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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Part 246

### Special Supplemental Food Program for Women, Infants and Children (WIC): Implementation of Food-Cost-Cutting Systems

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule implements the mandate of section 645 of the Agriculture Appropriations Act of 1989 (Pub. L. 100–460) by requiring State agencies administering the Special Supplemental Food Program for Women, Infants and Children (WIC) to explore the feasibility of and potential for cost savings through implementation of competitive bidding, rebates, home delivery, and direct distribution systems by June 1, 1989. State agencies must take action to implement an initiative in one of these categories through the submission of a State Plan or plan amendment by August 30, 1989, if they determine through their study that it will be cost-effective without interfering with the delivery of nutritious foods to recipients. Those States which have already implemented a food-cost cutting system in any of those categories may, through their feasibility study, find that further action at this time would not be feasible. The Department will issue WIC funding for the final one-twelfth of Fiscal Year 1989 in a conditional Letter of Credit. The State agency will be able to draw down these funds only if it has met the above requirements. Furthermore, the Department will recover all unobligated funds from the Fiscal Year 1989 WIC grants of State agencies which have not, by the above legislatively mandated date, either submitted a feasibility study and State plan setting forth implementation plans or demonstrated in the feasibility study to the satisfaction of FNS that cost-containment action is not cost-effective or feasible.

**DATES:** This rulemaking becomes effective on May 23, 1989. Comments pertaining to the provisions of this interim rule must be received on or before June 23, 1989.

**ADDRESS:** Comments may be mailed to Ronald J. Vogel, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1017, Alexandria, Virginia 22302, (703) 756–3746. All written submissions will be available for public inspection at this address during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Ronald J. Vogel at the above address or at (703) 756–3746.

**SUPPLEMENTARY INFORMATION:**

### Classification

This interim rule has been reviewed under Executive Order 12291, and has been determined not to be major. The Department does not anticipate that this rule will have an impact on the economy of $100 million or more. This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Further, this rule will not have 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.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, the Administrator of the Food and Nutrition Service (FNS) has certified that this interim rule will not have a significant impact on a substantial number of small entities.

The reporting requirements established by this rulemaking will be reviewed by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

The legislative provisions implemented in this rulemaking became effective upon enactment of Pub. L. 100–460, on October 1, 1988. In order to comply with these provisions by the legislatively established date of August 30, 1989, State agencies will need to begin immediately to study the feasibility of implementing and, when implementation is indicated, to begin implementation of one of the four food-cost-cutting initiatives specified by Pub. L. 100–237, namely, competitive bidding, rebates, home delivery, and direct distribution. For this reason, the Administrator of FNS has certified that public comment on this rule and a post-publication waiting period prior to implementation are impracticable and contrary to the public interest, and that, therefore, good cause exists for making this rule effective immediately upon promulgation.

The provisions contained in this rule are all pursuant to mandates of Pub. L. 100–460, and made effective in accordance with legislatively mandated effective dates. For these reasons, prior public comment and publication of this rulemaking not less than 30 days prior to the effective dates are not required under 5 U.S.C. 553. However, the Department believes that the rule may be improved by public comment. In keeping with the timeframe established by Pub. L. 100–460, comments are solicited on these provisions and must be received by June 23, 1989. This schedule should allow sufficient time for the public to make comment and for USDA to analyze the comments received and to effect any necessary revisions in advance of the August 30, 1989, deadline.

This program is listed in the Catalog of Federal Domestic Assistance Programs under 10.557 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule-related notice published June 24, 1983 (48 FR 29114)).

### Legislative Background

Existing WIC Program regulations have always allowed State agencies to develop and implement procedures directed toward achieving reductions in their overall food package costs, so long as such reductions do not affect the overall nutritional integrity of the food packages. Pub. L. 100–237, and regulations published on July 6, 1988 (53

FR 25310), encouraged the implementation of four such initiatives by permitting States to convert a portion of their food cost savings resulting from such initiatives to administrative funds, in order to accommodate the higher caseload levels made possible by these food cost reductions. The initiatives under which funds could be converted were limited by law to competitive bidding, rebates, home delivery, and direct distribution. Pub. L. 100–356, enacted June 28, 1988, further facilitated implementation of these four food-cost-cutting systems through two provisions offering implementing State agencies additional flexibility over the use of funds. First, this legislation permits State agencies to carry over up to the 5 percent of their food grants from each of the first two years of implementation of their systems. Second, Pub. L. 100–356 permits State agencies to convert from food funds to administrative and program services funds whatever amount would be necessary to limit to 2 percent the annual decrease in their administrative grant per participant.

Other management initiatives besides competitive bidding, rebates, home delivery, and direct distribution may also have food-cost-cutting implications. Examples of excluded initiatives are price-based vendor selection systems, breast-feeding promotions, and grants to or on behalf of State WIC Programs from the private sector. It should be noted that these undertakings neither generate authority to convert funds under Public Laws 100–237 and 100–356 nor satisfy the requirements of Pub. L. 100–460 and this rulemaking. Although encouraged to implement such systems by these laws, State agencies have not heretofore been *required* to implement one of the four food-cost-cutting initiatives.

**Mandates of Pub. L. 100–460**

Section 645 of Pub. L. 100–460, enacted October 1, 1988, requires State agencies (a) to explore, by conducting a feasibility study, the potential for reducing their WIC food costs through one of the four specified cost-containment procedures, and if found to be cost-effective, (b) to implement one (or more) of the new procedures by August 30, 1989. Because of its high cost, infant formula is specifically mentioned in the legislation as a likely target for cost reduction savings. The law indicates that the cost of other foods should also be reduced through these systems insofar as is practicable.

FNS has provided guidance on development of the feasibility study. Guidance on development of State Plan amendments addressing implementation of competitive bidding rebates, home delivery, and direct distribution systems has been distributed. Once the feasibility study is completed, States which have determined that a new food-cost-cutting procedure would be effective in their WIC programs must initiate action to implement such steps by August 30, 1989. The law specifies that a State which by this date does not either take the prescribed steps to implement such a system, or demonstrate to FNS that such action is not reasonable or practicable at this time, will not receive a portion of its Fiscal Year 1989 grant. The anticipated inability of a State agency to use all of the savings which would result from a food-cost-cutting system is not an acceptable basis for deciding against implementation of such a system. In the event of noncompliance, a State agency will not receive WIC funding for the month of September 1989, will be required to return any portion of its Fiscal Year 1989 grant not obligated as of August 30, 1989, and will not be eligible to receive any Fiscal Year 1989 funds which may be subsequently reallocated. Stability grants under current funding formulas will not be affected by this penalty in the following fiscal year. For purposes of this rulemaking, "initiate action to implement" means submission of a State Plan or plan amendment addressing the State agency's proposed food-cost-cutting initiative and, if the State agency is initiating a competitive bidding or rebate system, procurement instruments.

The Department endorses State agency efforts to complement infant formula rebate systems with other actions to reduce food package costs. The Department believes it likely that the cost-containment provisions of Pub. L. 100–460, or something similar, will be applied by Congress to Fiscal Year 1990 WIC appropriations. A proposed rule in support of further cost-containment measures is also under consideration.

The provisions of Pub. L. 100–460 have been set forth in a new Section 246.29 at the end of the current regulations. These provisions apply only to funds appropriated for Fiscal Year 1989. As indicated above, it is probable that the requirements of Pub. L. 100–460 implemented in this rule will also appear in the Agriculture Appropriations Act of 1989, in which event the provisions of this rule will be extended through Fiscal Year 1990. Several issues pertinent to the effective implementation of Pub. L. 100–460 are explained below.

*1. Feasibility Study*

All four of the cost-containment methods referenced in Pub. L. 100–460 (competitive bidding, rebates, home delivery, and direct distribution) must be considered in a legislatively mandated feasibility study conducted or updated by each State agency no earlier than October 1, 1988. In view of the relative success in lowering WIC food costs achieved by those State agencies which have already implemented cost-containment procedures, Congress has indicated that States should be required at least to consider the potential benefits of these cost-containment initiatives. Since the law makes no exceptions, the feasibility study requirement is applicable to all State agencies, including those which already have such systems in place. Every State must submit its completed feasibility study to FNS no later than June 1, 1989. The State must justify the FNS in its study why it selected one system or more over the others; why, if it has such a system in place, it has chosen to expand its system and/or initiate further action, or has decided that further action is impracticable; or why implementation of any of the four systems is impracticable. Within 30 days of receipt of a study, FNS will notify the State agency of any deficienceies in its study and will indicate whether it accepts the findings of any State agency which concludes that implementation of a food-cost-cutting system would not be feasible. Thus State agencies will be assured of sufficient time to meet the implementation deadline of August 30, 1989.

Consideration of cost-containment systems cannot be limited to the acquisition of infant formula. The law specifically refers to systems for "acquiring infant formula and, where practicable, other foods." State agencies are encouraged to consider carefully more economical means of securing other items in the WIC food package. If a State agency has determined that its activity will be limited to infant formula, it must explain in its feasibility study why it would not be practicable to initiate cost-containment efforts relative to other foods.

The legislation requires the State to determine whether implementation of a cost cutting procedure would lower costs and enable more eligible persons to be served. Lowering the costs of providing benefits to program participants necessarily enables more eligible persons to be served in the WIC Program nationally. Therefore, the Department is requiring the State to

include in its feasibility study a determination of whether costs can be lowered. This effort must include a financial review of costs and savings.

The legislation also states that lower food costs and higher participation are not to be achieved at the expense of disrupting the State's system for providing benefits to WIC participants. Therefore, costs should not be the only consideration in the feasibility study. Other examples of equally important but less quantifiable criteria to consider are administrative demands affecting staffing levels and other resources, education of participants and vendors on the use of a new system, participant preference for the convenience of transacting WIC food instruments through conventional outlets, and the preferences of the pediatric community. As expressly required in Pub. L. 100-460, States must consider the potential interference of system implementation with the delivery of nutritious foods to participants. Implementing a completely new food delivery system might also entail significant and costly changes to a State's operational structures and administrative systems (i.e., local agency and clinic locations, health care coordination, management information systems, etc.).

For those States already using an infant formula rebate system, the terms of their existing contracts with the formula manufacturer(s) may serve as a deterrent to selecting another cost-containment system. In such cases, any direct increases to be achieved in food-cost savings through further action may not justify or may be offset by the necessary additional complications and costs to the State's methods for providing benefits to participants.

The Department does not believe that Congress intended Pub. L. 100-460 to create an undue administrative hardship for States. Thus, the Department neither requires nor expects elaborate and extensive feasibility research from every State agency. As previously indicated, State agencies with cost containment systems currently in place may find, and be able to demonstrate readily, that the marginal additional direct savings possible through further action do not justify the costs and disruptive effects of implementation. Such States should present this rationale in their studies. States without a system currently in place, but which intend to implement one of the four, should find a straightforward justification of the cost-containment system selected to be sufficient. A State agency wishing, for example, to implement an infant formula competitive bidding system may reasonably justify its decision on the basis of the successful formula rebate systems already implemented by numerous other States. However, the Department would expect a fully detailed feasibility study from any State agency which does not currently have one of the specified food-cost-cutting systems in place but has concluded that it is infeasible or would not be in the best interests of the State's WIC Program to implement one. In such cases, a State must demonstrate to FNS that its decision is not an arbitrary one, but is based in good faith on due consideration of all cost-containment options, including contacts with prospective contract suppliers of WIC foods. Such a State might document, for example, that telephone calls and/or a public hearing to gauge interest in the competitive procurement of infant formula or other WIC foods were unproductive; that no commercial or State-owned warehouse space is available from which WIC foods could be distributed; and that home delivery by local dairy suppliers is prohibitively expensive, or that none of the local dairies are interested in contracting for a home delivery service.

All of the specified food-cost-cutting initatives are dependent on business relationships; as such, they are all subject to market forces, such as the level of interest by infant formula manufacturers in bidding on a given contract. State agencies serving a small number of participants, including Indian State agencies, may not be able to interest businesses in providing an appreciable discount or price concession simply because such arrangements would not be profitable given the State agency's low purchase volume.

A State agency which is not likely to be able to implement a cost-containment system may wish to establish formal contact with prospective contractors regarding the most promising system (as identified through analysis to be included in the feasibility study) *before* submitting its feasibility study. In the event that the response from contractors contraindicates operation of the system, the State agency can document this fact in its feasibility study, requesting FNS approval of its finding that implementation would be impracticable. This approach could save States unlikely to implement such a system the additional effort of addressing their system of choice in their State Plans or in plan amendments only to discover later that the system cannot be activated for reasons beyond the States' control. Documentation that a State agency cannot be expected to implement a system might include, for example, a publicly advertised request for proposals or copies of letters of inquiry to infant formula companies about their receptiveness to a rebate system together with an indication of no response or negative responses.

*2. Implementation*

Pub. L. 100-460 mandates that State agencies initiate action to implement a cost-containment system by August 30, 1989, for State agencies whose feasibility studies indicate that food cost savings can realistically be expected from a cost-containment initiative without undue disruption of benefit delivery. For the purposes of this rulemaking, "initiate action to implement" means the submission of a State plan or plan amendment and, if the State agency is implementing a competitive bidding or rebate system, a procurement plan or instrument, e.g., a Request for Proposal, to FNS for review and comment. Such documents must be submitted to FNS by August 30, 1989. States with cost-containment systems already in place, and whose feasibility studies have documented that expansion of the current system or implementation of a new system would not be practicable at this time, should include in their State plans for Fiscal Year 1990 a description of their current system as is routinely required. State agencies with existing systems need not submit an amendment to their previous State Plans and procurement instruments in order to comply with the provisions of this rulemaking unless significant alterations to the existing food-cost-cutting system are anticipated. The law authorizes the Department to grant extensions for implementation on a case-by-case basis, as necessary. The authority to grant such extensions applies only to the initiation of implementation of a selected system after the feasibility study has been completed, and not to the feasibility study itself.

Most State agencies which do not have one of the four specified systems in place will conclude through the feasibility study that they should implement such a system. The requirement under this rulemaking to initiate action to implement a cost-containment procedure will have been fulfilled when State agencies have submitted timely feasibility studies, State Plans or plan amendments, and, if implementing a competitive bidding or rebate system, procurement instruments.

The Department intends to monitor States' progress toward making their food cost-containment systems fully

operational in the coming fiscal year, in accordance with their State Plans or plan amendments as submitted pursuant to this rulemaking.

*3. Funding Considerations*

Pub. L. 100–460 requires that State agencies which are found to be out of compliance with the feasibility study and implementation requirements must not be fully funded for Fiscal Year 1989. The legislation states that none of the funds appropriated for the WIC Program by Pub. L. 100–460 may be used by a State which has been determined not to have met these requirements as of August 30, 1989. However, by the time this deadline has been reached, almost all of Fiscal Year 1989 will have passed and thus WIC food and administrative and program services funds received by the States for the fiscal year will for the most part have been disbursed or obligated by the State agency in the legitimate and proper delivery of benefits to low-income women, infants and children. Recovery of any portion of funds which have already been expended or obligated would conflict with the purpose of this legislation, which is to increase service to this same population.

Therefore, the Department will issue WIC funding for the final one-twelfth of Fiscal Year 1989 in a conditional Letter of Credit. The State agency will be able to draw down these funds only if it is determined by FNS to be in compliance with the feasibility study and/or implementation requirements of Pub. L. 100–460 as of August 30, 1989. Any WIC funds already received by the State for Fiscal Year 1989 which remain unobligated as of this date will be recovered by FNS from any non-compliant State. Furthermore, such States will not be eligible to receive any Fiscal Year 1989 funds which may be reallocated in the following month. The Department believes that this procedure places appropriately strong emphasis on the need for food-cost-cutting initiatives in the WIC Program without putting State program operations—and the women, infants, and children they serve—at prohibitively great risk.

**List of Subjects in 7 CFR Part 246**

Food assistance programs, Food donations, Grant programs—Social programs, Infants and children, Maternal and child health, Nutrition education, Public assistance programs, WIC, Women.

For reasons set forth in the preamble, 7 CFR Part 246 is amended as follows:

## PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

1. The authority citation for Part 246 is revised to read as follows:

**Authority:** Sec. 645, Pub. L. 100–460, 102 Stat. 2229 (42 U.S.C. 1786); secs. 212 and 501, Pub. L. 100–435, 102 Stat. 1645 (42 U.S.C. 1786); sec. 3, Pub. L. 100–356, 102 Stat. 669 (42 U.S.C. 1786); secs. 8–12, Pub. L. 100–237, 101 Stat. 1733 (42 U.S.C. 1786); secs. 341–353, Pub. L. 99–500 and 99–591, 101 Stat. 1783 and 3341 (42 U.S.C. 1786); sec. 3, Pub. L. 95–627, 92 Stat. 3611 (42 U.S.C. 1786); sec. 203, Pub. L. 96–499, 94 Stat. 2599 (42 U.S.C. 1786); sec. 815, Pub. L. 97–35, 95 Stat. 521 (42 U.S.C. 1786).

2. A new § 246.29 is added to read as follows:

**§ 246.29 Implementation of cost containment systems in fiscal year 1989.**

(a) *General.* The following requirements shall apply only to WIC funds appropriated for Fiscal Year 1989.

(b) *Feasibility study.* Each State agency shall submit for FNS review and approval by June 1, 1989, a study conducted or updated no earlier than October 1, 1988, of the feasibility of competitive bidding, rebates, home delivery, and direct distribution as methods of acquiring infant formula and, where practicable, other supplemental foods. Such study shall address, at a minimum, the cost-effectiveness of such systems and their potential for achieving savings without disrupting the delivery of benefits to participants. The State agency shall indicate in its study why, if it has no such system in place, it has decided to implement a particular system or systems, or determined that implementation of any such system would be impracticable; or why, if it has such a system in place, it considers further action either practicable or impracticable. Within 30 days of receipt of each feasibility study, FNS will notify the State agency of any deficiencies in the study, and will indicate whether it accepts the State agency's findings.

(c) *Implementation.* State agencies whose feasibility studies either indicate that food cost savings can realistically be achieved through one of the four specified cost-containment initiatives or do not sufficiently demonstrate to FNS that implementation of such a system would be impracticable shall initiate implementation of a system by submitting a State plan or plan amendment, and, if the State agency is initiativing a competitive bidding or rebate system, a proposed procurement instrument, to FNS not later than August 30, 1989. At the discretion of FNS, extensions beyond this date may be granted on a case-by-case basis for submission of the State Plan amendment and applicable accompanying documents.

(d) *Funding implications.* Failure of a State agency to comply with the provisions of paragraph (c) of this section, unless an extension has been granted by FNS, will affect the State agency's Fiscal Year 1989 program funding as follows:

(1) FNS will not allow the State agency to draw down the final one-twelfth of its Fiscal Year 1989 food and administrative and program services grants;

(2) FNS will recover any previously allocated Fiscal Year 1989 grant funds which the State agency has not obligated as of August 30, 1989; and

(3) The State agency will be excluded from any allocation of Fiscal Year 1989 funds which may take place in September 1989.

Date: May 17, 1989.

**G. Scott Dunn,**

*Acting Administrator, Food and Nutrition Service.*

[FR Doc. 89–12308 Filed 5–22–89; 8:45 am]

BILLING CODE 3410-30-M

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## DEPARTMENT OF LABOR

## Employment and Training Administration

## 20 CFR Part 617

**RIN 1205—AA61**

## Trade Adjustment Assistance for Workers

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, without change, the definition of the term "justifiable cause" as a reason for excusing adversely affected workers from participating in a job search program as is required under the 1986 Amendments to the trade adjustment assistance program. The definition was published as an interim final rule, with a request for comments, and became effective on September 23, 1988. Three printing errors in Part 617 are also corrected in this document.

**EFFECTIVE DATE:** September 23, 1988.

**FOR FURTHER INFORMATION CONTACT:** Glenn M. Zech, Deputy Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, NW., Washington,

DC 20213; telephone: (202) 376-2646 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:** Extensive amendments to the trade adjustment assistance program for workers were made in the "Trade Adjustment Assistance Reform and Extension Act of 1986" which was contained in the Consolidated Omnibus Budget Reconciliation Act of 1985 (the "1986 Amendments"). Among the 1986 Amendments was a new requirement that adversely affected workers filing claims for trade readjustment allowances must participate in a job search program as defined in the amendments, and that a worker who, without justifiable cause, failed to begin participation in, or ceased to participate before completing, a job search program would be ineligible for trade readjustment allowances.

A proposed rule for implementing the 1986 Amendments, including the job search program requirement, was published in the **Federal Register** on October 22, 1987, at 52 FR 39586. A commenter on the proposed rule noted that a definition of the term "justifiable cause" was not included in the proposal. The final rule, which included a definition of "justifiable cause" for the purposes of the job search program requirement, was published on August 24, 1988, effective September 23, 1988, at 53 FR 32344, with a post-publication comment period on the definition of "justifiable cause" ending on September 23, 1988.

No comment was received on the definition of "justifiable cause". Accordingly, the definition of "justifiable cause" is adopted as a final rule without change. As noted in the final rule published on August 24, 1988, this definition of "justifiable cause" became effective on September 23, 1988.

