A separate Form FmHA 456–1 will be completed by each debtor, unless the debtors are members of the same family and all necessary financial information on each debtor can be shown clearly on a single application. Separate applications will be sent to the State Office as a unit.

(3) If one debtor applies for compromise, adjustment, or cancellation, or if the debt is to be charged off, and the other debtor(s) is deceased or has received a discharge of the debt in bankruptcy, or the whereabouts of the other debtor(s) is unknown, or it is impossible or impracticable to obtain the signature of the other debtor(s), Form FmHA 456–1 will be prepared by showing at the top of the form the name of the debtor requesting settlement, followed by the name of the other debtor. For example, "John Doe, joint debtor with Bill Doe, deceased," "John Doe, joint debtor with Sam Doe, discharged in bankruptcy," "John Doe, joint debtor with Mary Doe, impossible or impracticable to obtain signature," as appropriate. In addition to the information concerning settlement of the debt by the applicant, information which justifies settlement of the debt as to the debtor(s) not joining in the application will be shown on Form FmHA 456–1.

(k) *Adjustment of debts when debtors are in bankruptcy.* FmHA personnel do not have the authority to accept or reject a reorganization plan on behalf of the United States for debtors filing under Chapter 11, Chapter 12, or Chapter 13 when the plan calls for part of the FmHA debt to be forgiven.

(1) Plans submitted by debtors under Chapters 11, 12, and 13 must be sent by the County Supervisor to the State Director who will refer them to the United States Attorney through the Regional Attorney. When the plan calls for the adjustment of a debt to FmHA, the State Director will provide the Regional Attorney with a recommendation on acceptance or rejection of the plan.

(2) The U.S. Attorney will advise the FmHA State Director through the Regional Attorney as to approval or rejection of the debtor's reorganization plan. Upon notification of an approval, the State Director will notify the Finance Office by memorandum of the terms and conditions of the bankruptcy reorganization plan including any adjustment of the debtor's debt. This will also be done in "cramdowns" imposed by the courts.

§ 1956.58 Approval or rejection.

All debt settlement cases will be submitted for review in accordance with Exhibit A of this subpart (available in any FmHA office).

(a) *Approval authority.* Subject to this subpart, the compromise, adjustment, cancellation, or chargeoff of debts will be approved or rejected:

(1) By the State Director when the outstanding balance of the indebtedness involved in the settlement is less than $150,000 (including principal, interest, and other charges).

(2) By the Administrator or his designee when the outstanding balance of the indebtedness involved in the settlement is $150,000 or more (including principal, interest, and other charges).

(b) *Approval processing.* The State Director will:

(1) Execute and send the original approved Form FmHA 456–1 to the Finance Office.

(2) Notify debtors in writing of approval of the settlement of their indebtedness in the following cases:

(i) All compromise and adjustment offers. The following will also be done:

(A) The specific amount and terms of the offer will be stated.

(B) The accounts settled will be identified by reference to the accounts shown on Form FmHA 456-1.

(ii) Cancellations under §1956.70 (a) or (c) of this subpart.

(3) Not be required to notify debtors of approval of the settlement of their indebtedness when debts are charged off under § 1956.75 or cancelled under §1956.70(b).

(c) *Requesting additional information.* When rejection appears to be necessary either because of lack of information or because the amount of a compromise or adjustment offer is inadequate, the State Director may request the employee in charge of the account to obtain the additional information or make an effort to obtain an acceptable offer, as the circumstances justify. Notice of rejection of an offer will be withheld in such cases until sufficient time has elapsed to enable the debtor to present further information or a new offer. All settlement offers will be handled promptly.

(d) *Rejection processing.* The State Director will:

(1) Insert the reasons for rejection on the Form FmHA 456-1.

(2) Execute and retain the original Form FmHA 456-1 in the State Office.

(3) Return case files and copies of Form FmHA 456-1 to the employee in charge of the account.

(4) Request the Finance Office to return any adjustment or compromise payment held by the Finance Office to the borrower, in care of the employee in charge of the account.