One printing error is corrected in 20 CFR 617.14(a)(2), as it appeared in the final rule of the 1986 Amendments which was published on August 24, 1988, at 53 FR 32349. The word "subtracted" in the last sentence of paragraph (a)(2) of § 617.14 is correctly printed in this document.

With this document the Department also is correcting two printing errors in 20 CFR 617.55, as they appeared in the final rule of the 1981 Amendments which was published on December 22, 1986, at 51 FR 45840, 45861. As published at page 45861, paragraphs (a)(3) and (a)(4)(i) of § 617.55 are shown as subclauses of paragraph (a)(2)(ii)(C) of such section. The references are redesignated in this document.

### Drafting Information

This document was prepared under the direction and control of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street NW., Washington, DC 20213: telephone: (202) 376-2646 (this is not a toll-free number).

### Classification—Executive Order 12291

The final rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

### Paperwork Reduction Act

This rule is not subject to section 3504(b) of the Paperwork Reduction Act since it does not contain a collection of information request.

### Regulatory Flexibility Act

No regulatory flexibility analysis is required where the rule "will not * * * have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b). The definition of the term "small entity" under 5 U.S.C. 601(6) does not include States. Since these regulations involve an entitlement program administered by the States, and are directed to the States, no regulatory flexibility analysis is required. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

### Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance at No. 17.245, "Trade Adjustment Assistance—Workers."

### List of Subjects in 20 CFR Part 617

Job search assistance, Labor, Reemployment services, Relocation assistance, Trade readjustment allowances, Unemployment compensation, Vocational education.

### Words of Issuance

For the reasons set out in the preamble, Part 617 of Title 20, Code of Federal Regulations, is amended as follows.

## PART 617—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT OF 1974

1. The authority citation for Part 617 continues to read as follows:

**Authority:** 19 U.S.C. 2320; Secretary's Order No. 3-81, 46 FR 31117.

2. The last sentence of paragraph (a)(2) of § 617.14 is revised to read as follows:

**§ 617.14 Maximum amount of TRA.**

(a) *General Rule.* * * *

(2) * * * The individual's full entitlement shall be subtracted under this paragraph, without regard to the amount, if any, that was actually paid to the individual with respect to such benefit period.

* * * * *

3. The last sentence of paragraph (a)(3) of § 617.49 is republished to read as follows:

**§ 617.49 Job Search Program.**

(a) *Program requirements.* * * *

(3) * * *. For purposes of this paragraph (a)(3), justifiable cause means such reasons as would justify an individual's conduct when measured by conduct expected of a reasonable individual in like circumstances, including but not limited to reasons beyond the individual's control and reasons related to the individual's capability to enroll in an approved JSP or complete the JSP.

* * * * *

**§ 617.55 [Amended]**

4. The designations in § 617.55(a), which were published December 22, 1986 at 51 FR 45861 and 20 CFR Part 617 as §§ 617.55(a)(2)(ii)(C)(*3*) and (*4*)(*i*), are redesignated as §§ 617.55(a)(3) and (4)(i), respectively.

Signed at Washington DC, on May 5, 1989.

**Roberts T. Jones,**

*Assistant Secretary of Labor.*

[FR Doc. 89-12338 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 5 and 520

### Delegations of Authority and Organization, Center for Devices and Radiological Health (CDRH); Oral Dosage Form New Animal Drugs Not Subject to Certification; Sulfamethazine Sustained-Release Boluses; Corrections

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule; corrections.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting the final rule that amended the regulations for delegations of authority relating to responses to citizen petitions under Part 10 (54 FR 14796; April 13, 1989). The title for Ronald G. Chesemore, the authorized official who signed the document, was typed incompletely as "Acting Commissioner for Regulatory Affairs." This document corrects that inadvertent error to add the word "Associate" before the word "Commissioner" in the title. In addition, FDA is correcting the final rule that amended the animal drug regulations to reflect approval of a supplemental new animal drug application filed by Fermenta Animal Health Co. (54 FR 14340; April 11, 1989). The title for Robert C. Livingston, the authorized official who signed the document, was typed incompletely as "Office of New Animal Drug Evaluation Center for Veterinary Medicine." This document corrects that inadvertent error to add the words "Deputy Director" before the word "Office" in the title.

**EFFECTIVE DATES:** The effective date for the amendment to 21 CFR Part 5 continues to be April 13, 1989. The effective date for the amendment to 21 CFR Part 520 continues to be April 11, 1989.

**FOR FURTHER INFORMATION CONTACT:** T. Rada Proehl, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

**SUPPLEMENTARY INFORMATION:** The following corrections are made:

1. In FR Doc. 89-8654, appearing at page 14796 in the **Federal Register** of Thursday, April 13, 1989, the following correction should be made: On page 14797, first column, at the end of the document, Ronald G. Chesemore's title is corrected to read "Acting Associate Commissioner for Regulatory Affairs".

2. In FR Doc. 89-8477, appearing at page 14340, in the **Federal Register** of Tuesday, April 11, 1989, the following correction should be made: On page 14341, second column, at the end of the document, Robert C. Livingston's title is corrected to read "Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine".

Dated: May 17, 1989.

**John M. Taylor,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 89-12286 Filed 5-22-89; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF EDUCATION

### Office of Elementary and Secondary Education

### 34 CFR Part 212

### Even Start

**AGENCY:** Department of Education.

**ACTION:** Notice of availability of document entitled "Even Start Questions and Answers".

**SUMMARY:** The Secretary of the U.S. Department of Education announces the availability of a document containing questions and answers concerning the new Even Start discretionary grant program.

**SUPPLEMENTARY INFORMATION:** Even Start is a new family-centered, home-based program that combines adult literacy, parent education, and early childhood education. Final regulations and a notice inviting applications were published on March 23, 1989 (54 FR 12138). Because the program is new, local educational agencies (LEAs) preparing Even Start applications may have questions. In an attempt to assist LEAs, the Parents in Education Center, funded through Chapter 1, has prepared a list of questions and answers. The list is intended as an aid in understanding the purposes and requirements of the Even Start program. While the document may be helpful to applicants, it has no legal effect beyond the statute and regulations for this program.

TO ORDER: Copies of "Even Start Questions and Answers" can be ordered from the appropriate regional Chapter 1 Technical Assistance Center, as follows:

*Region A:* CT, ME, MA, NH, NJ, PR, RI, VT RMC Research Corporation, Hampton, NH, 1-800-258-0802

*Region B:* DE, DC, IN, KY, MD, MI, OH, PA, WV Advanced Technology, Indianapolis, IN, 1-800-456-2380

*Region C:* AL, FL, GA, MS, NC, SC, TN, VA Educational Testing Service, Atlanta, GA, 404-524-4501

*Region D:* IL, IA, MN, MO, ND, NE, SD, WI Research & Training Associates, Overland Park, KS, 913-451-8117

*Region E:* AR, AZ, CO, LA, KS, NM, OK, TX, UT RMC Research Corporation, Denver, CO, 1-800-922-3636

*Region F:* AK, CA, HI, ID, MT, NV, OR, WA, WY RMC Research Corporation, Mountain View, CA, 1-800-451-4407

**FOR FURTHER INFORMATION CONTACT:** Thomas W. Fagan, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732-4682.

Dated: May 18, 1989.

**Lauro F. Cavazos,**

*Secretary of Education.*

(Catalog of Federal Domestic Assistance No. 84.213, Even Start)

[FR Doc. 89-12355 Filed 5-22-89; 8:45 am]

BILLING CODE 4000-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-3570-8]

### Wisconsin; Final Authorization of State Hazardous Waste Management Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule on application of Wisconsin for program revision.

**SUMMARY:** Wisconsin has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The United States Environmental Protection Agency (U.S. EPA) has reviewed Wisconsin's application and has reached a decision that Wisconsin's hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, U.S. EPA is granting final authorization to Wisconsin to operate its expanded program, subject to authority retained by U.S. EPA under the Hazardous and Solid Waste Amendments of 1984.

**EFFECTIVE DATE:** Final authorization for Wisconsin shall be effective at 1:00 p.m., on June 6, 1989.

**FOR FURTHER INFORMATION CONTACT:** Brian Barwick, Wisconsin Regulatory Specialist, U.S. Environmental Protection Agency, Region V, Waste Management Division, Office of RCRA, Program Management Branch,

Regulatory Development Section, 5HR-JCK-13, 230 South Dearborn, Chicago, Illinois 60604, (312) 886-6085, FTS 8-886-6085.

**SUPPLEMENTARY INFORMATION:**.

## A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is at least equivalent to, and consistent with, 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) allow States to revise their programs to become substantially equivalent to RCRA requirements promulgated under HSWA authority. A State exercising this option receives "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later applies 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 necessary because of changes to U.S. EPA's regulations in 40 CFR Parts 260-268 and 124 and 270.

## B. Wisconsin

Wisconsin initially received final authorization on January 31, 1986. On June 30, 1987, and July 23, 1987, Wisconsin submitted program revision applications for additional program approvals. On September 21, 1987, U.S. EPA published a proposal to approve Wisconsin's program revision applications in accordance with 40 CFR 271.21(b)(4).

U.S. EPA has reviewed Wisconsin's applications and has made a final decision that Wisconsin's hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. U.S. EPA received one comment during the public comment period which began September 21, 1987, and ended October 21, 1987. That comment endorsed U.S. EPA's proposal to approve Wisconsin's program revision applications. Consequently, U.S. EPA is granting final authorization for the additional program modifications to Wisconsin.

The September 21, 1987, proposal explained that approval of Wisconsin's program revision applications was contingent on the signing by the Secretary of the Wisconsin Department of Natural Resources (WDNR) of certain regulations in substantially the same form as they were approved and adopted by the Natural Resources Board (NRB). The Secretary of the WDNR signed those regulations in the same form as approved and adopted by the NRB. The regulations became effective in Wisconsin on April 1, 1988.

Wisconsin will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following provisions of the Federal program:

| Federal Provision | Analogous State Provision |
|---|---|
| Interim Status Standards Applicability (49 FR, 46095, November 21, 1984) | Wisconsin Administrative Code, sections NR 181: .42 and .53 (effective April 1, 1988). |
| Definition of Solid Waste (50 FR, 614, January 4, 1985) | Wisconsin Statutes, sections 144: .01 (4)(m); .01(5); .01(15); .61(3); and, .61(10) (1985-86); Wisconsin Administrative Code, sections NR 181: .04(6r); .04(22); .04(51); .04(52m); .04(61g); 04(78g); .04(78r); .04(93); .04(98); .12; .16; .17; .19; .415(2); .42(1)(a)7; .43; .45(1); .46(1); and, .46(5) (effective April 1, 1988). |
| Availability of Information (Section 3006(f) of RCRA, 42 U.S.C. 6926(f)) | Wisconsin Statutes, sections 19: .32(2); .35(3); .35(4); .36; .37(1); and, .37(2) (1985-86); Wisconsin Statutes, sections 144: .431(1); .431(2)(d); .433; and .70 (1985-86); Wisconsin Administrative Code, sections NR 2: .19; .195(1); and, .195(5) (effective April 1, 1984). |
| State regulatory revisions analogous to 40 CFR Part 124 as required by 40 CFR 271.14(t)-(aa) | Wisconsin Statutes, sections 19: .32(2) and, 32(5) (1985-86); Wisconsin Statutes, sections 144: .44(4m) and, .645 (1985-86); Wisconsin Statutes, section 227.51 (1985-86); Wisconsin Administrative Code, sections NR 181: .55(2) and, .56 (effective April 1, 1988). |

The September 21, 1987, proposal includes a detailed discussion of the revisions for which U.S. EPA is granting Wisconsin final authorization. (52 FR, 35453, September 21, 1987).

U.S. EPA will suspend issuance of any further permits under the RCRA provisions covered by this authorization on June 6, 1989, the effective date of authorization for Wisconsin's program revisions. However, U.S. EPA will administer hazardous waste permits, or portions of permits, that it issued under these provisions before June 6, 1989. U.S. EPA previously suspended issuance of permits for other provisions on January 30, 1986, the effective date of authorization for Wisconsin's base RCRA program.

Wisconsin is not authorized to operate the Federal program on Indian lands. This authority remains with U.S. EPA.

## C. Effect of HSWA on Wisconsin's Authorization

Before the Hazardous and Solid Waste Amendments, a State with Final authorization administered its hazardous waste program instead of, or entirely in lieu of, the Federal program. Except for enforcement provisions, the Federal requirements no longer applied in the authorized State, and U.S. EPA could not issue permits for any facilities the State was authorized to permit. When new more stringent Federal requirements were promulgated or enacted, the State was obligated to obtain equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6926(g), new HSWA requirements and prohibitions take effect in authorized States at the same time as they take effect in non-authorized States. U.S. EPA carries out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until U.S. EPA grants the State authorization to do so. States must still adopt HSWA-related provisions as State law to retain final authorization. Meanwhile, the HSWA provisions apply in authorized States.

As a result of the HSWA, there is a dual State/Federal regulatory program in Wisconsin. To the extent HSWA does not affect the authorized State program, the State program will operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, U.S. EPA will administer and enforce those HSWA requirements in Wisconsin until the State is authorized to do so. Among other things, this will entail the issuance of Federal RCRA permits for those HSWA requirements for which the State is not yet authorized.

Once U.S. EPA authorizes the State to carry out a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision or prohibition. Until that time, the State may assist U.S. EPA's

implementation of the HSWA under a Cooperative Agreement.

Today's rulemaking includes authorization of Wisconsin's program for one HSWA requirement; Availability of Information (section 3006(f) of RCRA, 42 U.S.C. 6926(f)) which is a HSWA requirement. Any State requirement that is more stringent than a Federal HSWA provision will remain in effect; thus, regulated handlers must comply with any more stringent State requirements. U.S. EPA published a **Federal Register** notice explaining in detail the HSWA and its affect on authorized States (50 FR, 28702-28755, July 15, 1985).

### D. Decision

I conclude that Wisconsin's program revision applications meet all the RCRA statutory and regulatory requirements. Accordingly, U.S. EPA grants Wisconsin final authorization to operate its hazardous waste program as revised. Wisconsin now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program. This responsibility is subject to the limitations of its program revision applications and previously approved authorities. Wisconsin also has primary enforcement responsibilities, although U.S. 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.

### E. Codification in Part 272

On February 21, 1989, U.S. EPA published a **Federal Register** notice which codified the Wisconsin hazardous waste program that was in effect when U.S. EPA granted Wisconsin final authorization (see 54 FR 7422). One of the reasons U.S. EPA codified Wisconsin's hazardous waste program was to provide the public with notice of the scope of Wisconsin's authorized program. In a future **Federal Register** notice, U.S. EPA will codify Wisconsin's revised hazardous waste program. In the interim, U.S. EPA intends that the table in PART B of this **Federal Register** will serve as notice to the public of the scope of the revisions to the previously codified Wisconsin program.

### Compliance With Executive Order 12291

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

### Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 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 Wisconsin's program thereby eliminating duplicate 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.

### Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

### List of Subjects in 40 CFR Part 271

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

**Authority:** This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, and 6974(b)).

Dated: April 19, 1989.

**Valdas V. Adamkus,**

*Regional Administrator.*

[FR Doc. 89-12323 Filed 5-22-89; 8:45 am]

BILLING CODE 6560-50-M

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 88-416; RM-6426]**

### Radio Broadcasting Services; Pearson, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 270A to Pearson, Georgia, as that community's first local FM service, at the request of Albert E. Harper d/b/a/ Harper Broadcasting. Channel 270A can be allotted to Pearson in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.5 kilometers (1.6 miles) west to avoid a short-spacing to Station WZAT(FM), Channel 271C, Savannah, Georgia. The coordinates for this allotment are North Latitude 31-17-38 and West Longitude 82-52-51. With this action, this proceeding is terminated.

**DATES:** Effective June 29, 1989. The window period for filing applications will open on June 30, 1989, and close on July 31, 1989.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 88-416, adopted May 3, 1989, and released May 15, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

### PART 73—[AMENDED]

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments is amended by adding Pearson, Georgia, Channel 270A.

**Karl A. Kensinger,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-12238 Filed 5-22-89; 8:45 am]

BILLING CODE 6712-01-M

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### 47 CFR Part 73

**[MM Docket No. 88-436; RM-6359]**

### Radio Broadcasting Services; Valdosta, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 244C2 for Channel 244A at Valdosta, Georgia, and modifies the license of Station WZLS(FM) to specify operation on the higher class co-channel, as requested by Multi-Media Broadcasting, Inc. Channel 244C2 can be allotted to Valdosta in compliance with the Commission's minimum distance

separation requirements with a site restriction. The coordinates for this allotment are North Latitude 30-53-12 and West Longitude 83-23-36. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** June 29, 1989.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 88-436, adopted May 3, 1989, and released May 15, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

## PART 73—[AMENDED]

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments for Valdosta, Georgia, is amended by removing Channel 244A and adding Channel 244C2.

**Karl A. Kensinger,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-12240 Filed 5-22-89; 8:45 am]

BILLING CODE 6712-01-M

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## 47 CFR Part 73

**[MM Docket No. 87-294; RM-5733]**

## Radio Broadcasting Services; Jefferson City and Vandalia, MO

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes FM Channel 261C2 for Channel 261A at Jefferson City, Missouri, and modifies the license of Station KJMO-FM. This action is taken in response to a petition filed by Triple D. Properties. The coordinates for Channel 261C2 at Jefferson City are 38-28-35 and 92-20-19 which include a site restriction 18.3 kilometers southwest of the community. To accommodate the upgrade at Jefferson City, it is necessary to make a substitution in Vandalia, Missouri. Channel 282A can be substituted for Channel 261A at Vandalia at the current site of Station KLRK. The coordinates for Channel 282A at Vandalia are 39-19-00 and 91-28-22. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** June 29, 1989.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 87-294, adopted May 3, 1989, and released May 15, 1989. 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 30037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

## PART 73—[AMENDED]

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

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

**§ 73.202 [Amended]**

2. In § 73.202(b), the Table of FM Allotments, is amended under Missouri, by removing Channel 261A and adding Channel 261C2 at Jefferson City and by removing Channel 261A and adding Channel 282A at Vandalia.

Federal Communications Commission,

**Karl Kensinger,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-12239 Filed 5-22-89; 8:45 am]

BILLING CODE 6712-01-M

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## 47 CFR Part 73

**[MM Docket No. 88-356; RM-6324]**

## Radio Broadcasting Services; Dahlonega, GA and Murphy, NC

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 282A at Dahlonega, Georgia as that community's first local FM service, at the request of Andrews Broadcasting Company. Channel 282A can be allotted to Dahlonega in compliance with the minimum distance separation requirements with a site restriction of 8 kilometers (5 miles) northwest of the city to avoid short-spacing to Station WBBQ(FM), Channel 282C, Augusta, Georgia. The coordinates for this allotment are 34-35-06 and 84-02-37. In addition, the Commission substitutes Channel 274A for Channel 282A at Murphy, North Carolina, and modifies the construction permit of Station WCNG to specify Channel 274A. Channel 274A can be allotted to Murphy in compliance with the Commission's minimum distance separation requirements and can be used at Station WCNG's present construction permit site. The coordinates for this allotment are 35-07-12 and 84-02-06. With this action, this proceeding is terminated.

**DATES:** Effective June 29, 1989; The window period for filing applications for Channel 282A at Dahlonega, Georgia will open on June 30, 1989, and close on July 31, 1988.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 88-356, adopted May 3, 1989, and released May 15, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

## PART 73—[AMENDED]

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments is amended by adding Dahlonega, Georgia, Channel 282A, and by removing Channel 282A at Murphy, North Carolina, and adding Channel 274A.

**Karl A. Kensinger,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-12241 Filed 5-22-89; 8:45 am]

BILLING CODE 6712-01-M

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1, 3, 4, 9, 15, 37, 43, and 52**

**[Federal Acquisition Circular 84-47]**

## Federal Acquisition Regulation (FAR); Procurement Integrity; Delay of Effective Date and Correction

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Delay of effective date of interim rule and correction.

**SUMMARY:** This document extends to July 16, 1989, the effective date of Federal Acquisition Circular (FAC) 84-47 published in the **Federal Register** on Thursday, May 11, 1989 (54 FR 20488) and the correction published on Tuesday, May 16, 1989 (54 FR 21066). Pub. L. 101-28, dated May 15, 1989, delayed to July 16, 1989, the implementation date of sec. 6 of the OFPP Act Amendments of 1988.

**EFFECTIVE DATE:** The effective date has been delayed to July 16, 1989.

**FOR FURTHER INFORMATION CONTACT:** Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755. Please cite FAC 84-47.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 89-11472, published May 11, 1989, remove the date "May 16, 1989" and insert "July 16, 1989" in subsection 3.104-2, in 3.104-4(c)(3) and (d), four places in 3.104-9, in the provision at 52.203-8, and in the clause 52.203-9.

In FR Doc. 89-11770, published May 16, 1989, in the FAC Item description, Procurement Integrity, remove the last three paragraphs of the FAC Item description and insert in their place the following: "Except as provided herein with respect to sealed bid procurements, all requirements of this interim rule apply to all contracts awarded, or contract modifications executed, on or after July 16, 1989. For a sealed bid, if bids have been opened and award is not made before July 16, 1989, the clauses at 52.203-9 and 52.203-10 are not required to be included in any resultant contract at time of contract award. However, the certificates required by 3.104-9 and 52.203-8 must still be obtained prior to contract award, and the clause at 52.237-9, where applicable, must still be incorporated into any contract awarded on or after July 16, 1989."