(5) Return any adjustment or compromise payment held by the State Office to the borrower, in care of the employee in charge of the account.

(6) Notify the debtor in writing of the reasons for the rejection in the following cases:

(i) All compromise and adjustment offers.

(ii) Cancellations under § 1956.70(a) of this subpart.

(e) *Appeal rights.* There is no right to appeal the rejection of any debt settlement under this subpart.

§§ 1956.59—1956.65 [Reserved]

§ 1956.66 Compromise and adjustment of nonjudgment debts owed FmHA.

Nonjudgment debts owed FmHA may be compromised or adjusted upon application of the debtor(s), or if the debtor is unable to act, upon application of the guardian, executor, or administrator on Form FmHA 456-1. The debt or any extension thereof on which compromise or adjustment is requested must be due and payable under the terms of the note or other instrument, or because of acceleration by written notice prior to the date of application. Efforts will be made to avoid applications for settlement in whch debtors offer a specified amount payable upon notice of approval of the proposed settlement.

(a) *Debts which the debtor is unable to pay in full.* Debts may be compromised or adjusted provided the debtor is unable to pay the indebtedness in full and has offered an amount equal to the present fair market value of all security for the debt, including any crop security, and any additional amount which the debtor is able to pay. The amount offered must represent a reasonable determination of the debtor's ability to pay. The amount must also bear a reasonable relation to the amount which can be recovered by enforced collection procedures. In such cases the debtor may retain possession of the security. The debtor's income and expenses and nonsecurity assets are critical factors in determining eligibility for any settlement, the type of settlement, and the amount which the debtor can reasonably be expected to offer. In evaluating the debtor's ability to pay, it is essential that reliable information be obtained in sufficient detail to assure that the items are complete and accurate concerning the following:

(1) The amount offered equal to the present fair market value of the existing security for the debt will be determined as follows:

(i) A current market value appraisal will be completed by an FmHA employee authorized to make appraisals of the type(s) of property to be retained and the appraisal placed in the debtor's file.

(ii) Statements of indebtedness owed will be obtained from any existing prior lienholder(s) whose lien(s) remain(s), and placed in the debtor's file.

(iii) Value of existing security will be market value determined by paragraph (a)(1)(i) of this section less lien(s) to remain in paragraph (a)(1)(ii) of this section.

(2) In determining any additional amount which the debtor is able to pay, the debtor's total present income will be determined. Careful consideration will be given to the probable sources, amount, and stability of income to be received over a reasonable period of years. Old age pensions, other public welfare assistance, and pensions received by veterans for pensionable disabilities, will not be considered as sources of funds with which to make compromise and adjustment offers.

(3) The amount of the debtor's farm or business operating and living expenses necessary to continue the operation will be determined.

(4) The amount of the debtor's debts and the priority of payments on debts from income will be determined.

(5) When the debtor is largely dependent on income from an occupation in which manual labor is required, age and health are vital factors in determining the ability to pay. However, when the debtor's income is from investments, business enterprises, or management efforts, age and health are of less importance. The number in the debtor's family, and their ages and condition of their health, also will weigh heavily in determining the ability to pay.

(6) The value of the debtor's assets in relation to debts and liens of third parties is important in determing the debtor's ability to pay. It is recognized that debtors must retain a reasonable equity in essential nonsecurity property in order to continue normal operations and meet family living expenses over a period of years. Under this policy a reasonable equity in a modest nonsecurity homestead occupied by the debtor, whether or not exempt from levy and execution will not be considered as available for offer in settlement. Nonsecurity property which is in excess of minimum family living needs and which is not exempt from levy and execution should be considered when determining the debtor's ability to pay.

(b) *Debts which the debtor is able to pay in full but refuses to do so.* Debts which the debtor may have the ability to pay in full but has refused to do so may be compromised or adjusted in the following situations on Form FmHA 456-1:

(1) When the full amount cannot be collected because of the refusal of the debtor to pay the debt in full and the OGC advises that the Government is unable to enforce collection in full within a reasonable time by enforced collection proceedings, the debt may be compromised. In determining inability to collect, the following factors will be considered:

(i) Availability of assets or income which may be realized by enforced collection proceedings, considering the applicable exemptions available to the debtor under State and Federal law.