*For the Department of Defense only:* Where the date set for receipt of best and final offers has passed, the obtaining of a second or subsequent best and final offer solely for compliance with this rule does not require the special approvals required by DFARS 215.611.

**List of Subjects in 48 CFR Parts 1, 3, 4, 9, 15, 37, 43, and 52**

Government procurement.

Dated: May 18, 1989.

**Harry S. Rosinski,**

*Acting Director, Office of Federal Acquisition and Regulatory Policy.*

Therefore, 48 CFR Parts 3 and 52 are amended as set forth below:

### PARTS 3 AND 52—[AMENDED]

1. The authority citation for 48 CFR Parts 3 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

**3.104-2, 3.104-4, 3.104-9, 52.203-8, 52.203-9 [Amended]**

2. In the locations listed below, remove "May 16, 1989" and insert in each place "July 16, 1989":

3.104-2
3.104-4(c)(3)
3.104-4(d)
3.104-9(a) in two places
3.104-9(b)(iii)
3.104-9(c)(2) in the certificate in the footnote to paragraph (i)
52.203-8(b) in the provision in the footnote to paragraph (1)
52.203-9(c) in the clause in the footnote to paragraph (1)

[FR Doc. 89-12391 Filed 5-22-89; 8:45 am]

BILLING CODE 6820-JC-M

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**48 CFR Parts 201, 203, and 208**

## Department of Defense Federal Acquisition Regulation Supplement; Procurement Integrity

**AGENCY:** Department of Defense (DOD).

**ACTION:** Final rule; effective date.

**SUMMARY:** The purpose of this document is to establish the new effective date of the final rule on Procurement Integrity.

**EFFECTIVE DATE:** July 16, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7266.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The Department of Defense issued a final rule in the **Federal Register** on May 16, 1989 (54 FR 21067), revising the proposed rule on Procurement Integrity, published at 54 FR 12566. The effective date of the final rule is hereby changed to July 16, 1989, to accommodate Pub. L. 101-28, which delayed the effective date of section 6(b) of the Office of Federal Procurement Policy Act Amendments of 1988 (Pub. L. 100-679) until July 16, 1989.

**Charles W. Lloyd,**

*Executive Secretary, Defense Acquisition Regulatory Council.*

[FR Doc. 89-12266 Filed 5-22-89; 8:45 am]

BILLING CODE 3810-01-M

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**48 CFR Parts 225 and 252**

## Department of Defense Federal Acquisition Regulation Supplement; Restriction on Procurement From Toshiba Corp. and Kongsberg Vapenfabrikk

**AGENCY:** Department of Defense.

**ACTION:** Cancellation of interim rule.

**SUMMARY:** Coverage on the Restriction on Procurement from Toshiba Corporation and from Kongsberg Vapenfabrikk was published in the **Federal Register** as an interim rule on March 21, 1988 (53 FR 9118) and corrected on March 30, 1988 (53 FR 10250). That coverage is hereby canceled as the coverage now appears in the Federal Acquisition Regulation (FAC 84-46, 54 FR 19812).

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7266.

**List of Subjects in 48 CFR Parts 225 and 252**

Government procurement.

**Charles W. Lloyd,**

*Executive Secretary, Defense Acquisition Regulatory Council.*

Accordingly, 48 CFR Parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35, and DOD FAR Supplement 201.301.

### PART 225—FOREIGN ACQUISITION

**225.7011 [Removed and Reserved]**

2. Section 225.7011 is removed and the section marked [Reserved].

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

**252.225-7026 and 252.225-7027 [Removed and Reserved]**

3. Sections 252.225-7026 and 252.225-7027 are removed and the sections marked [Reserved].

[FR Doc. 89-12267 Filed 5-22-89; 8:45 am]

BILLING CODE 3810-01-M

## 48 CFR Part 247

**[Defense Acquisition Circular (DAC) 88-6]**

## Department of Defense Federal Acquisition Regulation Supplement; Regulatory and Miscellaneous Amendments

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rules and interim rules as indicated; correction.

**SUMMARY:** This document corrects an interim rule on ocean transportation by U.S.-Flag vessels which was published April 21, 1989 (54 FR 16111). This action is necessary to add text which was omitted and to correct a typographical error.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A)(M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

**Charles W. Lloyd,**

*Executive Secretary, Defense Acquisition Regulatory Council.*

Accordingly, 48 CFR Part 247 is corrected as follows:

**247.571 [Corrected]**

1. On page 16118, section 247.571 is corrected by adding the definition "U.S.-flag vessel" at the end of the section, to read as follows: "U.S.-Flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

**247.573-2 [Corrected]**

2. On page 16119, section 247.573-2 is corrected by substituting in the first sentence of paragraph (a) the words "Time Charters" in lieu of the words "Time Charter"; and by adding in the parenthetical phrase of paragraph (c)(3)(i)(A) between the word "be" and the word "high" the word "so".

[FR Doc. 89-12265 Filed 5-22-89; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### 49 CFR Part 219

**[FRA Docket No. RSOR-6, Notice No. 22]**

**RIN 2130-AA43**

## Alcohol/Drug Regulations; Revised Compliance Dates and Miscellaneous Amendments

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Final rule.

**SUMMARY:** FRA issues amendments to its rule on Control of Alcohol and Drug Use in Railroad Operations to revise mandatory dates for compliance with the Transportation Workplace Drug Testing Procedures, a rule prohibiting non-medical use of controlled substances, and requirements regarding submission and implementation of random drug testing programs. These amendments are necessary to provide for orderly implementation of drug testing requirements.

**DATE:** These final rule amendments will be effective May 23, 1989.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sam Holley, Alcohol & Drug Program Manager (RRS-10), Office of Safety Enforcement, FRA, Washington, DC 20590 (Telephone: (202) 366-0501) or Grady Cothen, Special Counsel (RCC-4), FRA, Washington, DC 20590 (Telephone: (202) 366-0767).

**SUPPLEMENTARY INFORMATION:** On November 21, 1988, FRA published in the **Federal Register** a final rule (53 FR 47102) making certain amendments to its regulations on control of alcohol and drug use in railroad operations (49 CFR Part 219). The amendments added requirements for random testing, a prohibition on non-medical use of controlled substances at any time (a "drug-free rule"), and new urine drug testing requirements incorporating the Transportation Workplace Drug Testing Procedures (53 FR 47002). The November 21 issuance included the following compliance schedule:

1988

Nov. 21..... Published in the **Federal Register**.

Dec. 21..... Rule becomes effective (technical effective date).

1989

June 19..... Railroads must submit random testing plans for approval.

July 19..... Prohibition on non-medical drug use effective; Transportation Workplace Drug Testing Procedures effective.

Nov. 20..... Railroads must begin random testing.

In issuing the random testing rule and associated amendments, FRA indicated that further rulemaking would be required to conform the existing provisions of the alcohol/drug regulations to the new requirements. In addition, the Department's Transportation Workplace Drug Testing procedures were issued as interim final requirements, with invitation for further comments.

Since last November, work has progressed on a broad front to resolve remaining details of the drug testing requirements and achieve early implementation. However, litigation regarding FRA's existing program did not conclude until the U.S. Supreme Court issued its decision in *Skinner* v. *Railway Labor Executives' Association* on March 21, 1989. Following conclusion of that litigation, FRA immediately initiated work to determine its impact and to weigh the further steps that must be taken to reconcile the current program with the additional regulatory provisions issued last November. Further, additional work has been undertaken to refine the Transportation Workplace Drug Testing Procedures, including revision of the urine custody and control form. These initiatives will be brought to completion over the next few months through further rulemaking. FRA has noted the need to provide additional time to complete these activities and for the railroads to incorporate any further guidance into their programs. Similar concerns were raised by the Association of American Railroads in a request for postponement of the implementation schedule filed on May 8, 1989.

Accordingly, FRA is adjusting the compliance schedule to ensure that railroads have complete and current guidance before embarking on the final stages of implementation. Under the adjusted schedule, all railroads will be required to comply with the Transportation Workplace Drug Testing Procedures for existing testing programs (pre-employment and reasonable cause) by October 2, 1989 (formerly July 19, 1989), and the new drug-free rule will become effective on that date (formerly July 19, 1989).

Class I freight railroads, the National Railroad Passenger Corporation, and railroads providing commuter service will be required to submit random testing programs for approval by October 2, 1989 (formerly July 19, 1989), and to implement approved programs

not later than January 16, 1990 (formerly November 20, 1989).

In addition, FRA has further reviewed the issue of compliance by smaller railroads with the random testing requirements in light of the policies of the Regulatory Flexibility Act, the compliance schedules set by the other modal administrations, and a petition for rulemaking filed by the American Short Line Railroad Association on behalf of its member railroads. FRA is persuaded that holding smaller railroads to the adjusted schedule applicable to large rail systems would have the following adverse effects:

- Small railroads would be required to implement random testing well ahead of other similarly situated entities, putting them at a disadvantage with respect to the capacity of the private market to provide expert services in the areas of collection, medical review and quality control.
- FRA would experience significant difficulty in thoroughly reviewing small railroad programs and providing technical guidance to ensure that programs are soundly constructed.
- Employees of small railroads, which generally have less experience in the field of drug testing, would be exposed to unnecessary risks of improperly implemented procedures because of the limited time available for training and the limited capacity of FRA to monitor implementation.

FRA will therefore segment the regulated industry for purposes of a phased compliance schedule. The deadline for submission of programs by Class II rail carriers will be April 2, 1990, with implementation of approved programs to begin not later than July 2, 1990. Class III rail carriers subject to random testing must submit programs not later than July 2, 1990, and implement approved programs not later than November 1, 1990. Additional time is provided for review, approval and implementation of programs from the smallest railroads subject to these requirements because of the number of programs involved and the need to provide special guidance to those companies.

The date on which foreign-based employees may be subject to testing is also extended to January 1, 1991, to provide additional time for the conclusion of Departmental negotiations with foreign governments.

**Regulatory Procedures**

FRA finds that notice and opportunity for comment are not necessary because the effect of the amendments is to provide additional time for compliance. FRA also finds that providing such notice would be contrary to the public interest because regulated entities would be compelled to expend resources over the short term to comply with deadlines that clearly must be adjusted. FRA further finds that there is good cause for making the rule effective in less than 30 days from the date of publication, since the amendments modify current regulatory obligations and do not impose more stringent requirements.

This final rule has been evaluated in accordance with existing regulatory policies. It is neither a "major" rule under Executive Order 12291 nor a "significant" rule as defined under DOT policies and procedures. The amendments contained in this final rule do not have any significant paperwork, Federalism, or economic impact. To the extent that any such impact exists, the amendments will lessen regulatory burdens by increasing the time available to comply with regulations previously issued. Because the amendments do not have any significant economic impact, FRA has not prepared a regulatory evaluation. It is certified that this rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 60 et seq.).

**List of Subjects in 49 CFR Part 219**

Control of alcohol and drug abuse, Railroad safety.

Therefore, in consideration of the foregoing, Part 219, title 49, Code of Federal Regulations is amended as follows:

## PART 219—[AMENDED]

1. The authority citation for Part 219 continues to read as follows:

Authority: 45 U.S.C. 431, 437, and 438, as amended; Pub. L. 100-342; and 49 CFR 1.49(m).

2. Section 219.3 is amended by revising paragraph (c) to read as follows:

**§ 219.3 Application.**

* * * * *

(c)(1) Subpart G of this part shall not apply to any person for whom compliance with that subpart would violate the domestic laws or policies of another country.

(2) Subpart G is not effective until January 1, 1991, with respect to any employee whose place of reporting or point of departure ("home terminal") for rail transportation services is located outside the territory of the United States.

3. Section 219.102 is revised to read as follows:

**§ 219.102 Prohibition on abuse of controlled substances.**

On and after October 2, 1989, no employee who performs covered service may use a controlled substance at any time, whether on duty or off duty, except as permitted by § 219.103 of this subpart.

4. Section 219.601 is amended by revising paragraphs (a) and (d)(2) to read as follows:

**§ 219.601 Railroad random testing programs**

(a) *Submission.* Each railroad shall submit for FRA approval a random testing program meeting the requirements of this subpart. A Class I railroad (including the National Railroad Passenger Corporation) or a railroad providing commuter passenger service shall submit such a program not later than October 2, 1989. A Class II railroad shall submit such a program not later than April 2, 1990. A Class III railroad (including a switching and terminal or other railroad not otherwise classified) shall submit such a program not later than July 2, 1990. A railroad commencing operations after the pertinent date specified in this paragraph shall submit such a program not later than 30 days prior to such commencement. The program shall be submitted to the Associate Administrator for Safety, FRA, for review and approval by the Administrator. If, after approval, a railroad desires to amend the random testing program implemented under this subpart, the railroad shall file with FRA a notice of such amendment at least 30 days prior to the intended effective date of such action. A program responsive to the requirements of this section or any amendment to this program shall not be implemented prior to approval.

* * * * *

(d) *Implementation.*

* * * * *

(2) Each Class I railroad (including the National Railroad Passenger Corporation) and each railroad providing commuter passenger service shall implement its approved random testing program not later than January 16, 1990. Each Class II railroad shall implement its approved random testing program not later than July 2, 1990. Each Class III railroad (including a switching and terminal or other railroad not otherwise classified) shall implement its approved random testing program not later than November 1, 1990. In the case of a railroad commencing operations after the pertinent date set forth in paragraph (a) of this paragraph for filing

of a program, the railroad shall implement its approved random testing program not later than the expiration of 60 days from approval by the Administrator or by the pertinent date set forth in this paragraph, whichever is later.

5. Section 219.701 is amended by revising paragraph (a) to read as follows:

**§ 219.701 Standards for urine drug testing.**

(a) On and after October 2, 1989, the conduct of urine drug testing under Subparts D, F, and G of this part shall be governed by this subpart and Part 40 of Subtitle A of this title. Laboratories employed for these purposes must be certified by the Department of Health and Human Services under that Department's Mandatory Guidelines for Federal Workplace Drug Testing Programs.

* * * * *

6. Section 219.711 is amended by revising paragraph (c)(1) to read as follows:

**§ 219.711 Confidentiality of test results.**

* * * * *

(c)(1) Effective October 2, 1989, results of post-accident toxicological testing under Subpart C of this part are reported to the railroad's Medical Review Officer, and the railroad shall treat the test results as subject to paragraph (b) of this section, except where publicly disclosed by FRA or the National Transportation Safety Board.

* * * * *

Issued in Washington, DC, on May 19, 1989.

**Susan M. Coughlin,**

*Acting Administrator.*

[FR Doc. 89-12490 Filed 5-19-89; 4:58 pm]

BILLING CODE 4910-06-M

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## Federal Highway Administration

## 49 CFR Part 383

**RIN 2125-AC33**

## Commercial Driver Testing and Licensing Standards; Canadian Provinces and Territories

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This technical amendment inserts into regulatory text the Federal Highway Administrator's determination that commercial drivers' licenses issued by Canadian jurisdictions under the Canadian National Safety Code meet the commercial driver testing and licensing standards contained in 49 CFR Part 383. Accordingly, a commercial driver's license issued by a Canadian jurisdiction in conformity with the Canadian National Safety Code will be considered to be the single commercial driver's license for operation in the United States by Canadian drivers. Also, a Canadian driver will be prohibited from obtaining any driver's license from a State or other licensing jurisdiction of the United States.

**EFFECTIVE DATE:** December 29, 1988.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jill L. Hochman, Office of Motor Carrier Standards, (202) 366-4001, or Mr. Paul L. Brennan, Office of Chief Counsel, (202) 366-1350, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except legal holidays.

**SUPPLEMENTARY INFORMATION:** The Notice entitled "Commercial Driver's License Reciprocity With Canada," published elsewhere in today's **Federal Register**, provides detailed background information on the agreement between the United States and Canada and on the Federal Highway Administrator's determination as codified herein.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The amendment in this document is primarily technical in nature and is needed solely to update the regulations to include an enabling agreement between the government of Canada and the United States. For these reasons and since this rule imposes no additional burdens on the States or other Federal agencies, the FHWA finds good cause to make this regulation final without prior notice and opportunity for comments and without a 30-day delay in effective date under the Administrative Procedure Act. For the same reasons, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, this final rule is effective as of December 29, 1988.

Since the changes in this document are primarily technical in nature, the anticipated economic impact, if any, is minimal. Therefore, a full regulatory evaluation is not required. For the above reasons and under the criteria of the Regulatory Flexibility Act, the FHWA certifies that this final rule will not have significant economic impact on a substantial number of small entities.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects in 49 CFR Part 383**

Commercial driver's license documents, Commercial motor vehicles, Highways and roads, Motor carriers licensing and testing procedures, and Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: May 16, 1989.

**R.D. Morgan,**

*Executive Director.*

In consideration of the foregoing, the FHWA hereby amends Title 49, Code of Federal Regulations, Chapter III, Subchapter B, as set forth below.

## PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES [AMENDED]

1. The authority citation for 49 CFR Part 383 continues to read as follows:

**Authority:** Title XII of Pub. L. 99-570, 100 Stat. 3207-170; 49 U.S.C. 3102; 49 U.S.C. App. 2505; 49 CFR 1.48.

2. Section 383.23 is amended by adding a footnote to the end of paragraph (b) to read as follows:

**§ 383.23 Commercial driver's license.**

* * * * *

(b) Exception. * * * [1]

* * * * *

[FR Doc. 89-12259 Filed 5-22-89; 8:45 am]

BILLING CODE 4910-22-M

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[1] Effective December 29, 1988, the Administrator determined that commercial drivers' licenses issued by Canadian Provinces and Territories in conformity with the Canadian National Safety Code are in accordance with the standards of this part. Therefore, under the single license provision of § 383.21, a driver holding a commercial driver's license issued under the Canadian National Safety Code is prohibited from obtaining a Nonresident CDL, or any other type of driver's license, from a State or other jurisdiction in the United States.

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 16**

**RIN 1018-AB04**

## Importation or Shipment of Injurious Wildlife: Mitten Crabs

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) amends 50 CFR 16.13 by adding mitten crabs (genus *Eriocheir*), non-indigenous crustaceans of the Family Grapsidae, to the list of injurious fish, mollusks, and crustaceans. By this action, the Service prohibits importation into, acquisition, or transportation of live mitten crabs or viable eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States. However, live mitten crabs or viable eggs thereof can still be imported by permit for scientific, medical, educational, or zoological purposes, or without a permit by Federal agencies solely for their own use. This action is necessary to protect the interests of agriculture, human health and safety, and existing fish and wildlife resources from potential adverse effects that could result from purposeful or accidental introduction and subsequent establishment of naturally reproducing mitten crab populations into ecosystems of the United States.

**EFFECTIVE DATE:** June 22, 1989.

**ADDRESS:** Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lynn B. Starnes, Chief, Division of Fish and Wildlife Management Assistance, (703) 358-1718.

**SUPPLEMENTARY INFORMATION:**

### Background

On November 14, 1988 (53 FR 45784), under Authority of the Lacey Act (18 U.S.C. 42), the Service proposed to amend 50 CFR Part 16 to add mitten crabs (genus *Eriocheir*) to the list of injurious wildlife as the means to prohibit importation of live crabs or viable eggs thereof.

The proposed rule invited comments for 45 days with the comment period ending on December 29, 1988. Approximately 190 copies of the proposed rule were mailed to various State and Federal government agencies, organizations, associations, and individuals considered possibly to have knowledge of mitten crabs or a vested interest in the outcome of the review process. The mailing included, but was not limited to:

—All State fish and game agencies;
—Conservation agencies of all Canadian Provinces and the Canadian Wildlife Service;
—Conservation agencies of Asian and European countries where mitten crabs are known to exist in the environment;
—Domestic and foreign conservation and professional organizations and associations;
—Academic community;
—Federal agencies;
—Aquaculture specialists; and
—Business organizations including the wholesale food industry.

A complete copy of the mailing list can be obtained by contacting the individual identified in the section above entitled "**FOR FURTHER INFORMATION CONTACT.**"

### Summary and Analysis of Comments and Action Taken

Two submissions, both written, were received by the Service in response to the proposed rule. The first response, received before the end of the comment period and submitted by a State government, expressed strong support for our proposed rule in the belief that importation of mitten crabs would threaten agriculture, human health and safety, and native crustaceans. That State expressed the additional belief that threats from mitten crabs were real because of the ease at which they adapt to new environments. Subsequent to December 29, 1988, the second written communication was received by the Service, it being from an individual in Paris, France, promising to send a copy of his principal research work on the subject. This particular letter expressed no opinions, and contained no information for or against the proposed rule. The research publication, which was received several weeks later, is an extensive study of the Chinese mitten crab (*Eriocheir sinensis*) published on July 26, 1948. The paper, which focuses on the biology of the crab in France, contains no new information to support or refute arguments made in the Service's proposed rule. In consideration of the responses discussed above, and in light of the best available information on mitten crabs, the Service has determined that this final rule is warranted. The basis for his decision is included in the discussion that follows.