(ii) Inheritance prospects within 5 years.

(iii) Likelihood of debtor obtaining nonexempt property or income within 5 years, out of which there could be collected a substantially larger sum than the amount of the present offer.

(iv) Uncertainty as to price the security or other property will bring at forced sale.

(2) The debt may be compromised or adjusted when the OGC has advised in writing that:

(i) There is a real doubt concerning the Government's ability to prove its case in court for the full amount of the debt, and

(ii) The amount offered represents a reasonable settlement considering:

(A) The probability of prevailing on the legal issues involved.

(B) The probability of proving facts to establish full or partial recovery, with due regard to the availability of witnesses and other pertinent factors.

(C) The probable amount of court costs and attorney's fees which may be assessed against the Government if it is unsuccessful in litigation.

(3) When the cost of collecting the debt does not justify enforced collection of the full amount, the amount accepted in compromise or adjustment may reflect an appropriate discount for administrative and litigious costs of collection. Such discount will not exceed $600 unless the OGC advises that in the particular case a larger discount is appropriate. The cost of collecting may be a substantial factor in settling small debts but normally will not carry great weight in settling large debts.

(c) *Compromise of adjustment without debtor's signature.* Debts of a living debtor may be compromised or adjusted if it is impossible or impracticable to obtain a signed application and all other requirements of this section applicable to compromise or adjustment with a signed application have been met. Form FmHA 456-1 will show:

(1) The sources from which the information was obtained.

(2) That a current effort was made to obtain the debtor's signature and the date(s) of such effort.

(3) The specific reasons why it was impossible or impracticable to obtain the signature of the debtor and, if the debtor refused to sign, the reason(s) given.

§§ 1956.67-1956.69 [Reserved]

§ 1956.70 Cancellation.

Nonjudgment debts may be cancelled in the following instances:

(a) *With application.* Debts due the FmHA may be cancelled upon application of the debtor, or if a debtor is unable to act, upon application of a guardian, executor, or administrator, subject to the following conditions:

(1) The FmHA employee in charge of the account furnishes a report and favorable recommendation concerning the cancellation.

(2) There is no known security for the debt and the debtor has no other assets from which the debt could be collected.

(3) The debtor is unable to pay any part of the debt and has no reasonable prospect of being able to do so.

(4) The debt or any extension thereof is due and payable under the terms of the note or other instrument, or because of written notice prior to the date of application.

(b) *Without application.* Debts due the FmHA may be cancelled upon a report and the favorable recommendation of the employee in charge of the account in the following instances:

(1) *Deceased debtors.* The following conditions must exist: (i) There is no known security; and

(ii) An administrator or executor has not been appointed to settle the debtor's estate and the financial condition of the estate has been investigated and it has been established that there is no reasonable prospect of recovery; or

(iii) An administrator or executor has been appointed to settle the estate of the debtor; and

(A) A final settlement has been made and confirmed by the probate court and the Government's claim was recognized properly and the Government has received all funds it was entitled to, or

(B) A final settlement has not been made and confirmed by the probate court but there are no assets in the estate from which there is any reasonable prospect of recovery, or

(C) Regardless of whether a final settlement has been made, there were assets in the estate from which recovery might have been effected but such assets have been disposed of or lost in a manner which the OGC advises will preclude any reasonable prospect of recovery by the Government.

(2) *Disappeared debtors.* The debt may be cancelled without application where the debtor has no known assets or future debt-paying ability, has disappeared and cannot be found without undue expense, and there is no existing security for the debt. Reasonable efforts will be made to locate the debtor. These efforts will generally include contacts, either in person or in writing, with postmasters, motor vehicle licensing and title authorities, telephone directories, city directories, utility companies, State and local governmental agencies, other Federal agencies, employees, friends, and credit agency skip locate reports, known relatives, neighbors and County Committee members. Also, the debtor's loan file should be reviewed carefully for possible leads that may be of assistance in locating the debtor. The efforts made to locate the debtor, including the names and dates of contracts, and the information furnished by each person, will be fully documented in the appropriate space on Form FmHA 456-1.

(3) *Debtors discharged in bankruptcy.* If there is no security for the debt, debts discharged in bankruptcy shall be cancelled by the use of Form FmHA 456-1 with a copy of the Bankruptcy Court's Discharge Order attached. No attempt will be made to obtain the debtor's signature and County Committee review is unnecessary. If the debtor has executed a new promise to pay prior to discharge and has otherwise accomplished a valid reaffirmation of the debt in accordance with advice from OGC, the debt is not discharged.

(c) *Signature of debtor cannot be obtained.* Debts of a living debtor may be cancelled if it is impossible or impracticable to obtain a signed application and the requirements in paragraph (a) of this section concerning cancellation with application have been met or if the debt has been discharged in bankruptcy and there is no security. Form FmHA 456-1 will state:

(1) The sources of information obtained.

(2) That a current effort was made to obtain the debtor's application and the date of such effort.

(3) The specific reasons why it was impossible or impracticable to obtain the signature of the debtor and, if the debtor refused to sign, the reason(s) given.

§§ 1956.71-1956.74 [Reserved]

§ 1956.75 Chargeoff.

(a) *Judgment debts.* Subject to the provisions of § 1956.57(g)(3), judgment debts may be charged off by use of Form FmHA 456-1 upon a report and favorable recommendation of the employee in charge of the account provided:

(1) The United States Attorney's file is closed, and

(2) The requirements of § 1956.70(b)(2) have been met, *or* two years have elapsed since any collections were made on the judgment and the debtor(s) has no equity in property on which the judgment is a lien or on which it can presently be made a lien.

(b) *Nonjudgment debts.* Debts which cannot be settled under other sections of

this subpart may be charged off without the debtor's signature subject to the following provisions:

(1) When the principal balance is $600 or less and efforts to collect have been unsuccessful or it is apparent that further collection efforts would be ineffectual or uneconomical,

(2) When the OGC advises in writing that the claim is legally without merit;

(3) Even though FmHA considers the claim to be valid, when efforts to induce voluntary payments are unsuccessful and the OGC advises in writing that evidence necessary to prove the claim in court cannot be produced; or

(4) When the employee is charge of the account recommends the chargeoff and has made the following determinations on the basis of information in FmHA's official files or from other informed reliable sources:

(i) That the debtor is:

(A) Unable to pay any part of the debt and has no apparent furture debt repayment ability as specified in § 1956.16(a); or

(B) Able to pay part or all of the debt but is unwiling to do so, it is clear that the Government cannot enforce collection of a significant amount from assets or income, and an opinion is received from OGC to that effect; and

(ii) There is no security for the debt.

§§ 1956.76–1956.84 [Reserved]

§ 1956.85 Payments and receipts.

(a) *Servicing office handling.* (1) An application with which the debtor offers a lump-sum payment in compromise, or with which the debtor offers an initial payment on an adjustment offer, will be accompanied by the payments required at the time such application is filed in the servicing office.

(2) Except as provided in paragraph (a)(3) of this section, payments offered by debtors in settlement of debts will be deposited and transmitted as required in Subpart B of Part 1951 of this chapter.

(3) Checks or check transmittal letter containing restrictive notations such as "Settlement in full" or "Payment in full," or in those exceptional instances when the debtor refuses to sign the Form FmHA 456–1 in connection with a compromise offer, will be forwarded to the State Office where they will be retained until approval or rejection of the offer. The use of restrictive notations will be discouraged to the fullest extent possible.