Service involvement with mitten crabs began in 1986 when, in a September 16 letter, the California Department of Fish and Game (Department) requested that the Service prevent the importation of mitten crabs (genus *Eriocheir*) into the United States. The Department, aware that live Chinese mitten crabs (*Eriocheir sinensis*) were being legally imported from China and sold as a live food item at Asian-American food markets in the Los Angeles and San Francisco Bay Areas for $10–$15 per pound, was concerned that people might release live crabs into public or private waters as, for example, part of religious ceremonies or for other unspecified reasons. Such releases, the Department stated, were increasing in occurrence in the State's waters. Believing a threat to the State existed, the Department itself on June 12, 1986, initiated actions to prevent the importation, transportation, and possession in California of the genus *Eriocheir* by proposing to place it on that State's "List of Prohibited Species." That effort resulted in the addition of the genus to that list in October 1986 (Section 671(h)(2) of Title 14 of the California Code of Regulations). The Department feared that importation could ultimately lead to the introduction and subsequent establishment of a reproducing population in the State's natural ecosystem with concomitant adverse results to agriculture, aquatic resources, and human health.

The Department's 1986 action to prohibit importations into California has no effect on prohibiting importations throughout the rest of the United States. If importations are not prohibited nationwide, mitten crabs could ultimately establish wild populations in other geographical areas where appropriate environmental conditions exist.

The Department's September 16, 1986, letter requested that the Service examine the genus *Eriocheir* for possible prohibition of importation under the Lacey Act although only the Chinese mitten crab, *E. sinensis*, was specifically identified and discussed in the supporting documents submitted along with the letter. The literature search conducted by the Service in the process of developing the proposed rule that was published on November 14, 1988, revealed that at least three additional species of mitten crabs exist (Sakai 1976) as follows:

—*E. japonicus*, found throughout Japan from Hokkaido to Okinawa, to Vladivostok, north and east coasts of Korea, Taiwan, and Hong Kong;
—*E. rectus*, found on Taiwan and

Mainland China to Macao; and

—*E. leptognathus*, distributed along coastal areas of the Yellow Sea, from Shanghai to various localities of northern Mainland China to Korea.

A preponderance of information obtained in the Service's literature search and discussions with individuals of the academic and scientific communities dealt with the species *E. sinensis*, a fact clearly reflected in the discussion below, and other documents prepared for, and in support of, this action. However, the Service is listing as injurious the entire genus *Eriocheir* because of the similarity of appearance of the species, and because all species have similar habits and utilize similar habitats (Felder and Wicksten pers. comm.); it is believed that all four species might have the same negative impacts.

**Description of the Final Rule**

The regulations contained in 50 CFR Part 16 implement the Lacey Act (18 U.S.C. 42) as amended. Under the terms of that law, the Secretary of the Interior is authorized to prescribe by regulation those nonindigenous wild animals, or viable eggs thereof, which are deemed to be injurious or potentially injurious to the health and welfare of human beings, to the interests of agriculture, forestry, and horticulture, or the welfare and survival of wildlife or wildlife resources of the United States. By this Service action of adding the genus *Eriocheir* to the list of injurious fish, mollusks, and crustaceans in 50 CFR 16.13, their acquisition, importation into, or transportation between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever is prohibited except by permit for zoological, educational, medical, or scientific purposes, or by Federal agencies without a permit solely for their own use upon filing a written declaration with the District Director of Customs at the port of entry. In addition, no live mitten crab, viable eggs, or progeny thereof acquired under permit may be sold, donated, traded, loaned, or transferred to any other person unless such person has a permit issued by the Director of the Service. The interstate transportation of any live mitten crabs or viable eggs thereof that currently may be held in the United States for purposes such as aquaculture propagation or for human consumption, or for any purpose not otherwise permitted, would be prohibited.

**Distribution**

The Chinese mitten crab is indigenous to the temperate zone in eastern Asia, including the east coast of Mainland China from Fuchien Province in the south, northward along the coast of the Yellow Sea, and around the west coast of the Korean Peninsula (Panning 1938). Although the species apparently prefers the coastal areas of China and Korea, it is also found upstream in river systems at considerable distances from coastal areas. For example, in the Yangtse-kiang River it occurs more than 800 miles upstream (Schmitt 1965), and in Germany's Elbe River they have been found more than 400 miles from the coast (Christiansen 1969).

As just alluded to, the Chinese mitten crab also occurs, as an introduced species, throughout the coastal areas and many river systems of temperate central Europe and cold-temperate northern Europe according to Panning (1938). He reported that the first Chinese mitten crab was taken in 1912 from Germany's Aller River, a tributary of the Weser River with a confluence approximately 60 miles from the North Sea, and surmised that the species was first introduced into Europe between 1900 and 1910 with the release into German coastal areas of ship's ballast water containing larvae taken on board in Chinese ports. During the next two decades the crab expanded throughout Germany. By the 1930's it had moved westward into The Netherlands, Belgium, and northern France (*ibid.*, Wolff and Sandee 1971) and eastward into Denmark, Norway, Sweden, Finland, and Poland (*ibid.*, Grabda 1973, Christiansen 1977). Ingle and Andrews (1976) discussed the first three isolated collections of the crab in Great Britain: Chelsea (London) in the Thames River in 1935; in the Southfields Reservoir near Castleford in 1949; and three individual crabs in the Thames River approximately 20 miles downstream from London in 1976. They believed the 1976 collections arrived in Great Britain in the ballast water of ships arriving from European ports, but did "* * * not constitute a serious invasion by the species." However, Clark (1984) described a number of subsequent findings of the crab in Great Britain including annual sightings from the Humber and Ancholme Rivers (approximately 150 miles north of London) from 1976 through 1979, and again in 1984. Additionally, Clark reported that sixteen more specimens were collected from the Thames River subsequent to the 1976 account of Ingle and Andrews. It seems apparent from the accounts, therefore, that the species commonly occurs along coastal areas and into many river systems of northern Europe from France to Norway; it may be established in Great Britain although this has not been conclusively stated in the literature.

Several known collections of the crab have occurred in North America. Nepszy and Leach (1973) reported the first collection of the species from the Detroit River (between Lake St. Clair and Lake Erie) in 1965, while three more specimens were taken from commercial gillnets in Lake Erie in 1973. Theorized to have been brought to North America, as in Europe, in the ballast of cargo ships, they offered the opinion (p. 1910) that:

> * * * [Although] the crab is unlikely to become established in Lake Erie or the Upper Great Lakes [presumably because of natural and artificial barriers that would impede migrations to salt water for reproductive purposes] accidental introduction to an estuarine system might permit it to become established in North America. The crab is a lowland form that needs not only sea or brackish water for its propagation but also the mouths of large rivers not subject to strong currents [which evidently facilitates upstream migration] * * * The normal habitat of the adults in Europe is the bottoms and banks of freshwater rivers and estuaries; individuals prefer hard bottom and areas covered with submerged plants, which are the main food source * * * in Europe, it bypasses obstacles such as dams and survives up to 38 days in wet meadows * * *

A live Chinese mitten crab was taken from a crab trap in Louisiana's Mississippi River Delta in early 1987 (Felder pers. comm.). It is not yet known if this individual animal represents a widespread infestation or an isolated incident, and the crab's origin is unknown. No other sightings or collections are known to have occurred since this 1987 finding.

**Biology**

Grzimek (1974) includes the Chinese mitten crab in the Suborder Brachyura, Family Grapsidae (rock crabs). In apparent recognition of the hair covering the species' claws, it is variously referred to as the wool crab (*ibid.*), Chinese mitten crab, mitten crab, and hairy-fisted crab (Ingle 1980). The species varies in color from grayish-green to dark brown with "* * * the carapace subsquare, a little broader than long with lateral margins slightly curved, rather convex in longitudinal direction, front scarcely deflexed." (p. 96) (Christiansen 1969). Nepszy and Leach (1973) stated that the four crabs taken in Lake Erie and the Detroit River had carapace lengths of 57 to 64 mm. and carapace widths of 65 to 74 mm.

Their weights ranged from 124 to 201 grams.

Panning (1938) discussed reproduction by the species (pp. 365–366) as follows:

The mitten crab is, during its whole life, practically a fresh-water animal and is found hundreds of kilometers upstream in thickly infested rivers. With the development of the sex instinct, the urge for the sea also awakens in them, and in August, or after, they leave their feeding grounds, often located far inland, to move on downstream to the sea. The sex organs develop during this migration and the crabs reach puberty on the last lap of the journey through the usually brackish water in the tidal regions. In the fall they always gather to breed in large swarms in the brackish water in the lower course of the river * * *

The eggs are laid within 24 hours after mating and are fastened to the small hairs on the pleopods on the underside of the abdomen with a cementlike substance which hardens in salt water. This cementlike substance hardens only in water that has a salt content of more than 2.5 percent, according to F. Buhk. The females, burdened with the weight of the eggs on the pleopods under their abdomens, choose to stay on in the deep water outside the river mouths through the winter. As soon as it gets warm in the spring the tiny larvae escape from the eggs to start to drift about free * * *

In all probability the females hunt up particularly brackish water for this purpose. In June or July, after all the larvae have left the eggs, both males and females set out for the river banks at the mouths of the rivers, where they gradually perish.

The intermittent stay in fresh water, and these long journeys far inland between birth and death, which both take place in salt water, bring about the peculiar character of the life cycle of these mitten crabs. They cannot repeat these long journeys to reproduce every year or two, which other crawfishes do, because the distances are too great. Breeding has, therefore, been put off to the last part of their life span. But under normal circumstances this single breeding period is compensated by an enormous egg production * * *

Whereas the eggs need pure salt water to mature, the larvae leave the eggs in very brackish water * * * These larvae probably move gradually into less brackish water * * *

This migration from salt to fresh water in the larval stage and from fresh water to salt water as adults toward the end of their life, is a distinguishing habit of the mitten crab * * *

Panning attributed the upstream migration into waters beyond tidal influence to the tremendous number of crabs and inadequate forage. He reported that the species is omnivorous; it primarily eats vegetable matter although a portion of its diet includes "* * * worms, * * * mussels and snails, inferior crustaceans, water insects, insect larvae, and * * * dead * * * organic [matter] * * *" (pg. 371). He also stated that the crab consumes fish trapped in nets although a study of the stomach contents of 1,000 crabs revealed only four or five with fish in them; it was not determined whether these remains were of netted, free-swimming, or dead fish.

## Control

Several methods of controlling mitten crabs in Europe are described in literature sources; apparently, none of these methods are completely effective in controlling their migratory movements or geographical spread. It is doubtful that these methods would be any more practical or effective in the United States than they are in Europe.

Panning (1938) has stated that, once established, control of mitten crabs is best effected just below barriers (e.g., dams) that obstruct their upstream migrations. As the crabs leave the water in efforts to bypass the barriers, they are directed by means of sheet metal into collection pits. He also stated that crabs moving upstream and downstream were collected at dams from eel basket pots. In Germany during 1936 and 1937, nearly 580,000 pounds and 420,000 pounds, respectively, were collected by these methods. Other means of control were not considered by Panning to be efficacious. More recently, Halsband (1968) described the use in Germany of electrical screens installed on river bottoms to block the movements of crabs during migration; electrical pulses at a frequency of 30–40 per minute were found to disable, then kill the crabs. Schmitt (1965) reported that efforts were unsuccessful in Europe to market the large numbers of migrating crabs collected from river systems. Panning (1938) mentioned that crabs taken in Germany were used to feed pigs, ducks and fish; these uses, however, were unprofitable and other more economically viable, but unidentified, solutions were being sought.

In mainland China where availability fluctuates, the species is commercially harvested from November through February. Until their recent listing by California as a prohibited species, Chinese mitten crabs were known to have been imported legally into that State and sold at $10–15 per pound as a specialty, live-food item at small Asian-American food markets in the San Francisco Bay and Los Angeles areas. Their apperance in food markets was sporadic (California Department of Fish and Game 1986). No information is currently available to indicate that live crabs are either imported for sale as a live food item in Asian-American food markets in other States, or produced in aquaculture in the United States.

## Affected Environment

The average yearly surface temperature (extending down to 100 meters) of water in the Yellow Sea off the coast of mainland China and Korea is approximately 15 to 25 degrees centigrade, while the average yearly surface temperature in the North and Baltic Seas in Northern Europe and Scandinavia is approximately 10 to 15 degrees centigrade (Williams *et al.* 1960). According to this source, these same average temperatures exist along most of North America's coastal areas, from Nova Scotia to Florida in the East, and from British Columbia's Queen Charlotte Island south to the Baja Peninsula in the West. The average yearly surface temperature of water in the Gulf of Mexico is given as approximately 25 degrees centigrade.

Additionally and as previously stated, during the reproductive process hardening of the substance that cements the eggs to the pleopods occurs in water with a salt content greater than 2.5 percent (interpreted to mean 25 parts per thousand), a factor that would not be likely to significantly restrict establishment and expansion of the species into estuaries and upstream into wide, slow moving river streams of the United States.

## Literature Cited

Citations for all references listed in this Proposed Rule appear in the Environmental Assessment, copies of which are available by contacting the individual identified in the section above entitled "**FOR FURTHER INFORMATION CONTACT.**"

## Need for the Proposed Rule—Environmental Consequences

The Service believes this final rule is needed based on currently available evidence which suggests that importation of live mitten crabs or viable eggs thereof, their release, and subsequent establishment of naturally reproducing populations in ecosystems of the United States could pose a real, or potential, threat of undetermined extent to the interests of agriculture, human health and safety, and existing fish and wildlife resources as follows:

1. Agriculture: Mitten crabs could destroy levee systems and earth fill irrigation canals as a result of their burrowing behavior. The species is known to seriously undermine streambanks and earthen levee and irrigation systems. According to Chivers (1986), it has caused millions of dollars of damage to dikes in Germany and The Netherlands as a result of its burrowing behavior. Their tunnels, which may

number up to 30 per square meter, are believed to provide protection from birds and other crabs during the moulting process (Ingle 1986). Extensive burrowing activities over time could result in the collapse of riverbanks or levees with significant impacts likely to occur to the interests of agriculture.

2. Human health and safety: Mitten crabs serve as an intermediate host to the Oriental lung fluke *Paragonimus westermani*. Human beings are final hosts in the life cycle of this internal parasite that commonly occurs throughout the Orient. The Chinese mitten crab provides an essential link in the life cycle of the Oriental lung fluke, *P. westermani*, by serving as a second intermediate host of the parasite. *P. westermani* is not known to exist in the United States although the closely related lung fluke *P. kellicotti* has been found in pigs and cats in South Carolina, Mississippi, and Louisiana (Nash pers. comm.). According to Burch (pers. comm.), freshwater snails of the Family Thiaridae (several species of which have been introduced into Hawaii, Florida, Texas, and Arizona) and the closely related Family Pleuroceridae (representatives of which are native to the United States and common in the South) serve as first intermediate hosts of the fluke. Mammals, including humans, dogs, cats, raccoons, opossums, and fox could serve as final hosts. Common in Asia, *P. westermani* is transmitted in raw or undercooked crab meat or in the crab's body fluids. Schmitt (1965) states (pg. 184):

> * * * in countries where the lung fluke is prevalent it is a greater scourge than the hookworm. Not only does it invade the lungs, producing a chronic cough, blood spitting, and an anemic condition, but it penetrates the brain as well, giving rise to * * * afflictions that have been variously diagnosed as infantile paralysis, cerebral hemorrhage, encephalitis * * *

*P. westermani* is also known to move to the heart in severe infestations such as when it is undiagnosed and, according to Durio (pers. comm.), both heart and brain infestations can cause death.

3. Wildlife resources: Mitten crabs are an intermediate host to the Oriental lung fluke *P. westermani*. As with humans, a number of wildlife species could become infected with the lung fluke and function in the life cycle of the parasite as final hosts.

4. Fish resources: Mitten crabs could provide interspecific competition to indigenous crustaceans resulting in the displacement of these native species. It has been stated that the species could prove harmful to native crustaceans and other aquatic resources (Parnell 1986), presumably by competing for available food resources, or as stated by Wicksten (1986) by introducing diseases and parasites (other than the lung fluke) for which native species would show little or no tolerance.

Information on the impacts of introducing the mitten crab in the United States is generally incomplete and unavailable at this time. Unless actually introduced and established in the United States, the long-term effects on agriculture, human health and safety, and existing fish and wildlife resources are not known. Based on the history of other exotic introductions and the ecology of the mitten crab, its introduction into the United States should be avoided. The Service has determined that addition of mitten crabs and viable eggs thereof to the list of injurious fish, mollusks, and crustaceans in 50 CFR 16.13 is the only means available to achieve this result.

**Required Determinations**

An assessment of the environmental effects of the proposal to list mitten crabs as injurious was prepared and a determination made on October 24, 1988, that it is not a major Federal action under the National Environmental Policy Act. The comments submitted to the Service in response to our November 14, 1988, proposed rule provided no new information on environmental impacts that might be expected or attributable to this action; it has been determined, therefore, that the October 24, 1988, "Finding of No Significant Impact" for the Environmental Assessment is still a valid finding for this final rule. It has also been determined that this is not a major rule under Executive Order 12291. In addition, the best available information indicates that no live mitten crabs or viable eggs thereof are known to be imported for human consumption, or propagated at aquaculture facilities, and this final rule is not expected to have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. Although the prohibitions imposed by this final rule will not significantly affect the human environment in the United States, the importation and spread of mitten crabs, without imposing these restrictions, could pose potential adverse impacts on agriculture, human health and safety, and fish and wildlife resources. Since data on the impacts of mitten crabs on the resources of the United States are incomplete and unavailable, a rigorous evaluation of impacts is not possible.

The Environmental Assessment, the Determination of Effects of Rule, the proposed rule, and all other supporting documents are available for public inspection during regular business hours of 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Service's Division of Fish and Wildlife Management Assistance, Room 840, 4401 North Fairfax Drive, Arlington, Virginia.

**Information Collection Requirements**

This final rule contains no information collection requirements for which Office of Management and Budget approval is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

**Author**

The author of this final rule is Jeffrey Lorenz Horwath, Wildlife Biologist, Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service.

**List of Subjects in 50 CFR Part 16**

Fish, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, 50 CFR Part 16 is amended as described below:

## PART 16—INJURIOUS WILDLIFE

1. The authority for Part 16 continues to read as follows:

**Authority:** Lacey Act, 74 Stat. 754 (18 U.S.C. 42).

2. Section 16.13(a)(1) is revised to read as follows:

**§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.**

* * * * *

(a)(1) The importation, transportation, or acquisition is prohibited of any: (i) live fish or viable eggs of the family Clariidae; and (ii) live crustaceans or viable eggs of mitten crabs, genus *Eriocheir: Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such live fish or crustaceans or viable eggs under the terms and conditions set forth in § 16.22.

* * * * *

Dated: April 12, 1989.

**Becky Norton Dunlop,**

*Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior.*

[FR Doc. 89-12340 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-55-M

# Proposed Rules

Federal Register
Vol. 54, No. 98
Tuesday, May 23, 1989

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

### Rural Electrification Administration

### 7 CFR Part 1786

### Prepayment of REA Guaranteed Federal Financing Bank Loans

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Electrification Administration (REA) proposes to amend 7 CFR Chapter XVII by revising Part 1786, Prepayment of REA Guaranteed Federal Financing Bank Loans. The revised part will establish policies and procedures to implement the provisions of section 306(A) of the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*) (the "RE Act"), section 633 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Pub. L. 100-202) (the "Continuing Resolution"), and section 637 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Pub. L. 100-460) (the "1989 Appropriations Act").

Section 306(A) of the RE Act deals with the prepayment of certain loans held by the Federal Financing Bank ("FFB"), a wholly-owned government instrumentality under the supervision of the Secretary of the Treasury, and guaranteed by REA.

Section 633 of the Continuing Resolution provides that REA guaranteed FFB loans may be prepaid by borrowers pursuant to subsections (a) and (b) of section 306(A) of the REA Act, notwithstanding the provisins of subsections (c), (d), and (e) of section 306(A), provided that prepayments in excess of $2,500,000,000 shall be subject to the approval of the Secretary of the Treasury.

Because $2 billion of prepayments were completed during FY 1988 under the provisions of section 1401 of the Omnibus Budget Reconciliation Act of 1987 ("OBRA") only an additional $500 million of prepayments may be consummated without the approval of the Secretary of the Treasury.

The proposed regulations will implement the provisions of section 637 of the 1989 Appropriations Act which allocates $350 million of this $500 million or prepayment activity to REA-financed electric utilities, and the remaining $150 million to REA-financed telephone utilities.

The proposed regulations also set forth procedures for prioritizing and processing prepayment applications.

**DATE:** Written comments must be received by REA no later than June 22, 1989.

**ADDRESSES:** Submit written comments to Mr. Laurence V. Bladen, Financing Policy Specialist, Rural Electrification Administration, Room 1272, South Building, U.S. Department of Agriculture, Washington, DC 20250-1500. Comments may also be inspected at Room 1272 between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Laurence V. Bladen, Financing Policy Specialist, Rural Electrification Administration, Room 1272, South Building, U.S. Department of Agriculture, Washington, DC 20250-1500, telephone number (202) 382-9558.

**SUPPLEMENTARY INFORMATION:** Pursuant to the RE Act, REA hereby proposes to amend 7 CFR Chapter XVII by revising Part 1786, "Prepayment of REA Guaranteed Federal Financing Bank Loans."

This regulation will be issued in conformity with Executive Order 12291, Federal Regulations. It will not (1) have an annual effect on the economy of $100 million or more; or (2) result in a major increase in costs or prices for consumers, individuals, industries, Federal, state, or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, and has been determined not to be "major".

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this proposed rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees and 10.851, Rural Telephone Loans and Loan Guarantees. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015 Subpart V in 50 FR 47034, (November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

The reporting and/or recordkeeping requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) The OMB approval number for these requirements is 0572-0088.

The public reporting burden for this collection of information is estimated to vary from 10 to 200 hours per response with an average of 27 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, including suggestions for reducing this burden to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250 and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0572-0088), Washington, DC 20503.

### Background

On January 14, 1987, REA published a final rule to add a new Part 1786 to 7 CFR Chapter XVII. This rule set forth the REA policy and procedures implementing section 306(A) of the RE Act which permits an REA-financed electric or telephone system to prepay an FFB loan (or any loan advance on the loan (or advance), if:

(a) The loan was outstanding on July 2, 1986;

(b) Private capital, with the existing loan guarantee, is used to replace the loan; and

(c) The borrower certifies that any savings from such prepayment will be passed on to its customers or used to improve the financial strength of the borrower in cases of financial hardship.

Pursuant to subsection (c) of section 306(A) and the determination of the Department of the Treasury that par

prepayments of FFB loans have an adverse effect on the operation of the FFB, prepayments were limited during FY 1987 to no more than $2.0175 billion.

Furthermore, pursuant to subsection (d) of section 306(A), the January 14, 1987 final rule established eligibility criteria to ensure that the authorized prepayments during FY 1987 were directed to the cooperative-type borrowers in the greatest need of the benefits associated with prepayment.

The enactment of section 1401 of OBRA on December 22, 1987, permitted a borrower to prepay FFB pursuant to subsections (a) and (b) of section 306(A), during FY 1988, notwithstanding the provisions of subsections (c), (d), and (e) of said § 306(A).

However, section 1401 of OBRA provided that prepayments in excess of $2,000,000,000 during FY 1988 would be subject solely to the approval of the Secretary of the Treasury. The Department of the Treasury determined that par prepayments in excess of $2,000,000,000 during FY 1988 would not be approved.

On January 27, 1988, in order to implement the provisions of OBRA, REA published an interim rule with requests for comments, which amended the January 14, 1987 regulations by revising 7 CFR Part 1786, "REA Guaranteed Federal Financing Bank Loans" in its entirety. By February 25, 1988, borrowers had consummated $2,000,000,000 in prepayments, thus completing the prepayment program under OBRA.

The January 27, 1988 interim rule did not address prepayments under the provisions of section 633 of the Continuing Resolution, some of the provisions of which have been modified by section 637 of the 1989 Appropriations Act, nor did that interim rule address prepayments to be made after September 30, 1988.

As a result, in order to (1) implement the provisions of section 633 of the Continuing Resolution and the allocation provisions of section 637 of the 1989 Appropriations Act; (2) eliminate certain provisions contained in the prior regulations which are no longer applicable; and (3) respond to comments received in conneciton with the January 27, 1988 interim rule, REA proposes to revise 7 CFR Part 1786. Because some of the revisions are substantive, the regulations are being published as a proposed rule.

**Comments**

In the January 27, 1988 interim rule, REA invited interested parties to file comments on or before February 26, 1988. Although some comments were received after that date, all responses have been considered in preparing this proposed rule.

Seven different organizations or groups comments on the January 27, 1988 interim rule. They are:

1. The National Rural Electric Cooperative Association and the National Rural Utilities Cooperative Finance Corporation (signed jointly),
2. The National Rural Telecom Association and the United States Telephone Association,
3. The National Telephone Cooperative Association,
4. Contel Service Corporation,
5. Commonwealth Telephone Company,
6. North Carolina Electric Membership Corporation, and
7. United Telephone System.

For the purposes of discussion, the comments of these organizations have been categorized.

A number of the organizations pointed out that par prepayments during FY 1988 were limited to $2 billion, and that the Interim Rule did not address the provisions of section 633 of the Continuing Resolution or prepayments to be made after September 30, 1988. Because the provisions of OBRA applied to prepayments during FY 1988 and because the Treasury had determined that par prepayments in excess of $2 billion would not be approved during FY 1988, REA did not intend that the January 27, 1988 regulations address either prepayments in excess of $2 billion, or prepayments made after the end of FY 1988. This Proposed Rule responds to these concerns by implementing the provisions of section 633 of the Continuing Resolution and the allocation provisions of section 637 of the 1989 Appropriations Act.

A second major objection related to the fact that borrowers were unable to use internally generated funds to make the prepayment. Heretofore, REA has required applicants to obtain the funds for the FFB prepayment from a private sector loan guaranteed by REA.

REA has concluded that the requirement to borrow funds and refinance the FFB loan could be burdensome on borrowers which may be restricted from obtaining private sector borrowings using an REA guarantee under the terms and conditions required by the previously issued interim regulations. Furthermore, REA recognizes nothing prevents the borrower from prepaying its new private sector loan at any time it chooses. An applicant could borrow funds from a private sector lender to prepay FFB and then immediately prepay the new private sector loan with internally generated funds. In a situation where a borrower wanted to use internally generated funds in connection with a prepayment, it could be unduly burdensome to require an applicant to expend time, money, and effort to borrow the funds from a private sector lender, with an REA guarantee, then prepay that loan.

Additionally, the use of internally generated funds are likely to result in faster processing of prepayment applications, reduced "regulatory burden" on participating borrowers, and potentially more benefits being passed on to consumers by way of reduced transaction costs. Therefore, 7 CFR Part 1786 will be amended to permit prepayments with internally generated funds.

Also, many of these organizations objected to the provisions of the interim rule which required that, in order to qualify for an REA guarantee, the terms and conditions of the private loans must meet certain criteria. REA has the authority and responsibility under the RE Act to set criteria for loans it guarantees, in order to minimize the potential for default and avoid increasing the risk and exposure of the Government under its guarantee. Therefore, provisions in the regulations relating to loan structure, amortization, and prepayment terms, etc. are justified.

The terms of the existing promissory notes payable to FFB provide borrowers with the choice of repaying short-term FFB advances without premium on the short-term maturity dates of such advances or extending the maturity date of such advances at interest rates reflecting then prevailing market conditions. With such options available with respect to short-term FFB advances, REA believes that it is appropriate to require prepayments to consist of long-term FFB advances.

In response to comments requesting additional flexibility in structuring the private sector loans used to prepay the FFB loans, REA proposes to modify certain provisions of the regulations where such modifications do not increase the loan guarantee risk to REA.

Additionally, the regulations will be modified to eliminate the provisions relating to OBRA which no longer apply.

The principal proposed modifications to 7 CFR Part 1786 are summarized as follows:

In accordance with the provisions of section 637 of the 1989 Appropriations Act, this $500 million is being allocated, $350 million to REA-financed electric utilities and $150 million to REA-financed telephone utilities (§ 1786.5(b)).

Additionally, the Administrator is reserving $200 million of the electric program allocation until December 31, 1990, to allow financially distressed electric borrowers time to develop a restructuring plan which may include a prepayment pursuant to section 306(A) of the RE Act (§ 1786.5(d)).

Previously, REA identified eight electric borrowers as organizations who have or may be unable to make timely payments of principal and interest on their outstanding REA loans and loan guarantees. Additionally, other electric borrowers who are in default or near default may be unable to pay their outstanding loans and loan guarantees in accordance with their terms.

In connection with REA guarantees of loans made to some of these financially distressed electric borrowers, REA may, in order to make payments to lenders in accordance with its contracts of guarantee, be required to utilize the financial resources of the Rural Electrification and Telephone Revolving Fund (the "Revolving Fund") in accordance with the provisions of section 302 of the RE Act. By reserving $200 million of this prepayment authority to be used in connection with prepayment applications submitted by financially distressed electric borrowers, REA will be able to provide, should it be required, additional Federal financial assistance to such borrowers under the existing authorities granted the Administrator under the RE Act, while at the same time ameliorating a portion of the adverse financial impact on the Revolving Fund caused by making payments under contracts of guarantee.

Certain provisions of section 306(A) directing the Administrator to ensure that the benefits associated with prepayments be directed to cooperative type borrowers in the "greatest need" expired as of September 30, 1987. The provisions in OBRA for prioritizing prepayment applications expired as of September 30, 1988 and the regulations are being revised to eliminate these provisions. Neither section 633 of the Continuing Resolution, nor section 637 of the 1989 Appropriations Act contain any explicit provisions for prioritizing prepayment applications. Under the proposed revised regulations, prepayment applications from electric and telephone borrowers will be processed in the following order of priority:

(1) Applications from financially distressed electric borrowers; and

(2) Applications from other borrowers.

For purposes of these regulations, a borrower is considered to be financially distressed, if it is an electric borrower determined by the Administrator to be in default or near default or is participating in a work out or debt restructuring plan with REA (§ 1786.3(a)).

Except for applications from financially distressed borrowers, all prepayment applications from qualified electric and telephone borrowers must be received by REA during a specified application period. This will ensure that all such electric and telephone borrowers have an equal opportunity to apply for a prepayment under these revised regulations. Old prepayment applications, applications submitted under the provisions of prior versions of 7 CFR Part 1786, applications received prior to the commencement of the application period, and applications received after the expiration of the application period will be returned to the borrower without action by REA. The actual time and date an application is received by REA during the application period and the proposed settlement date of the prepayment will not be considered in determining the priority of the prepayment applications or their order of processing (§ 1786.6(a)).

REA believes that the amount of prepayment applications received from financially distressed electric borrowers and from other electric and telephone borrowers will exceed the $500 million available for prepayment. In the event that during the application period REA does not receive prepayment applications totaling $150 million from electric borrowers other than financially distressed borrowers or $150 million from telephone borrowers REA intends to publish a notice establishing a new application period (§ 1786.6(a)(2)).

Additionally, should a portion of the $200 million currently being reserved for financially distressed borrowers remain available after December 31, 1990, REA will evaluate whether further financially distressed borrowers may need assistance, and if not, REA will announce the establishment of a new application period (§ 1786.5(d) and § 1786.6(a)).

Should the amount of prepayment applications submitted during the application period by telephone or electric borrowers exceed the amount of prepayment authority available to such borrowers under their respective programs, such applications shall be prorated on a percentage basis so that all such qualifying borrowers will be able to participate in this prepayment program. In no event shall funds allocated to electric program borrowers and to telephone program borrowers be reallocated to the other program (§ 1786.6(b)).

The application procedure is being modified to reduce the financial and administrative burden in connection with filing the initial prepayment application (§ 1786.7).

**List of Subjects in 7 CFR Part 1786**

Administrative practice and procedure, Electric utilities, Telephone utilities, Guaranteed loan program—Energy, Guaranteed loan program—Telephony.

In view of the above, REA proposes to amend 7 CFR Chapter XVII by revising Part 1786 to read as follows:

## PART 1786—PREPAYMENT OF REA GUARANTEED FEDERAL FINANCING BANK LOANS

Sec.

1786.1 Purpose.
1786.2 Policy.
1786.3 Definitions and rules of construction.
1786.4 Qualifications.
1786.5 Prepayment authority, program allocations, categories of prepayment applications, and financially distressed borrowers' reserve.
1786.6 Processing procedure.
1786.7 Application procedure.
1786.8 Settlement procedure.
1786.9 Forms.
1786.10 Access to records of lenders, servicers, and trustees.
1786.11 Loss, theft, destruction, mutilation, or defacement of REA guarantee.
1786.12 Other prepayments.
1786.13 Application of regulation to previous prepayments.
1786.14 Judicial review.

**Authority:** 7 U.S.C. 901–950b; Title I, Subtitle B, Pub. L. 99–509; Title I, Pub. L. 100–202; Title VI, Pub. L. 100–460, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

### § 1786.1 Purpose.

This subpart contains the general regulations of the Rural Electrification Administration (REA) for implementing the provisions of (a) section 306(A) of the Rural Electrification Act of 1936, as amended (RE Act); (b) section 633 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Pub. L. 100–202) (the continuing resolution); and (c) section 637 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1089 (Pub. L. 100–460) (the 1989 Appropriations Act) which permit, in certain circumstances, loans made by the Federal Financing Bank (FFB) and guaranteed by the Administrator of REA to be prepaid by REA electric and telephone borrowers by paying the outstanding principal balance due on the FFB loan, using a private loan with the

existing REA guarantees or using internally generated funds.

**§ 1786.2 Policy.**

It is the policy of REA to facilitate the prepayment of FFB loans in accordance with the provisions of section 306(A) of the RE Act and section 633 of the continuing resolution as modified by section 637 of the 1989 Appropriations Act. Furthermore, consistent with the RE Act, the continuing resolution and the 1989 Appropriations Act it is the policy of REA to implement the objectives of the prepayment program in a manner which does not result in an increase in loan guarantee risk or an inappropriate increase in the administrative burden on REA.

**§ 1786.3 Definitions and rules of construction.**

(a) *Definitions.* For the purposes of this part, the following terms shall have the following meanings:

"Administrator" means the Administrator of REA.

"Application Category" shall have the meaning set forth in § 1786.5(c).

"Application Period" means a period during which REA is accepting applications to make prepayments pursuant to this part, and initially means the period commencing on (a date 15 days after the date the final rule is published in the **Federal Register**) and ending on (a date 30 days after the date the final rule is published in the **Federal Register.**)

"Business Day" means any day other than a Saturday, a Sunday, a legal public holiday under 5 U.S.C. 6103 for the purposes of statutes relating to pay and leave of employees or any other day declared to be legal holiday for the purposes of statutes relating to pay and leave of employees by Federal statute or Federal Executive order.

"Continuing Resolution" means section 633 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Pub. L. 100–202).

"Date Received" means the date inscribed on the Notice of Intent to Prepay the Federal Financing Bank, by an authorized official of REA, as the date the application was received.

"Documentation" means all or part of the agreements relating to a prepayment under this part, irrespective of whether REA is a party to each agreement, including all exhibits to such agreements.

"Electric Program Applications" shall have the meaning specified in § 1786.5(c)(1).

"Existing Loan Guarantee" means a guarantee of payment issued by REA to FFB pursuant to the RE Act for an FFB loan made on or before July 2, 1986.

"Fees" means any fees, costs or charges, incurred in connection with obtaining the private loan used to make the prepayment including without limitation, accounting fees, filing fees, legal fees (including fees and disbursements charged by counsel representing the borrower), printing costs, recording fees, trustee fees, underwriting fees, capital stock purchases or other equity investment requirements of the lender, and other related transaction expenses.

"Financially Distressed Borrower" means an REA-financed electric system determined by the Administrator to be either (1) in default or near default on interest or principal payments due on loans made or guaranteed under the RE Act, and which is making a good faith effort to increase rates and reduce costs to avoid default; or (2) participating in a work out or debt restructuring plan with REA, either as the borrower being restructured or as a borrower providing assistance as part of the work out or restructuring.

"Financially Viable Lender" means:

(1) A lender (i) which has a capital and surplus of at least $50 million; (ii) is a beneficiary of an irrevocable letter of credit, in form and substance satisfactory to the Administrator, payable to it in the amount of $50 million; (iii) is the beneficiary of a guarantee, in form and substance satisfactory to the Administrator, in the amount of $50 million from a lending institution with a capital and surplus of at least $50 million or (iv) has other credit support, in form and substance satisfactory to the Administrator, in the amount of $50 million; or

(2) In the event of a prepayment totalling less than $100 million, a lender (i) which has a capital and surplus of at least $10 million; (ii) is a beneficiary of an irrevocable letter of credit, in form and substance satisfactory to the Administrator, payable to it in the amount of $10 million; (iii) is the beneficiary of a guarantee, in form and substance satisfactory to the Administrator, in the amount of $10 million from a lending institution with a capital and surplus of at least $10 million or (iv) has other credit support, in form and substance satisfactory to the Administrator, in the amount of $10 million;

"FFB" means the Federal Financing Bank, an instrumentality and wholly owned corporation of the United States.

"FFB Loan" means one or more advances, or a part of one or more advances, made on or before July 2, 1986, by FFB on a promissory note or notes executed by a borrower and guaranteed by REA pursuant to section 306 of the RE Act (7 U.S.C. 936).

"Guarantee" means the original endorsement, in the form specified by REA which is executed by the Administrator and shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

"Increase in Loan Guarantee Risk" means the change in any of the components of loan guarantee risk associated with the private loan which in the judgement of REA increases the magnitude or duration of the loan guarantee risk currently assumed by REA in connection with the existing loan guarantee;

"Internally Generated Funds" means money belonging to the borrower other than: (1) Proceeds of loans made or guaranteed under the RE Act or (2) funds on deposit in the cash construction trustee account;

"Lender" means the organization making and servicing the private loan which is to be guaranteed under the provisions of this part and used to prepay the FFB loan. The term "lender" does not include the FFB, or any other Government agency.

"Loan Guarantee Agreement" means the written contract by and among the lender, the borrower, the Administrator, and such other parties that REA may require, setting forth the terms and conditions of a guarantee issued pursuant to the provisions of this part.

"Loan Guarantee Risk" means the risk as determined by REA associated with guaranteeing a loan for a particular borrower. Components of loan guarantee risk include the following:

(1) The outstanding principal balance of a loan;

(2) The dollar weighted average interest rate (stated as an annual percentage rate) on a loan;

(3) The final maturity date of a loan;

(4) The annual principal amortization of the loan; and

(5) Any other factor that as determined by REA increases the magnitude or duration of the guarantee.

"Mortgage" means the mortgage and security agreements by and among the borrower and REA, as from time to time supplemented, amended and restated.

"1989 Appropriations Act" means the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Pub. L. 100–460).

"Notice of Intent to Prepay the Federal Financing Bank" means the

notice in the form specified in § 1786.9 hereof.

"Prepayment Authority" shall have the meaning specified in § 1786.5(a).

"Private Loan" means a loan or loans to be guaranteed under the provisions of this part and used to prepay an FFB loan.

"Pro-rated Percentage" shall have the meaning specified in § 1786.6(b)(1).

"REA" means the Rural Electrification Administration, an agency of the United States Department of Agriculture.

"RE Act" means the Rural Electrification Act of 1936 (7 U.S.C. 901–950b), as amended.

"Service" or "Servicing" means the following activities:

(1) The billing and collecting of the private loan payments from the borrower;

(2) Notifying the Administrator promptly of any default in the payment of principal and interest on the private loan and submitting a report, as soon as possible thereafter, setting forth the servicer's views as to the reasons for the default, how long the service expects the borrower to be in default, and what corrective actions the borrower states it is taking to achieve a current debt service position;

(3) Notifying the Administrator of any known violations or defaults by the borrower under the lending agreement, loan guarantee agreement, the mortgage, or related security instruments, or conditions of which the servicer or the lender is aware which might lead to nonpayment, violation or other default; and

(4) Such other activities as may be specified in the loan guarantee agreement.

"Settlement Date" means the date the borrower disburses funds to the FFB in order to complete a prepayment pursuant to this Part, and shall be a date agreed to by REA, and a date on which both the FFB and the Federal Reserve Bank of New York are open for Business.

"Telephone Program Applications" shall have the meaning specified in § 1786.5(c)(2).

(b) *Rules of construction.* Unless the context shall otherwise indicate, the terms defined in § 1786.3(a) hereof include the plural as well as the singular, and the singular as well as the plural. The words "herein," "hereof" and "hereunder", and words of similar import, refer to this part as a whole.

**§ 1786.4 Qualifications.**

(a) *Borrowers.* To qualify to prepay an FFB loan pursuant to this part, the borrower must:

(1) Demonstrate that the FFB loan was outstanding on July 2, 1986;

(2) Prepay the FFB loan by using a private loan with the existing loan guarantee, or by using internally generated funds and;

(3) Certify that any savings resulting from such prepayment will be passed on to its customers, or used to improve the financial strength of the borrower in cases of financial hardship.

(b) *Lenders.* To participate pursuant to this part, in a borrower's prepayment of an FFB loan by means of a private loan, the lender must:

(1) Be a private legally organized lender, or a lender established pursuant to the Farm Credit Act of 1971, as amended;

(2) (i) Be subject to credit examination and supervision by either an agency of the United States or a state and be in good standing with its licensing authority and have met the requirements, if any, of licensing, lending and loan servicing in the state where the collateral for the loan is located; (ii) be a financially viable lender; or (iii) be a trust administered by an entity meeting the requirements of (i) or (ii) of this subsection; and

(3) Have the capability to adequately service the private loan either by using its own resources or by contracting for such resources with a financially viable lender. Under no circumstances may the borrower or an affiliate of the borrower service the private loan. A qualified lender may participate out each private loan to entities other than a Government agency, the borrower, or an affiliate of the borrower, provided that such participation shall be on terms and conditions satisfactory to the Administrator.