(b) *Finance Office handling.* (1) All payments evidenced by Form FmHA 451–2, "Schedule of Remittances," bearing the legend "Compromise Offer—FmHA" or "Adjustment Offer—FmHA," will be held in the Deposits Fund Account by the Finance Office until notification is recieved from the State Office of the approval or rejection of the offer. In cases of approved offers, remittances will be applied in accordance with established policies, beginning with the oldest loan included in the settlement, except that when the request for settlement includes loans made from different revolving funds the Finance Office will prorate the amount received, on the basis of the total principal balance due the respective revolving funds. Upon notification of a rejection of a debtor's offer and receipt of a request from the State Director for a refund, the Finance Office will refund to the debtor, in care of the employee in charge of the account, the amount held in the Deposits Fund Account representing a rejected compromise or adjustment offer.

(2) When a debtor's adjustment offer is approved, the accounts involved will not be adjusted in the records of the Finance Office until all payments have been made. Form FmHA 456–1 will be held in a suspense file pending payment of the full amount of the approved offer. The original Form FmHA 456–1 in approved cases will be retained in the Finance Office.

§§ 1956.86—1956.95 [Reserved]

§ 1956.96 Delinquent adjustment agreements.

(a) *Servicing office handling.* The employeee in charge of the account should notify debtors in advance of the due dates of payments on debt settlement agreements. The employee in charge of the account should promptly contact debtors who are delinquent on debt settlement payments and find out their reasons for not making payments when due, and their plans for completing their agreements. Delinquencies of 30 days or more will be reported to the State Director along with other pertinent information and the recommendation of the employee in charge of the account regarding the further handling of the case.

(b) *State Office handling.* (1) In those instances in which the debtor is delinquent under the terms of the debt settlement agreement and is likely to to be financially unable to meet the terms of the debt settlement agreement, consideration should be given by the State Director to voiding the existing agreement and processing a different type of settlement more consistent with the debtor's repayment ability provided the facts in the case justify such action.

(2) The State Director may extend, for ninety days, the time for making the payments when the circumstances of the case justify an extension. Extensions for a greater period of time may be made by the State Director upon the recommendation of the County Committee (for Farmer Program loans) and the employee in charge of the account. A decision not to extend the time for making payments is not appealable.

(3) When an adjustment agreement is voided, the State Director will notify the debtor giving the reasons in writing, with a copy to the Finance Office and to the employee in charge of the account. Upon receipt, the Finance Office will return the original Form FmHA 456–1 to the State Office. The voiding of an adjustment offer is not appealable.

(c) *Disposition of payments.* If an agreement is voided, any payments received shall be retained as payments on the debt owed at the time of the compromise or adjustment offer.

§ 1956.97 [Reserved]

§ 1956.98 Disposition of promissory notes.

(a) Notes evidencing debts settled by completed adjustments, compromised with or without signature, or cancelled with signature will be returned to the debtor or to the debtor's legal representative. The original and copies of the notes will be stamped "Satisfied by Approved Compromise" or "Satisfied by Approved Cancellation." In such cases, the security instrument(s) will be released of record in the usual manner.

(b) Notes evidencing debts cancelled without application will be placed in the debtor's case folder and disposed of pursuant to FmHA Instruction 2033–A (available in any FmHA office). However, if the debtor requests the notes, they may be stamped "Satisfied By Approved Cancellation" and returned.

(c) Notes evidencing charged off debts will be retained in the servicing office and will not be stamped or returned to the debtor. They will be destroyed six years after charged off pursuant to Exhibit C, Page 2 of FmHA Instruction 2033–A (available in any FmHA office).

§ 1956.99 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The Administrator will exercise this authority only at the request of the State Director and on the recommendation of

the appropriate program Assistant Administrator. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted. Any settlement actions approved by the Administrator under this section will be documented on Form FmHA 456-1 and returned to the State Office for submission to the Finance Office.

§ 1956.100 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0118.

PART 1962—PERSONAL PROPERTY

19. The authority citation for Part 1962 continues to read as follows:

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

Subpart A—Servicing and Liquidation of Chattel Security

20. § 1962.34 is amended by revising paragraphs (d) and (h) to read as follows:

§ 1962.34 Transfer of chattel security and EO property and assumption of debts.