(c) *Private loans.* A borrower who qualifies pursuant to § 1786.4(a) may at its option elect to use a private loan to make a prepayment pursuant to this part. Private loans, the proceeds of which are used exclusively to prepay FFB loans, shall be eligible for a guarantee under this part. The Administrator shall endorse a guarantee on each note evidencing a qualifying private loan. The private loan shall be structured in a manner which in the judgment of REA shall not result in an increase in loan guarantee risk and shall comply with the following:

(1) The private loan shall provide for the periodic payment of interest by the borrower not less frequently than annually, at either a variable or fixed rate in a manner which shall not result in an increase in loan guarantee risk. (i.e. The dollar weighted average interest rate on the private loan shall be less than or equal to the dollar weighted average interest rate on the FFB loan being prepaid, so that:

$$C_r = C_o + \frac{\sum_{i=1}^{n} (C_o - A_i)T_i}{(J - n)}$$

Where,

$C_r$ = The revised interest rate cap;

$C_o$ = The original interest rate cap at the time of prepayment;

$A_i$ = The average interest rate actually charged in the $i^{th}$ period;

$T_i$ = Length of the $i^{th}$ period expressed in years;

n = The number of years that have elapsed since the initial prepayment;

J = The initial term of the private loan, at the time of prepayment;

Subject to the constraint that $A_i$ must be less or equal to $C_o$).

(2) Principal payments on the private loan shall be made either quarterly, semiannually, or annually and shall commence on or before the last day of the calendar year during which the prepayment pursuant to this part was made.

(3) With the approval of the Administrator, the lender may refund the private loan with the proceeds of another loan from the same lender, with the existing guarantee and under terms, conditions, and a structure substantially similar to the private loan, on such dates as the lender, the borrower and REA may agree, provided however, that such a refunding loan shall comply with the provisions of § 1786.4(c) hereof. Additionally, with the approval of the Administrator, the private loan may be prepaid either in whole or in part at any time by the borrower using its general funds.

(4) The private loan and the guaranteed note evidencing the private loan shall not be directly or indirectly part of a transaction the income of which is excluded from gross income for the purposes of Chapter I of the Internal Revenue Code of 1986.

(5) The guaranteed note evidencing the private loan shall not be transferable or assignable except (i) with the written approval of the Administrator; (ii) in the event that the guaranteed note evidencing the private loan is held by a trust, to a similar trust, in connection with a refunding loan made by the lender pursuant to § 1786.4(c)(3); or (iii) as an undivided pro rata interest in a pool of obligations.

(6) The loan documentation shall provide REA with the right to accelerate the private loan upon the occurrence of an Event of Default, as that term is defined in the mortgage, on the earlier of (i) any date the interest rate on the private loan is reset, without premium or penalty; (ii) any date the borrower may prepay in accordance with the terms of the private loan, or (iii) the tenth anniversary of the date the private loan first bears interest at a fixed interest rate.

(7) The principal of the private loan shall not include amounts attributable to fees associated with the private loan. At the time it submits its application, a borrower may request that the Administrator approve the inclusion of amounts attributable to fees as part of the interest rate on the private loan, if the net effective interest rate including such fees meets the test contained in § 1786.4(c)(1). For the purposes of these regulations, such financed fees shall be considered "interest".

(8) Private loans and guaranteed notes evidencing private loans shall otherwise be in form and substance satisfactory to the Administrator.

(d) *Prepayments without a guarantee.* Qualifying borrowers may elect to utilize internally generated funds without a guarantee, to prepay an FFB loan pursuant to this part, if

(1) The borrower informs REA, at the time it submits a prepayment application, of its intent to prepay using internally generated funds; and

(2) The prepayment does not, in the judgment of REA, materially adversely affect the financial stability of the borrower and its ability to meet all its obligations, including debt service on all loans made, guaranteed or lien accommodated under the RE Act; which remain outstanding after the date of the prepayment.

(e) *FFB loans.* A borrower's FFB loans that qualify to be prepaid pursuant to this part are advances with long-term maturity dates.

**§ 1786.5 Prepayment authority, program allocations, categories of prepayment applications and financially distressed borrowers' reserve.**

(a) *Prepayment authority.* So long as the aggregate prepayments made after December 22, 1987, under section 306(A) of the RE Act, does not exceed $2.5 billion, the approval of the Secretary of the Treasury is not required in order to make a prepayment pursuant to this part (such amount of prepayments is herinafter called prepayment authority).

(b) *Program allocations.* In accordance with the provisions of section 637 of the 1989 Appropriations Act, $350 million of prepayment authority is allocated to REA-financed electric systems and $150 million of prepayment authority is allocated to REA-financed telephone utilities.

(c) *Categories of prepayment Applications.* Applications received by REA from borrowers desiring to prepay pursuant to this part will be separated into the following two application categories:

(1) *Electric program applications.* Electric program applications are applications to make a prepayment pursuant to this part from REA-financed electric utilities, other than financially distressed borrowers, that qualify in accordance with § 1786.4(a) hereof and which are received by REA during the application period; or are applications to make a prepayment pursuant to this part from financially distressed borrowers that qualify in accordance with § 1786.4(a) hereof and which are received by REA prior to November 30, 1990;

(2) *Telephone program applications.* Telephone program applications are applications to make a prepayment pursuant to this part from REA-financed telephone utilities that qualify in accordance with § 1786.4(a) hereof and which are received by REA during the application period;

(d) *Financially distressed borrowers' reserve.* Of the $350 million of prepayment authority allocated for REA-financed electric utilities, $200 million in prepayment authority is set aside into a financially distressed borrowers reserve. This reserve of prepayment authority will be available for prepayments pursuant to this part by current or future financially distressed borrowers unitl December 31, 1990, to allow such borrowers time to develop a financial restructuring or other work-out plan which may include such prepayment. In the event that a portion of financially distressed borrowers' reserve has not been used to make prepayments pursuant to this part prior to January 1, 1991, REA will evaluate whether further financially distressed borrowers may need assistance, and if not, REA will establish and announce a new application period, during which REA will accept new electric program applications.

**§ 1786.6 Processing procedure.**

(a) *Priority of processing.* The determination of the order or method in which applications or portions of applications will be processed by REA rests solely within the discretion of the Administrator. Without regard to the date received, prepayment applications generally will be processed in the following order of priority:

(1) Applications from financially distressed borrowers; and

(2) Applications from all other borrowers. In the event that REA receives during the initial application period, prepayment applications from such borrowers in an amount less than remaining prepayment authority for each respective program, REA intends to establish a new application period.

(b) *Pro-rated applications.* Electric program applications; other than applications from financially distressed borrowers, and telephone program applications will be prorated within their respective application categories to permit partial prepayments in the event that the aggregate amount of prepayment applications received during the application period exceeds the amount of prepayment authority allocated to that application category. In such circumstances, the amount of each borrower's permitted prepayment shall be determined within each respective application category, as follows:

(1) The principal amount of FFB advances under each individual application, bearing an interest rate greater than 10.0 percent, shall be divided by the aggregate principal amount of FFB advances, under all of the applications, which, bear an interest rate greater than 10.0 percent, in order to determine a percentage (hereinafter called a pro-rated percentage) for each borrower;

(2) Each borrower's share of the prepayment authority for its application category shall be equal to the product of (i) the prepayment authority times (ii) the respective pro-rated percentage, and may be used to prepay a portion of any FFB loan listed pursuant to § 1786.7(a)(2);

(3) Except for prepayments made by financially distressed borrowers which are to be completed on or before December 31, 1990, if any approved prepayment transaction fails to be settled within 180 days of the end of the initial application period, REA may rescind its approval. The unused prepayment authority represented by such a failed transaction is subject to being included in any subsequent notice of a new application period under this part; and

(4) In the event that pending applications from financially distressed borrowers at any time exceed the amount prepayment authority remaining in the financially distressed borrowers' reserve, the Administrator at his discretion shall select one or more of

such applications and allocate the remaining reserve.

**§ 1786.7 Application procedure.**

Applications to make a prepayment pursuant to this part shall be submitted to REA on such forms as REA may prescribe in the following manner:

(a) *Initial application.* Each borrower desiring to make a prepayment pursuant to this part shall submit an initial application to REA. No initial application from a borrower will be accepted by REA prior to the commencement of the application period. An initial application shall not be deemed submitted to REA until it is received by REA, and the "Date Received" has been inscribed on the Notice of Intent to Prepay the Federal Financing Bank by an authorized official of REA. Incomplete initial applications may be returned to the borrower at the discretion of REA and thereafter must be resubmitted in order to be processed. To be considered complete, the initial application should include the following:

(1) "Notice of Intent to Prepay the Federal Financing Bank" in the form specified in § 1786.9 hereof;

(2) A listing of each FFB loan advance to be prepaid by loan designation, REA note number, REA account number, advance date, maturity date, original amount, outstanding balance, and interest rate;

(3) Evidence that the borrower meets the qualification provisions of § 1786.4(a) of these regulations;

(4) A certification of the chief executive officier of the borrower stating that, "Any savings from the prepayment of Federal Financing Bank Loans pursuant to section 306(A) of the Rural Electrification Act of 1936, as amended (7 U.S.C. 936(A)) will be passed on to the customers of (insert the corporate name of the borrower) or used to improve the financial strength of (insert the corporate name of the borrower) in cases of financial hardship."

(5) A certified copy of a resolution of the board of directors of the borrower approving the certification cited above and requesting REA approval of the prepayment.

(b) *Final documentation.* All documentation in connection with a proposed prepayemnt made pursuant to this part must be submitted to REA in final form, no later than 5 business days prior to the settlement date agreed to by the borrower and REA. To be considered complete, the final documentation shall include the following material:

(1) In the event that the borrower proposes to utilize internally generated funds in connection with the prepayment, (i) a certification that the borrower intends to utilize internally generated funds in connection with the prepayment and that the prepayment will not have a material adverse affect on the borrower's ability to meet all its obligations, including debt service on all loans made or guaranteed under the RE Act remaining outstanding after the date of the prepayment; and (ii) evidence, in form and substance satisfactory to REA, that the borrower has sufficient resources available and it is committed to making the prepayment on the settlement date;

(2) In the event that a borrower proposes to utilize a private loan in connection with the prepayment,

(i) Evidence, in form and substance satisfactory to REA, that the borrower has an irrevocable commitment from the lender to close the private loan on the settlement date at an interest rate that meets the requirements of § 1786.4(c)(1);

(ii) Evidence that the lender meets the qualification provisions of § 1786.4(b);

(iii) Evidence that the private loan meets the qualification provisions of § 1786.4(c); and

(iv) The final documentation for the private loan;

(3) Estimate of fees, and expenses, including any taxes, in connection with the prepayment transaction;

(4) In the case of financially distressed borrowers, evidence in form and substance satisfactory to the Administrator that the benefits of prepayment will not be used to reduce rates and that any Federal or state regulatory body having jurisdiction over the borrower's rates has acknowledged its awareness of this requirement;

(6) In the event that borrower is unable to deliver final documentation or the evidence specified in accordance with, § 1786.7(b), REA may reschedule the settlement date at is discretion.

(c) *Procedure for submission of prepayment applications.* An original and three copies of each initial application must be submitted, between the hours of 8:15 a.m. to 4:45 p.m. Washington, DC time, to: Mr. Walter Twiggs, Chief, Communications and Records Management Branch, Administrative Service Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 0175 South Agriculture Building, Washington, DC 20250–1500. The outside front of the package containing the prepayment application must be clearly marked, "FFB prepayment application," and whether the application is an "Electric Program Application" or a "Telephone Program Application". The Notice of Intent to Prepay the Federal Financing Bank must be the first document in the application package. Upon receipt the prepayment application will be opened, logged in, and the Notice of Intent to Prepay the Federal Financing Bank will be inscribed with the date received by an authorized official of REA. A copy of the Notice of Intent to Prepay the Federal Financing Bank will then be returned to the borrower. Should an application be submitted other than in accordance with the provisions of § 1786.7, the date received shall be a date determined by REA in its sole discretion.

**§ 1786.8 Settlement procedure.**

(a) *General.* Settlements in connection with prepaying FFB loans pursuant to this part shall be conducted in accordance with the provisions of this section.

(b) *Settlement date.* The prepayment will be settled and if a private loan is utilized, the guarantee will be delivered, on a settlement date agreed upon by the borrower and REA.

(c) *Place of settlement.* All settlements will take place in Washington, DC, at a location of the borrower's choosing; provided however, if more than one settlement is proposed for the same settlement date, REA reserves the right to coordinate the date and location of the settlements with borrowers involved.

(d) *Repayment of FFB.* Prior to 1:00 p.m. prevailing local time in New York, New York, on the settlement date, the borrower shall wire immediately available funds to REA through the Department of the Treasury account at the Fedeal Reserve Bank of New York or shall provide for payment to REA in another manner acceptable to REA and FFB, in an amount sufficient to pay the outstanding principal of the FFB loan plus accrued interest from the last payment date to and including the settlement date.

(e) *Documentation.* The borrower shall deliver, or cause to be delivered to REA and FFB, not less than 3 business days prior to the settlement date, written notice of the settlement date and a complete listing of each FFB loan advance to be prepaid, in the format required by § 1786.7(a)(2). In the event that a private loan is used in connection with the prepayment, the following executed documents, opinions and material shall be delivered at the settlement:

(1) The guaranteed note evidencing the private loan.

(2) The guarantee.

(3) The loan guarantee agreement.

(4) Copy of the private loan agreement between the lender and the borrower.

(5) Evidence that the borrower has received all approvals which are required under Federal or state law, loan agreements, security agreements, existing financing arrangements, or any other agreement to which the borrower is a party.

(6) An amendment in recordable form revising the description of the obligations secured by the mortgate including the obligation of the borrower to reimburse REA for any amounts that REA may pay under the guarantee.

(7) An approving opinion of the borrower's legal counsel to the effect that the guaranteed note evidencing the private loan is a valid and legally binding obligation of the borrower which is secured under the mortgage, and the priority of the mortgage, as amended pursuant to paragraph (f)(6) of this section, remains undisturbed.

(8) An approving opinion of the lender's legal counsel to the effect that the loan guarantee agreement is a valid and legally binding obligation of the lender.

(9) Such other opinions of counsel as may be required by the Administrator.

(10) Copies of any other documentation required by the lender.

(11) Copies of any other documentation required by REA to ensure that the obligations of the borrower to reimburse REA for any amounts that REA pays under the guarantee or may advance in connection with the private loan are adequately secured under the mortgage.

**§ 1786.9 Forms.**

Guarantees and loan guarantee agreements executived by REA pursuant to this part will be on forms prescribed by REA. Such forms will include, without limitation, additional details on servicing, procedures for notifying REA of a default, the manner for requesting payment on a guarantee. The Notice of Intent to Prepay the Federal Financing Bank shall be substantially in the form specified by REA. REA may also prescribe standard forms of certifications to be used in connection with materials required to be furnished pursuant to § 1786.6(a) of this part.

**§ 1786.10 Access to records of lenders, servicers, and trustees.**

The lender, the servicer, or the trustee will permit representatives of REA (or other agencies of the U.S. Department of Agriculture authorized by that Department) to inspect and make copies of any of their records pertaining to REA guaranteed loans. Such inspection and copying may be made during regular office hours of the respective party or any other time the party and REA find convenient.

**§ 1786.11 Loss, theft, destruction, mutilation, or defacement of REA guarantee.**

(a) *Authorized representative.* Except where the evidence of debt was or is a bearer instrument, the REA Administrator is authorized on behalf of REA to issue a replacement guarantee(s) for one(s) which may have been lost, stolen, destroyed, mutilated, or defaced. Such replacement(s) shall be issued only to the lender or holder and only upon receipt of an acceptable certificate of loss and an indemnity bond.

(b) *Requirements.* When a guarantee(s) is lost, stolen, destroyed, mutilated, or defaced while in the custody of the lender, or holder, the lender will coordinate the activities of the party who seeks the replacement documents and will submit the required documents to REA for processing. The requirements for replacement are as follows:

(1) A certificate of loss properly notarized which includes:

(i) Legal name and present address of the owner, requesting the replacement forms.

(ii) Legal name and address of lender of record.

(iii) Capacity of person certifying.

(iv) Full identification of the guarantee, including the name of the borrower, date of the guarantee, face amount of the evidence of debt purchased, date of evidence of debt and present balance of the loan. Any existing parts of the documents to be replaced should be attached to the certificate.

(v) A full statement of circumstances of the loss, theft, or destruction of the guarantee.

(vi) The lender or holder, shall present evidence demonstrating current ownership of the guarantee and note. If the present holder is not the same as the original lender, a copy of the endorsement of each successive holder in the chain of transfer from the initial private lender to present holder shall be included. If copies of the endorsement cannot be obtained, best available records of transfer shall be presented to REA (e.g., order confirmation, cancelled checks, etc.).

(2) An indemnity bond acceptable to REA shall accompany the request for replacement except when the holder is the United States, a Federal Reserve bank, a Federal Government Corporation, a state or territory, or the District of Columbia. The bond may be with or without surety. The bond shall be with surety except when the outstanding principal balance and accrued interest due the present holder is less than $1,000,000 verified by the lender in writing in a letter of certification of balance due. The surety shall be a qualified surety company holding a certificate of authority from the Secretary of the Treasury and listed in Treasury Department Circular 580.

(3) All indemnity bonds shall be issued and/or payable to the United States of America acting through the Administrator of the Rural Electrification Administration. The bond shall be in an amount not less than the unpaid principal and interest. The bond shall save REA harmless against any claim or demand which might arise or against any damage, loss, costs, or expenses which might be sustained or incurred by reasons of the loss or replacement of the instruments.

**§ 1786.12 Other prepayments.**

Nothing contained in this part shall prohibit a borrower from making prepayments of FFB loans in accordance with the terms thereof.

**§ 1786.13 Application of regulation to previous prepayments.**

Nothing contained in this part shall affect the validity of prepayments made or guarantees issued pursuant to previous regulations. Those borrowers, however, that completed a prepayment pursuant to section 306(A) of the RE Act and closed loans prior to February 27, 1988, may, in their discretion request REA approval and if required by prior regulations the concurrence of the Secretary of the Treasury, of any amendments necessary to make the terms and conditions of such loans consistent with, or to consolidate such loans with, loans guaranteed under these regulations.

**§ 1786.14 Judicial review.**

This part is intended to set forth REA policies and procedures for the orderly administration of the provisions of

section 306(A) of the RE Act, section 633 of the continuing resolution, and section 637 of the 1989 Appropriations Act and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers or any person.

Date: May 18, 1989.

**Charles R. Miller,**

*Acting Administrator.*

**Note:** The following form of the Notice of Intent to Prepay the Federal Financing Bank (which will not be published in the Code of Federal Regulations) may be used in connection with a prepayment application.

BILLING CODE 3410-15-M

Public reporting burden for this collection of information is estimated to average 1 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0572-0088), Washington, DC 20503. OMB FORM NO. 0572-0088, Expires 02/29/92.

*USDA-REA*

# NOTICE OF INTENT TO PREPAY THE FEDERAL FINANCING BANK

BORROWER DESIGNATION

**REA USE ONLY**

Date Received

Initials

**INSTRUCTIONS** - Submit an original and three copies to: Walter Twiggs, Chief, Communications and Records Management Branch, Administrative Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 0175-South Agriculture Building, Washington, DC 20250-1500 (See 7 CFR 1786.7, "Application Procedure").

## NOTIFICATION

_____ *hereby notifies the Administrator of*
*(Borrower Name)*

*the Rural Electrification Administration (REA) of its intent to prepay the Federal Financing Brank under the provisions of 7 CFR 1786, "Prepayment of REA Guaranteed Federal Financing Bank Loans", (the "Regulations") and pursuant to §306(A) of the Rural Electrification Act of 1936, as amended. The following information is provided to REA in connection with its application to prepay:*

| | |
|---|---|
| 1. Borrower Name and Address | 2. This prepayment is intened to be made using (*check one that applies*): a. ☐ Internally generated funds **OR** b. ☐ Private capital with the existing guarantee. |
| 3. Proposed Prepayment Amount: | $ |
| 4. Dollar weighted average FFB interest rate on the proposed prepayment amount: | |

5. Name and Address of Proposed Lender; Servicer; and Trustee (*if applicable*):

| LENDER | SERVICER | TRUSTEE |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

| | |
|---|---|
| 6. Settlement Date (*the date the borrower is prepared to disburse funds to FFB*): | , 19 |

## ACKNOWLEDGMENT

_____ *acknowledges that the*
*(Borrower Name)*

*procedures set forth in 7 CFR 1786 will be used by REA to establish processing priority.*

BY: _____
*(Authorized Official of Borrower)*

TITLE: _____ DATE: _____

REA Form 606 *(05-89)*

[FR Doc. 89-12315 Filed 5-22-89; 8:45 am]

BILLING CODE 3410-15-C

## Food Safety and Inspection Service

### 9 CFR Parts 301, 302, 303, 305, 306, 307, 308, 312, 314, 316, 317, 318, 320, 322, 325, 327, 331, 335, and 381

[Docket No. 87-020P]

### Implementation of Improved Processing Inspection

**AGENCY:** Food Safety and Inspection. Service, USDA.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is withdrawing its proposal of November 4, 1988, to change its system of processing inspection. The proposed rule changes were intended to carry out the provisions of the 1986 amendments to the Federal Meat Inspection Act (FMIA) and existing provisions in the Poultry Products Inspection Act (PPIA) by implementing a method of inspection, known as "Improved Processing Inspection," whereby FSIS would allocate its inspection program resources to each processing establishment based on the public health and economic risks presented by the establishment. FSIS will gather additional information regarding a processing inspection system, and will thereafter determine if a new proposal is to be published.