* * * * *

(d) *Release of transferor from liability.* The borrower and any cosigner may be released from personal liability to FmHA when all the chattel security or EO property is transferred to an eligible or ineligible applicant and the total outstanding debt or that portion of the debt equal to the present market value of the security is assumed. The appropriate official is authorized to approve releases from liability in accordance with § 1962.34(h) of this subpart. When there will be no release from liability, the transferor and co-signer of a farmer program loan must be sent a letter similar to Exhibit F of Subpart A of 1955 of this chapter (available in any FmHA office).

* * * * *

(h) *Approval.* Loan approval officials are authorized to approve transfer and assumption of FmHA accounts to eligible or ineligible transferees when the debts are within their respective loan approval authorities stated in tables which are available from any FmHA office (FmHA Instruction 1901-A). The State Director is authorized to approve releases from liability, except when the FmHA debt secured by chattels less their market value exceeds $150,000, the Administrator or designee must approve the release from liability. All cases requiring a release of liability will be submitted for review in accordance with Exhibit A of Subpart B of Part 1956 of this chapter (available in any FmHA office).

21. § 1962.46 is amended by revising the introductory text and paragraph (c)(3) to read as follows:

§ 1962.46 Deceased borrowers.

Immediately on learning of the death of any person liable to FmHA, the County Supervisor will prepare Form FmHA 455-17, "Report on Deceased Borrower," to determine whether any special servicing action is necessary unless the County Supervisor recommends settlement of the indebtedness under Subpart B of Part 1956 of this chapter. If a survivor will not continue with the loan, it may be necessary to make immediate arrangements with a survivor, executor, administrator, or other interested parties to complete the year's operations or to otherwise protect or preserve the security.

* * * * *

(c) * * *

(3) The debt owed to FmHA by the estate is settled under Subpart B of Part 1956 of this chapter, well ahead of the deadline for filing proof of claim.

* * * * *

22. § 1962.47 is amended by revising paragraphs (a)(3)(i), (b)(2) introductory text and (c)(3) to read as follows:

§ 1962.47 Bankruptcy and insolvency.

(a) * * *

(3) * * *

(i) Exhibit D of this subpart also explains that borrowers who have filed Chapter 11, 12 and 13 bankruptcies must request and be granted a modification of the automatic stay for the limited purpose of permitting the borrower(s) to apply and enter into agreements for debt servicing relief or dismiss their bankruptcies. Then the borrower must complete and return Form FmHA 1924-26 before FmHA will consider or grant any request for servicing. Until the automatic stay is modified for this purpose or the Chapter 11, 12 or 13 is dismissed, FmHA will not discuss any of the servicing options with either the borrower or the borrower's attorney. If the automatic stay is not modified for the limited purpose set out above or if the bankruptcy case is not dismissed, but the borrower instead files a plan of reorganization which restructures the FmHA debt, FmHA will evaluate the merits of the plan and inform OGC of FmHA's recommendation for voting on the plan. A plan will not be rejected by FmHA simply because it is not consistent with FmHA's loan servicing regulations.

* * * * *

(b) * * *

(2) In all Chapter 11, 12 and 13 cases and in Chapter 7 cases where a substantial recovery can be made, the State Director will take the following actions:

* * * * *

(c) * * *

(3) In Chapter 11, 12 and 13 cases, if liquidation is necessary either while the bankruptcy is pending or after the case is closed, it will be accomplished by sending the borrower Exhibit E to Subpart A of Part 1955 of this chapter and there will be no appeal of the acceleration. If the bankruptcy case is dismissed, see paragraph (c)(2) of this section.

* * * * *

23. § 1962.49 is amended by revising paragraph (e)(4) to read as follows:

§ 1962.49 Civil and criminal cases.

* * * * *

(e) * * *

(4) In all judgment cases, any proposed compromise or adjustment will be handled in accordance with Subpart B of Part 1956 of this chapter.

* * * * *

PART 1965—REAL PROPERTY

24. The authority citation for Part 1965 continues to read as follows:

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

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

25. § 1965.24 is amended by revising paragraph (a) to read as follows:

§ 1965.24 Servicing note-only cases.

* * * * *

(a) Sale of real property on which improvements were made with note-only FmHA funds. Any loan evidenced only by an unsecured note will be collected by voluntary means at the time of the sale of the property, if possible. If collection is not possible, the loan may be assumed by the purchaser of the property on the terms of the note if the assumption is determined to be in the FmHA's best financial interest. If collection or assumption cannot be effected, consideration should be given to settling the account in accordance with Subpart B of Part 1956 of this chapter, if it is eligible, obtaining judgment, or classifying it as collection-only. In case of a judgment sale, the

State Director with the advice of OGC and the U.S. Attorney, will authorize an employee to attend the sale and if appropriate, enter a bid on behalf of the Government under Subpart A of Part 1955 of this chapter.

* * * * *

26. § 1965.26 is amended by revising the introductory text of paragraph (f) and by revising paragraphs (f)(5) and (f)(6) to read as follows:

§ 1965.26 Liquidation action.

* * * * *

(f) *Cash sales.* Before any cash sale, farmer program borrowers must be sent Form FmHA 1924–14. When a cash sale of mortgaged real estate will not result in the secured debts being paid in full, the County Supervisor is authorized to approve the sale for an amount not less than the present market value of the property and release the Government's liens, Provided:

* * * * *

(5) When the debt is not paid in full and a deficiency judgment is not to be obtained, a release of liability of the borrower can be processed:

(i) If the County Committee has recommended release of liability with the following comment on the County Committee Certification:

In our opinion (*Name of Borrower(s) and any co-signer*) does not have reasonable ability to pay all or a substantial part of the balance of the debt owed after the cash sale, taking into consideration his or her assets and income at the time of the conveyance. The borrower has cooperated in good faith, used due diligence to maintain property against loss, and has otherwise fulfilled the covenants incident to the loan to the best of his or her ability. Therefore, we recommend that the borrower and any cosigner be released from personal liability for any balance due on the secured indebtedness upon completion of the transaction.

(ii) Release of liability for the amount of the outstanding debt after a cash sale may be approved when it exceeds $150,000 by the Administrator or designee; otherwise, the State Director may approve the release of liability. All cases requiring a release of liability will be submitted in accordance with Exhibit A of Subpart B of Part 1956 of this chapter (available in any FmHA office).

(6) If a release from liability cannot be granted, the borrower will be sent a letter similar to Exhibit F of Subpart A of Part 1955 of this chapter (available in any FmHA office). The case will be settled under the provisions of Subpart B of Part 1956 of this chapter.

27. § 1965.27 is amended by revising paragraph (a) and by revising the introductory text of paragraph (f) to read as follows:

§ 1965.27 Transfer of real estate security.

* * * * *

(a) *Authority.* County Supervisors, District Directors, and State Directors are authorized to approve initial and subsequent transfers of real estate security to eligible or ineligible transferees, to approve assumptions in accordance with the respective loan approval authorities in Exhibit C of FmHA Instruction 1901–A (available in any FmHA office). When a transfer is not within the County Supervisor or District Director's approval authority, the docket and the transferor's case file will be sent to the District Director, State Director, or the Administrator as appropriate, for approval or disapproval.