**EFFECTIVE DATE:** May 23, 1989.

**FOR FURTHER INFORMATION CONTACT:** Judith A. Segal, Director, Policy and Planning Staff, Food Safety and Inspection Sevice, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6525.

**SUPPLEMENTARY INFORMATION:** The Food Safety and Inspection Service (FSIS) on November 4, 1988, published a proposal to amend various provisions of the Federal meat inspection regulations and poultry products inspection regulations to permit the Agency to implement improvements in its system of inspection for establishments that prepare meat food products and/or process poultry products beyond slaughter and evisceration (53 FR 44818).

The proposed changes were authorized by 1986 amendments to the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and by the existing provisions in the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). The FMIA and PPIA now permit the Secretary of Agriculture, through the Administrator of FSIS, more closely to link application of inspection program resources in each inspected processing establishment to the public health and economic risks presented by the establishment's operations (21 U.S.C. 455(b) and 606(a)). They also provide the discretion to provide less than daily inspection coverage in some plants.

The proposed changes were intended to provide for a more effective and efficient method of inspecting processed products, and the facilities in which they are produced, known as "Improved Processing Inspection." A considerable number of public comments oppposed the activities proposed by the Agency in this rulemaking. Consumers expressed concerns that the Agency would use its new authority simply to reduce inspection and, consequently, reduce the safety and wholesomeness of inspected products. At the same time, the regulated industry expressed concerns that the Agency would use its new authority to place more burdensome requirements on inspected establishments.

FSIS does not intend to proceed with this rulemaking because the comments received have persuaded the Agency to reconsider how to improve its processing inspection procedures.

Accordingly, FSIS hereby withdraws the proposed rule published in the **Federal Register** on November 4, 1988 (53 FR 44848).

Done at Washington, DC on May 19, 1989.

**Lester M. Crawford,**

*Administrator, Food Safety and Inspection Service.*

[FR Doc. 89-12454 Filed 5-22-89; 8:45 am]

BILLING CODE 3410-DM-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

### 14 CFR Part 39

[Docket No. 89-NM-68-AD]

### Airworthiness Directives; Boeing Model 747 Series Airplanes

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

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

**SUMMARY:** This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require incorporation of certain structural modifications. This proposal is prompted by reports of recent incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. These incidents jeopardized the airworthiness of the affected airplanes. These conditions, if not corrected, could result in a degradation in the structural capabilities of the affected airplanes. This action also reflects the FAA's decision that long term continued operational safety should be assured by actual modification of the airframe rather than repetitive inspections.

**DATE:** Comments must be received no later than July 24, 1989.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-68-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard H. Yarges or Mr. Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1920. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice

must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-68-AD." The post card will be date/time stamped and returned to the commenter.

**Discussion.**

In April 1988, a high-cycle Boeing Model 737 suffered major structural damage in flight. Although the cause of the accident has not yet been determined, it has become clear that the airplane had numerous fatigue cracks and a great deal of corrosion. Subsequent inspections conducted by the operator on the high-cycle airplanes in its fleet revealed that two other airplanes had extensive fatigue cracking and corrosion. These airplanes were taken out of service.

In June 1988, the FAA sponsored a conference on aging airplanes. It became obvious, because of the huge increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes, that older airplanes will continue to be operated rather than be retired. Because of the problems revealed by the accident described above, it was generally agreed that increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America committed to identifying and implementing procedures to ensure continuing structural airworthiness of aging transport category airplanes. An Aging Aircraft Task Force, with representatives from the aircraft operators, manufacturers, regulatory authorities, and other aviation representatives, was established in August 1988. The objective of the Task Force was to sponsor "Working Groups" to (1) select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes, (2) develop corrosion-directed inspections and prevention programs, (3) review the adequacy of each operator's structural maintenance program, (4) review and update the Supplemental Structural Inspection Documents (SSID), and (5) assess repair quality.

The Working Group assigned to review Boeing Model 747 series airplanes completed its work on Item (1), above, in March 1989. The Working Group's, proposal is contained in Boeing Document Number D6-35999, "Aging Airplane Service Bulletin Structural Modification Program—Model 747." The FAA has reviewed and approved this Document.

The Document references modifications described in 29 service bulletins and recommends they be incorporated in the applicable Boeing Model 747 airplanes. In addition, the Document describes additional modifications which will be included in upcoming revisions to those service bulletins. These modifications consist of 8 modifications to the wing, 13 modifications to the fuselage, 1 modification to the empennage, 4 modifications to the landing gear, and 5 modifications to the engine strut. They include structural reinforcement/replacement of skins, stringers, bulkheads, frames, ribs, spars, and other structural members. Completing these modifications will reduce the possibility for major structural failure.

Since fatigue cracking and corrosion is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification of Boeing Model 747 series airplanes at their economic design goal or, in some cases, at a specific time, in accordance with the Boeing Document previously described.

The "economic design goal" of an airplane is typically considered to be the period of service, after which a substantial increase in the maintenance costs is expected to take place in order to assure continued operational safety. The economic design goal for the Boeing Model 747 airplane is 20 years for structural problems associated with environmental deterioration, and 20,000 flight cycles for structural problems associated with fatigue damage.

The proposed compliance time for implementation of the mandatory structural modification program is upon reaching the applicable economic design goal or within 4 years after the effective date of the AD. This time interval was based upon the ability of the manufacturer to provide the parts necessary for the modification, and the time necessary to incorporate the modifications.

In the interim, safety will be provided by various means currently in place that are considered satisfactory to detect damage prior to the occurrence of an unsafe condition. These include operators' on-going basic maintenance programs; continuing inspections required by numerous previously issued AD's; the Supplemental Structural Inspection Document (SSID) program, previously mandated by AD 84-21-02, Amendment 39-4936 (49 FR 44890; November 13, 1984); the FAA's increased emphasis on surveillance of operators' maintenance programs and procedures; and the FAA's participation in programs to physically inspect high-time airplanes during scheduled heavy maintenance.

There are approximately 680 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 20 airplanes of U.S. registry would be affected by this AD within the initial threshold of 4 years. The cost to modify each airplane is estimated to be $2,300,000. This cost includes the price of modification kits, which is $900,000 per airplane, and the estimated number of manhours to accomplish the modifications, which is 35,000 manhours at $40 per manhour. It does not include downtime, planning, set up, familiarization, or tool acquisition costs. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $46,000,000 over the 4 year time period.

Additional airplanes will be affected as they accumulate time-in-service and reach the threshold for modification.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

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

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—[AMENDED]

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. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Applies to Model 747 series airplanes, listed in Boeing Document No. D6-35999, dated March 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural failure, accomplish the following:

A. Prior to reaching the incorporation thresholds listed in Boeing Document No. D6-35999, dated March, 1989, "Aging Airplane Service Bulletin Structural Modification Program—Model 747," or within the next 4 years after the effective date of this AD, whichever occurs later, except as noted in paragraph B., below, accomplish the structural modifications listed in Section 3 of Boeing Document No. D6-35999, dated March 1989.

B. 1. Accomplish replacement of the trailing edge flap tracks in accordance with Boeing Alert Service Bulletin 747-57A2229, Revision 8, dated January 31, 1989, within 5 years after the effective date of this AD.

2. Incorporation thresholds expressed as "at next overhaul," shall be accomplished within the next 6 years after the effective date of this AD; or within 6 years after the accumulation of 10,000 flights in the case of the wing landing gear jury strut spindle.

3. Accomplish the APU cutout reinforcement in accordance with Boeing Service Bulletin 747-53-2275, Revision 3, prior to accumulation of 20,000 flights, or within 5,000 flights after the effective date of this AD, whichever occurs later.

**Note:** The modifications required by paragraphs A. and B., above, do not terminate the inspection requirements of any other AD unless that AD specifies that any such modification constitutes terminating action for the inspection requirements.

C. 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.

**Note:** The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

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

The FAA has requested **Federal Register** approval to incorporate by reference Boeing Document No. D6-35999, dated March 1989, identified and described in this proposed directive.

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

Issued in Seattle, Washington, on May 1, 1989.

**Leroy A. Keith,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-12275 Filed 5-18-89; 11:10 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 39

**[Docket No. 89-NM-60-AD]**

## Airworthiness Directives; Boeing Model 727 Series Airplanes

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

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

**SUMMARY:** This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which would require incorporation of certain structural modifications. This proposal is prompted by reports of recent incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. These incidents have jeopardized the airworthiness of the affected airplanes. These conditions, if not corrected, could result in a degradation in the structural capabilities of the affected airplanes. This action also reflects the FAA's decision that long term continued operational safety should be assured by actual modification of the airframe rather than repetitive inspections.

**DATE:** Comments must be received no later than July 24, 1989.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-60-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-60-AD." The post card will be date/time stamped and returned to the commenter.

### Discussion

In April 1988, a high-cycle Boeing Model 737 suffered major structural damage in flight. Although the cause of the accident has not yet been determined, it has become clear that the airplane had numerous fatigue cracks and a great deal of corrosion. Subsequent inspections conducted by the operator on the high-cycle airplanes in its fleet revealed that two other airplanes had extensive fatigue cracking

and corrosion. These airplanes were taken out of service.

In June 1988, the FAA sponsored a conference on aging airplanes. It became obvious, because of the huge increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes, that older airplanes will continue to be operated rather than be retired. Because of the problems revealed by the accident described above, it was generally agreed that increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America committed to identifying and implementing procedures to ensure continuing structural airworthiness of aging transport category airplanes. An Aging Aircraft Task Force, with representatives from the aircraft operators, manufacturers, regulatory authorities, and other aviation representatives, was established in August 1988. The objective of the Task Force was to sponsor "Working Groups" to (1) select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes, (2) develop corrosion-directed inspections and prevention programs, (3) review the adequacy of each operator's structural maintenance program, (4) review and update the Supplemental Structural Inspection Documents (SSID), and (5) assess repair quality.

The Working Group assigned to review Boeing Model 727 series airplanes completed its work on Item (1), above, in March 1989. The Working Group's, proposal is contained in Boeing Document Number D6-54860, "Aging Airplane Service Bulletin Structural Modification Program—Model 727." The FAA has reviewed and approved this Document.

The Document references modifications from 74 service bulletins and recommends they be incorporated in the applicable Boeing Model 727 airplanes. In addition, the Document describes additional modifications which will be included in upcoming revisions to these service bulletins. The modifications consist of 12 modifications to the wing, 45 modifications to the fuselage, 8 modifications to the doors, 7 modifications to the empennage, 1 modification to the landing gear, and 1 modification to the engine strut. They include structural reinforcement/replacement of skins, stringers, bulkheads, frames, ribs, spars, and other structural members. Completing these modifications will reduce the possibility for major structural failure.

Since fatigue cracking and corrosion is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification of Boeing Model 727 series airplanes at their economic design goal or, in some cases, at a specific time, in accordance with the Boeing Document previously described.

The "economic design goal" of an airplane is typically considered to be the period of service, after which a substantial increase in the maintenance costs is expected to take place in order to assure continued operational safety. The economic design goal for the Boeing Model 727 airplane is 20 years for structural problems associated with environmental deterioration, and 60,000 flight cycles for structural problems associated with fatigue damage.

The proposed compliance time for implementation of the mandatory structural modification program is upon reaching the applicable economic design goal or within 4 years after the effective date of the AD. This time interval was determined based upon the ability of the manufacturer to provide the parts necessary for the modification, and the time necessary to incorporate the modifications.

In the interim, safety will be provided by various means currently in place that are considered satisfactory to detect damage prior to the occurrence of an unsafe condition. These include operators' on-going basic maintenance programs; continuing inspections required by numerous previously issued AD's; the Supplemental Structural Inspection Document (SSID) program, previously mandated by AD 84-21-05, Amendment 39-4920 (49 FR 38931: October 2, 1984); the FAA's increased emphasis on surveillance of operators' maintenance programs and procedures; and the FAA's participation in programs to physically inspect high-time airplanes during scheduled heavy maintenance.

There are approximately 1,700 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 67 airplanes of U.S. registry would be affected by this AD within the initial threshold of 4 years. The cost to modify each airplane is estimated to be $1,057,212. This cost includes the price of modification kits, which is $362,932 per airplane, and the estimated number of manhours to accomplish the modifications, which is 17,357 manhours at $40 per manhour. It does not include the cost of downtime, planning, set up, familiarization or tool acquisition costs. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $70,833,204 over the 4 years time period.

Additional airplanes will be affected as they accumulate time-in-service and reach the threshold for modification.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

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

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—[AMENDED]

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. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Applies to Model 727 series airplanes, listed in Boeing Document No. D6-54860, dated March 31, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural failure, accomplish the following:

A. Except as provided below, prior to reaching the incorporation thresholds listed

in Boeing Document No. D6-54860, dated March 31, 1989, "Aging Airplane Service Bulletin Structural Modification Program - Model 727," or within the next 4 years after the effective date of this AD, whichever occurs later, accomplish the structural modifications listed in Section 3 of Boeing Document No. D6-54860, dated March 31, 1989. Service bulletins whose threshold is specified in Boeing Document D6-54860, dated March 31, 1989, by a calendar date must be modified by that date in lieu of the 4 years specified in this paragraph.

**Note:** The modifications required by this paragraph do not terminate the inspection requirements of any other AD unless that AD specifies that any such modification constitutes terminating action for the inspection requirements.

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.

**Note:** The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

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

The FAA has requested **Federal Register** approval to incorporate by reference Boeing Document No. D6-54860, dated March 31, 1989, identified and described in this proposed directive.

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

Issued in Seattle, Washington, on May 1, 1989.

**Leroy A. Keith,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-12776 Filed 05-18-89; 11:10 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket No. 89-NM-67-AD]**

## Airworthiness Directives; Boeing Model 737 Series Airplanes

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

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

**SUMMARY:** This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which would require incorporation of certain structural modifications. This proposal is prompted by reports of recent incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. These incidents have jeopardized the airworthiness of the affected airplanes. These conditions, if not corrected, could result in a degradation in the structural capabilities of the affected airplanes. This action also reflects the FAA's decision that long term continued operational safety should be assured by actual modification of the airframe rather than repetitive inspections.

**DATE:** Comments must be received no later than July 24, 1989.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-67-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara J. Mudrovich, Airframe Branch, ANM-120S; telephone (206) 431-1927. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-67-AD." The post card will be date/time stamped and returned to the commenter.

### Discussion

In April 1988, a high-cycle Boeing Model 737 suffered major structural damage in flight. Although the cause of the accident has not yet been determined, it has become clear that the airplane had numerous fatigue cracks and a great deal of corrosion. Subsequent inspections conducted by the operator on the high-cycle airplanes in its fleet revealed that two other airplanes had extensive fatigue cracking and corrosion. These airplanes were taken out of service.

In June 1988, the FAA sponsored a conference on aging airplanes. It became obvious, because of the huge increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes, that older airplanes will continue to be operated rather than be retired. Because of the problems revealed by the accident described above, it was generally agreed that increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America committed to identifying and implementing procedures to ensure continuing structural airworthiness of aging transport category airplanes. An Aging Aircraft Task Force, with representatives from the aircraft operators, manufacturers, regulatory authorities, and other aviation representatives, was established in August 1988. The objective of the Task Force was to sponsor "Working Groups" to (1) select service bulletins, applicable

to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes, (2) develop corrosion-directed inspections and prevention programs, (3) review the adequacy of each operator's structural maintenance program, (4) review and update the Supplemental Structural Inspection Documents (SSID), and (5) assess repair quality.

The Working Group assigned to review Boeing Model 737 series airplanes completed its work on Item (1), above, in March 1989. The Working Group's, proposal is contained in Boeing Document Number D6-38505, "Aging Airplane Service Bulletin Structural Modification Program—Model 737-100/-200/-200C." The FAA has reviewed and approved this Document.

The Document references modifications described in 58 service bulletins and recommends they be incorporated in the applicable Boeing Model 737 series airplanes. In addition, the Document describes additional modifications which will be included in upcoming revisions to those service bulletins. These modifications consist of 15 modifications to the wing, 25 modifications to the fuselage, 8 modifications to the doors, 8 modifications to the empennage, and 2 modifications to the landing gear. They include structural reinforcement/replacement of skins, stringers, bulkheads, frames, ribs, spars, and other structural members. Completing these modifications will reduce the possibility for major structural failure.

Since fatigue cracking and corrosion is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification of Boeing Model 737 series airplanes at their economic design goal or, in some cases, at a specific time, in accordance with the Boeing Document previously described.

The "economic design goal" of an airplane is typically considered to be the period of service, after which a substantial increase in the maintenance costs is expected to take place in order to assure continued operational safety. The economic design goal for the Boeing Model 737 airplane is 20 years for structural problems associated with environmental deterioration, and 75,000 flight cycles for structural problems associated with fatigue damage.

The proposed compliance time for implementation of the mandatory structural modification program is upon reaching the applicable economic design goal or within 4 years after the effective date of the AD. This time interval was based upon the ability of the manufacturer to provide the parts necessary for the modification, and the time necessary to incorporate the modifications.

In the interim, safety will be provided by various means currently in place that are considered satisfactory to detect damage prior to the occurrence of an unsafe condition. These include operators' on-going basic maintenance programs; continuing inspections required by numerous previously issued AD's; the Supplemental Structural Inspection Document (SSID) program, previously mandated by AD 84-21-06, Amendment 39-4933 (49 FR 42556, October 23, 1984); the FAA's increased emphasis on surveillance of operators' maintenance programs and procedures; and the FAA's participation in programs to physically inspect high-time airplanes during scheduled heavy maintenance.

There are approximately 1,200 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 28 airplanes of U.S. registry would be affected by this AD within the initial threshold of 4 years. The cost to modify each airplane is estimated to be $898,070. This cost includes the price of modification kits, which is $324,670 per airplane, and the estimated number of manhours to accomplish the modifications, which is 14,335 manhours at $40 per manhour. It does not include downtime, planning, set up, familiarization or tool acquisition costs. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $25,145,960 over the 4 year time period.

Additional airplanes will be affected as they accumulate time-in-service and reach the threshold for modifications.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

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

Air transportation, Aircraft, Aviation Safety, Safety.

**The Proposed Amendment**

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

## PART 39—[AMENDED]

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. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Applies to Model 737 series airplanes, listed in Boeing Document No. D6-38505, dated March 31, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural failure, accomplish the following:

A. Except as provided below, prior to reaching the incorporation thresholds listed in Boeing Document No. D6-38505, dated March 31, 1989, "Aging Airplane Service Bulletin Structural Modification Program—Model 737-100/-200/-200C," or within the next 4 years after the effective date of this AD, whichever occurs later, accomplish the structural modifications listed in Section 3 of Boeing Document No. D6-38505, dated March 31, 1989. Service bulletins whose threshold is specified in Boeing Document D6-38505, dated March 31, 1989, by a calendar date must be modified by that date in lieu of the 4 years specified in this paragraph.

**Note:** The modifications required by this paragraph do not terminate the inspection requirements of any other AD unless that AD specifies that any such modification constitutes terminating action for the inspection requirements.

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.

**Note.** The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

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

The FAA has requested **Federal Register** approval to incorporate by reference Boeing Document No. D6-38505, dated March 31, 1989, identified and described in this proposed directive.

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

Issued in Seattle, Washington, on May 1, 1989.

**Leroy A. Keith,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-12277 Filed 5-18-89; 11:10 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket No. 81-ANE-03]**

## Airworthiness Directives; Pratt & Whitney (PW) JT8D-1, -1A, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, -17AR Turbofan Engines

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

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

**SUMMARY:** This document proposes to amend Airworthiness Directive (AD) 81-08-02 R2, which requires inspections at the tierod holes of stages 9 through 12 high pressure compressor (HPC) disks. The proposed amendment would eliminate the inadequate optional on-wing ultrasonic inspection of tenth stage compressor disks, and add an engine model inadvertently omitted in the previous amendment. The proposed AD is needed to prevent uncontained ruptures of tenth stage compressor disks due to undetected fatigue cracks originating at the tierod holes.

**DATES:** Comments must be received on or before July 31, 1989.

**ADDRESSES:** Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 81-ANE-03, 12 New England Executive Park, Burlington, Massachusetts 01803; or delivered in duplicate to Room 311, at the above address.

Comments delivered must be marked: Docket No. 81-ANE-03.

Comments may be inspected at the New England Region, Office of the Assistant Chief Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The applicable alert service bulletin (ASB) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined in the Regional Rules Docket.

**FOR FURTHER INFORMATION CONTACT:** Thomas Boudreau, Engine Certification Branch, ANE-141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7121.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire.

Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 81-ANE-03. The postcard will be date/time stamped and returned to the commenter.