* * * * *

(f) *Release of transferor from liability.* The borrower (and any cosigner for an SFH loan) may be released from personal liability when all of the real estate security is transferred under paragraph (c) or (d) of this section and the total outstanding debt or that portion of the debt equal to the present market value of the security is assumed. When the transferor's remaining outstanding FmHA debt after a transfer and assumption exceeds $150,000, the Administrator or designee must approve release of liability; otherwise, the State Director must approve or disapprove the release of liability. All cases requiring a release of liability will be submitted for review in accordance with Exhibit A of Subpart B of Part 1956 of this chapter (available in any FmHA office). When the total outstanding debt is not assumed and a Farmer Program borrower is not being released from liability, the borrower must be sent a letter similar to Exhibit F of Subpart A of Part 1955 of this chapter (available in any FmHA office). When a portion of the real estate is transferred and the total SFH debt is assumed, a release may be granted under paragraph (b)(7) of this section provided that the tranferee is an eligible SFH applicant. When only that portion of the debt equal to the market value of the security is assumed and the borrower is to be released from liability, the transferee must be an eligible SFH applicant in order for the transferor to be released from the liability on the RH debt and the conditions in paragraphs (f) (1) and (2) must be met. If the transferee of the SFH debt is not an eligible RH applicant, any proposed release of the transferor from liability must be submitted to the National Office.

* * * * *

28. § 1965.34 is amended by revising paragraph (c) to read as follows:

§ 1965.34 Non-Program (NP) loans.

* * * * *

(c) *Voluntary conveyance.* Voluntary conveyance of security for NP loans will only be considered when it is clearly in the best interest of the Government. Such actions can only be approved by the State Director and will be processed in accordance with the provisions of Subpart A of Part 1955 of this chapter. Consideration for approval of the release of liability should be submitted to the National Office for settlement pursuant to the Federal Claims Collection Standards, 4 CFR Parts 101 through 105.

* * * * *

Kathleen W. Lawrence,

Under Secretary for Small Community and Rural Development.

Dated: November 24, 1986.

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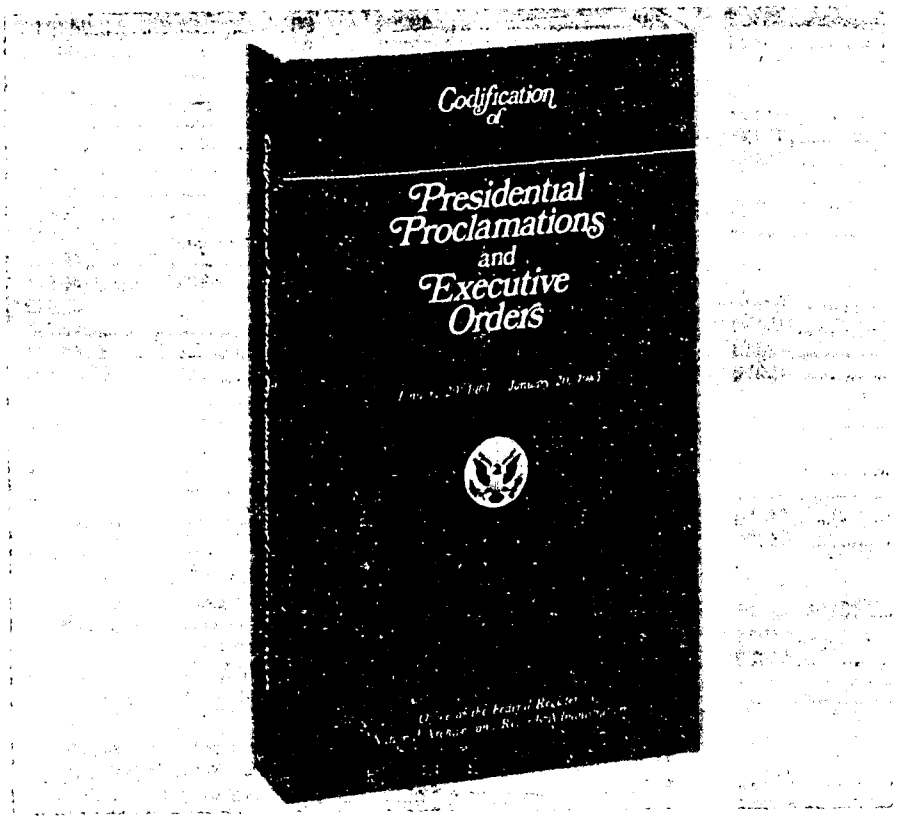

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