AD 81-08-02 R2, Amendment 39-4083 as amended by Amendment 39-4432 as further amended by Amendment 39-4817 (49 FR 7361; February 29, 1984), requires inspections at the tierod holes of stages 9 through 12 HPC disks. AD 81-08-02 R2 also allows for an on-wing ultrasonic inspection of tenth stage disks. The intent of developing the on-wing tenth stage disk inspection procedure was to provide an alternative inspection method for operator scheduling flexibility.

Since issuing AD 81-08-02 R2, an incident has occurred resulting in an uncontained fracture of a tenth stage compressor disk. The disk had been subjected to three previous on-wing ultrasonic inspections prior to fracture.

The FAA has determined that AD 81-08-02 R2 should be amended to remove the on-wing ultrasonic inspection of tenth stage compressor disks. This method has been determined as inadequate for detecting tierod hole cracking. Since this condition is likely to exist or develop in other engines of the same type design, the proposed AD would amend AD 81-08-02 R2, Amendment 39-4817 (49 FR 7361; February 29, 1984) and require only uninstalled inspections of stages 9 through 12 HPC disks on certain PW JT8D engines in accordance with PW ASB 4723, Revision 11, dated October 30, 1987.

The proposed amendment also adds the JT8D-7A engine model to the compliance section where it was inadvertently omitted from the original amendment.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation involves few engines and will have negligible economic impact since most operators use uninstalled tenth stage disk inspections. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the proposed rule affects only operators using aircraft in which JT8D engines are installed, none of which are believed to be small entities. 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); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of

small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Incorporation by reference.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations (FAR) as follows:

## PART 39—[AMENDED]

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. Section 39.13 is amended by amending Amendment 39-4817 (49 FR 7361; February 29, 1984), Airworthiness Directive (AD) 81-08-02 R2, as follows:

**Pratt & Whitney:** Applies to Pratt & Whitney (PW) JT8D-1, -1A, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR, turbofan engines

(a) Insert:

(1) "-7A," between "-7," and "-7B," in the list of applicable engine models.

(2) the following paragraph after the paragraph which begins: "Remove cracked disks... Revision 9.":

"Reinspect tenth stage HPC disks which had been previously inspected prior to the effective date of this AD, in accordance with the procedures specified in PWA ASB 4723, Revision 11, prior to reaching the on-wing reinspection intervals specified in AD 81-08-02 R2, Amendment 39-4817".

(b) Replace as follows:

(1) Replace the paragraph:

"Compliance required as indicated, unless already accomplished in accordance with Pratt & Whitney Aircraft Alert Service Bulletin Number 4723, Revision 7, dated February 26, 1981, or Revision 8, dated July 9, 1982. Inspection methods and intervals subsequent to the effective date of this AD must be in accordance with Revision 9 of the above Alert Service Bulletin.", with:

"Compliance is required as indicated, unless already accomplished."

(2) In the paragraph that begins and ends: "To prevent crack . . . New England Region.", replace "Pratt & Whitney Alert Service Bulletin Number 4723, Revision 9, dated July 13, 1983", with "Pratt & Whitney (PW) Alert Service Bulletin (ASB) 4723, Revision 11, dated October 30, 1987".

(3) In the paragraph that begins and ends: "Accomplish first inspection . . . disk be exceeded.", replace "Table VIII of Alert Service Bulletin 4723, Revision 9", with "Table VIII of PW ASB 4723, Revision 11".

(4) In the paragraph that begins and ends: "Remove cracked disks . . . Revision 9.", replace "Paragraph 6 of the above Alert Service Bulletin 4723, Revision 9", with "Paragraph 7 of PW ASB 4723, Revision 11".

Issued in Burlington, Massachusetts, on May 8, 1989.

Jack A. Sain,

*Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 89-12278 Filed 5-22-89; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 89-AWP-12]**

## Proposed Establishment of Camarillo, CA, Control Zone and Revision of Oxnard, CA, Control Zone

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to establish a control zone at Camarillo, CA, to provide controlled airspace for aircraft executing instrument approach and departure procedures to and from Camarillo Airport. This action will require the revision of the adjoining Oxnard, CA, control zone.

**DATE:** Comments must be received on or before July 10, 1989.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP-530, Docket No. 89-AWP-12, Air Traffic Division, P.O. Box 92007, 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:** Jon Semanek, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-0433.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, 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. 89-AWP-12." 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 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, 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. 11-2A, which describes the application procedure.

### The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a control zone at Camarillo, CA, and revise the description of the Oxnard, CA, control zone where it adjoins the Camarillo, CA, control zone. This action would provide controlled airspace for the conduct of instrument approach and departure procedures. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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, Control zones.

**The Proposed Amendment**

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:

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

**§ 71.171 [Amended]**

2. Section 71.171 is amended as follows:

**Camarillo, CA [New]**

Within a 5-mile radius of Camarillo Airport (34°12'50" N., long. 119°05'36" W.), beginning at lat. 34°15'25" N., long. 119°09'15" W.; clockwise to lat. 34°09'15" N., long. 119°02'45" W.; then counterclockwise via the 5-mile radius circle of NAS Point Mugu (lat. 34°07'09" N., long. 119°07'07" W.); to lat. 34°11'20" N., long. 119°08'20" W., then direct to the point of beginning and that area within 2 miles each side of the Camarillo VOR 072° radial, extending from the 5-mile radius zone to 7 miles east of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

**Oxnard, CA [Revised]**

Within a 5-mile radius of Oxnard Ventura County Airport (lat. 34°12'03" N., long. 119°12'23" W.), beginning at lat. 34°07'45" N., long. 119°12'40" W.; clockwise to 34°15'25" N., long. 119°09'15" W.; then direct to lat. 34°11'20" N., long. 119°08'20" W.; then counterclockwise via the 5-mile radius circle of NAS Point Mugu (lat. 34°07'09" N., long. 119°07'07" W.); to the point of beginning. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Los Angeles, California, on May 11, 1989.

**Jacqueline L. Smith,**

*Manager, Air Traffic Division, Western-Pacific Region.*

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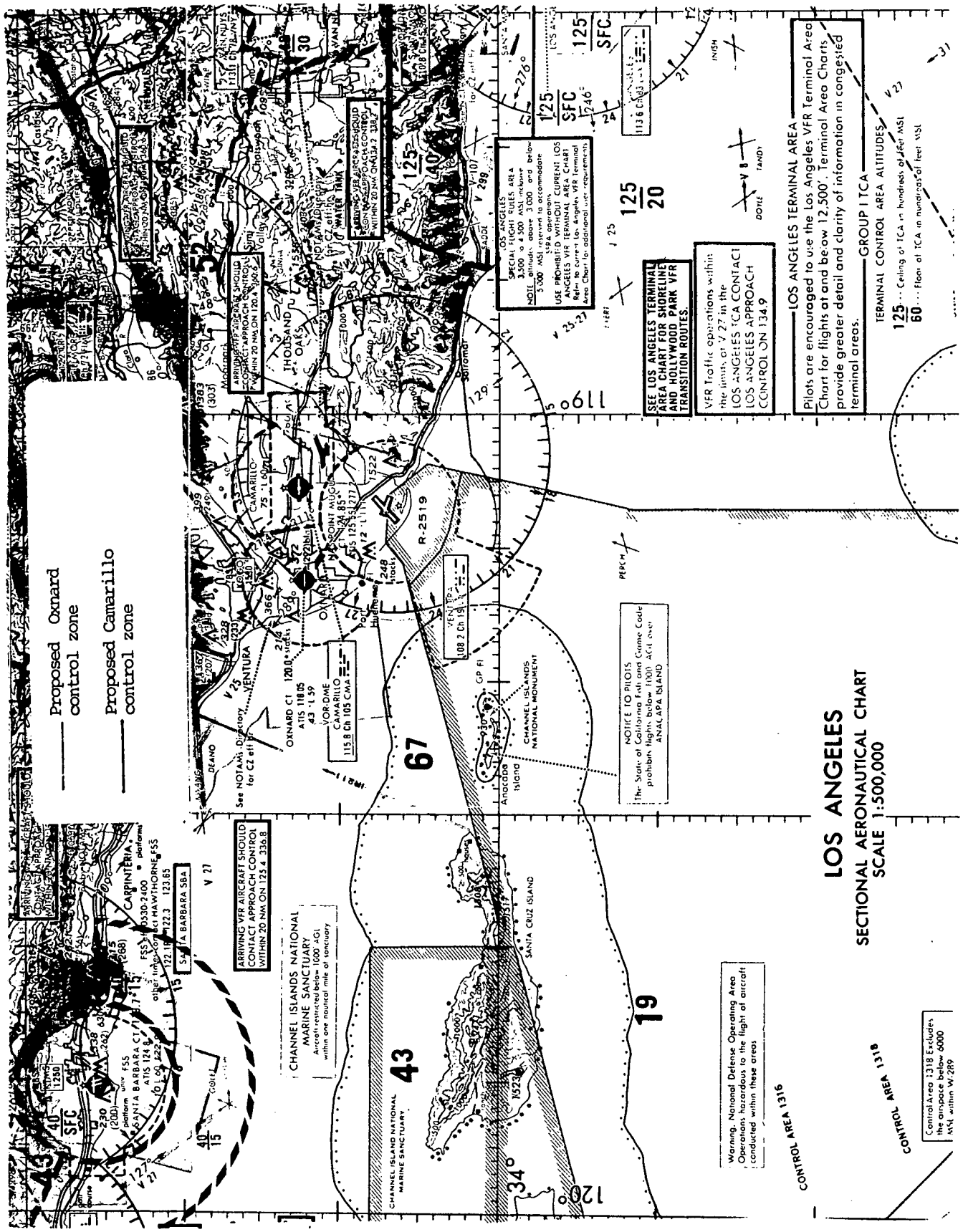


[FR Doc. 89-12197 Filed 5-22-89; 8:45am]

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### 15 CFR Part 2006

### Procedures for Filing Petitions for Action Under Section 301 of the Trade Act of 1974, As Amended

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Proposed rules and request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) proposes to revise 15 Part 2006 to conform to amendments to Chapter 1 of title III of the Trade Act of 1974 contained in section 1301 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C 2411 *et seq.*). Part 2006 sets forth procedures for filing petitions for action under section 301 of the Trade Act of 1974, as amended, in response to unfair international trade practices.

**DATE:** Comments must be received on or before June 23, 1989.

**ADDRESSES:** All comments on the proposed rules should be sent to Section 301 Chairman, Office of the General Counsel, Room 222, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** A. Jane Bradley, Associate General Counsel and Chairman, Section 301 Committee at the address given above, telephone (202) 395-3432.

**SUPPLEMENTARY INFORMATION:** The Trade Representative is required by section 309(a)(1) of the Trade Act of 1974, as amended (the "Trade Act"), to issue regulations concerning the filing of petitions and the conduct of investigations and hearings related to enforcement of U.S. rights under trade agreements and responses to certain foreign trade practices.

These proposed rules are being promulgated in accordance with the rulemaking provisions of section 553 of the Administrative Procedure act (5 U.S.C. 551 *et seq.*), which entails the following steps: (1) Publication of a notice of proposed rulemaking; (2) solicitation of public comment on the proposed rules; (3) Office of United States Trade Representative review prior to developing final rules; and (4) publication of the final rules 30 days prior to their effective date. See 5 U.S.C. 553.

The Trade Representative has determined that the proposed rules do not constitute major rules for the purposes of Executive Order 12291, because they do not fall within the categories described in section (b) of the Executive Order.

### Explanation of Proposed Revisions to 15 CFR Part 2006

Section 2006.0 is amended in paragraph (a) to reflect amendments to section 301(a)(1) of the Trade Act, requiring the Trade Representative to act subject to the specific direction, if any, of the President. Paragraph (b) is amended to include references to services, investment and intellectual property rights in addition to goods. Subparagraph (c) adds to former provisions the requirement that petitions be filed during specified business hours, to enable proper docketing. Paragraph (d) provides a new telephone number for recorded information on pending petitions and investigations.

Section 2006.1(a)(7) is amended to provide guidance on information related to burden or restriction on U.S. commerce. Section 2006.1(a)(8) provides that if the foreign practice at issue is the subject of investigation under any other provision of law, USTR may decline to initiate an investigation or terminate a pending investigation.

Section 2006.1(b) has renumbered subparagraphs and adds new subparagraphs to provide guidance on information that should be included in petitions concerning unreasonable practices defined in secion 301(d) that, while not necessarily in violation of, or inconsistent with the international legal rights of the United States, or otherwise unfair and inequitable.

Section 2006.3 clarifies that the Section 301 Chairman shall publish in the **Federal Register** the Trade Representative's determination whether to initiate an investigation, pursuant to section 302(a)(2) of the Trade Act. That has been the customary practice since 1974. Paragraph (b) also adds a reference to requests for hearings under section 302(a)(4)(B), identifying "interested persons" who may request such hearings as defined in section 301(d)(9).

Section 2006.4 is amended to add a citation of amended section 304(a)(1)(A) of the Trade Act.

Section 2006.5 is amended to add the provision, reflected in section 303(a)(3) of the Trade Act, for the Trade Representative to receive information and advice from the petitioner and private sector advisers in preparing for consultations with the foreign government. It also adds a new paragraph (b) to conform to section 303(b), which permits a 90-day delay or a request for consultations with the foreign government.

Former § 2006.5(b) is renumbered as § 2006.6, concerning formal dispute settlement, and is amended to reflect the 150-day limit on consultations provided for in section 303(a)(2)(B).

Former § 2006.6, regarding termination or suspension of review, is deleted, because the Trade Act now requires investigations to be terminated with a determination under section 304(a)(2); see § 2006.12.

Section 2006.7 is amended to reflect provisions in sections 302(a)(4)(B) and 304(b)(1)(A) of the Trade Act, for public hearings on issues raised in a petition and prior to a determination under section 304(a)(1)(B) as to what action, if any, should be taken under section 301.

Section 2006.11 is amended to reflect the provisions of amended section 304 of the Trade Act, requiring a determination on what action, if any, should be taken if a determination is made that a practice is actionable under section 301.

Section 2006.12 is amended to reflect the time limits for section 302 investigations set forth in section 304(a)(2) of the Trade Act.

Section 2006.13 is renumbered and in paragraph (a) provides for public reading files to be made available at the office of the United States Trade Representative. Paragraph (b) implements the provisions of section 308 of the Trade Act, providing for requests for information to be made to the Section 301 Chairman.

Sections 2006.14 and 2006.15 reflect provisions in section 308 for exempting certain business confidential information from public inspection. Section 2006.15(b) adds a new requirement that business confidential information be clearly marked as such in contrasting color ink.

Part 2006 is proposed to be revised to read as follows:

## PART 2006—PROCEDURES FOR FILING PETITIONS FOR ACTION UNDER SECTION 301 OF THE TRADE ACT OF 1974, AS AMENDED

Sec.
2006.0 Submission of petitions requesting action under section 301.
2006.1 Information to be included in petition.
2006.2 Adequacy of the petition.
2006.3 Determinations regarding petitions.
2006.4 Requests for information made to foreign governments or instrumentalities.
2006.5 Consultations with the foreign government.
2006.6 Formal dispute settlement.
2006.7 Public hearings.
2006.8 Submission of written briefs.
2006.9 Presentation of oral testimony at public hearings.

Sec.
2006.10 Waiver of requirements.
2006.11 Consultations before making determinations.
2006.12 Determinations; time limits.
2006.13 Information open to public inspection.
2006.14 Information not available.
2006.15 Information exempt from public inspection.

**Authority:** Sec. 309(a)(1), Trade Act of 1974, as amended by sec. 1301 of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100–418, 102 Stat. 1176 (19 U.S.C. 2419).

**§ 2006.0 Submission of petitions requesting action under section 301.**

(a) Section 301 of the Trade Act of 1974, as amended (the "Trade Act") requires the United States Trade Representative, subject to the specific direction, if any, of the President regarding such action, to take appropriate and feasible action in response to a foreign government's violation of a trade agreement, or any other international agreement the breach of which burdens or restricts United States commerce; and authorizes the Trade Representative, subject to the specific direction of the President, if any, to take action to obtain the elimination of acts, policies, and practices of foreign countries that are unjustifiable, unreasonable, or discriminatory and burden or restrict United States commerce. Section 302 of the Trade Act provides for petitions to be filed with the Trade Representative requesting that action be taken under section 301. Petitions filed under section 302 will be treated as specified in these regulations.

(b) Petitions may be submitted by an interested person. An interested person is deemed to be any party who has a significant interest affected by the act, policy, or practice complained of, for example: a producer, a commercial importer, or an exporter of an affected product or service; a United States person seeking to invest directly abroad, with implications for trade in goods or services; a person who relies on protection of intellectual property rights; a trade association, a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production or wholesale distribution in the United States of a product or service so affected; or any other private party representing a significant economic interest affected directly by the act, policy or practice complained of in the petition.

(c) The petitioner shall submit 20 copies of the petition in English, clearly typed, photocopied, or printed to:

Chairman, Section 301 Committee, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506.

To ensure proper docketing, petitions may be filed only during the following hours on days when the Federal Government is open for business: between 9:00 a.m. and 12:00 noon and 1:00 p.m. to 5:00 p.m.

(d) Recorded information on section 302 petitions and investigations may be obtained by calling (202) 395–3871.

**§ 2006.1 Information to be included in petition.**

(a) *General information.* Petitions submitted pursuant to section 302 of the Trade Act shall clearly state on the first page that the petition requests that action be taken under section 301 of the Trade Act and shall contain allegations and information reasonably available to petitioner in support of the request, in the form specified below. Petitioners for whom such information is difficult or impossible to obtain shall provide as much information as possible, and assistance in filing their petition may be obtained through the Chairman of the Section 301 Committee. All petitions shall:

(1) Identify the petitioner and the person, firm or association, if any, which petitioner represents and describe briefly the economic interest of the petitioner which is directly affected by the failure of a foreign government or instrumentality to grant rights of the United States under a trade agreement, or which is otherwise directly affected economically by an act, policy, or practice which is actionable under section 301.

(2) Describe the rights of the United States being violated or denied under the trade agreement which petitioner seeks to enforce or the other act, policy or practice which is the subject of the petition, and provde a reference to the particular part of section 301 related to the assertion in the petition.

(3) Include, wherever possible, copies of laws or regulations which are the subject of the petition. If this is not possible, the laws and regulations shall be identified with the greatest possible particularity, such as by citation.

(4) Identify the foreign country or instrumentality with whom the United States has an agreement under which petitioner is asserting rights claimed to be denied or whose acts, policies or practices are the subject of the petition.

(5) Identify the product, service, intellectual property right, or foreign direct investment matter for which the rights of the United States under the agreement claimed to be violated or denied are sought, or which is subject to the act, policy or practice of the foreign government or instrumentality named in paragraph (4) of this section.

(6) Demonstrate that rights of the United States under a trade agreement are not being provided; or show the manner in which the act, policy or practice violates or is inconsistent with the provisions of trade agreement or otherwise denies benefits accruing to the United States under a trade agreement, or is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce.

(7) Provide information concerning

(i) The degree to which U.S. commerce is burdened or restricted by the denial of rights under a trade agreement or by any other act, policy, or practice which is actionable under section 301,

(ii) The volume of trade in the goods or services involved, and

(iii) A description of the methodology used to calculate the burden or restriction on U.S. commerce.

(8) State whether petitioner has filed or is filing for other forms of relief under the Trade Act or any other provision of law. If the foreign government practice at issue is the subject of investigation under any other provision of law, the USTR may determine not to initiate an investigation; or if the same matter is subsequently subject to investigation under some other provision of law, USTR may terminate the section 302 investigation.

(b) *Additional Specific Information*—(1) *Subsidies.* If the petition includes an assertion that subsidy payments are having an adverse effect upon products or services of the United States in United States' markets or in other foreign markets, it shall include an analysis supporting any claim that the subsidy complained of is inconsistent with any trade agreement and describe the manner in which it burdens or restricts United States commerce.

(2) *Certain unreasonable practices.* If the petition asserts that an unreasonable practice defined in section 301(d)(3) denies fair and equitable opportunities for the establishment of an enterprise, or denies adequate and effective protection of intellectual property rights, or denies fair and equitable market opportunities, and burdens or restricts U.S. commerce, the petition should include, to the extent possible, identification of reciprocal opportunities in the United States that may exist for foreign nationals and firms; and

(i) If the petition asserts that fair and equitable opportunities for the establishment of an enterprise in a

foreign country are denied, the petition shall

(A) Describe in detail the nature of any foreign direct investment proposed by the United States person, including estimates of trade in goods and services that could reasonably be expected to result from that investment,

(B) Indicate the manner in which the foreign government is denying the United States person a fair and equitable opportunity for the establishment of an enterprise,

(C) State whether action by the foreign government is in violation of or inconsistent with the international legal rights of the United States, citing the relevant provisions of any international agreements to which the United States and the foreign government are party,

(D) To the extent possible, provide copies of all relevant foreign government statutes, regulations, directives, public policy statements and correspondence with the United States person who respect to the proposed investment.

(ii) If the petition asserts that fair and equitable provision of adequate and effective protection of intellectual property rights in a foreign country is denied, the petition shall

(A) Identify the intellectual property right for which protection has been sought,

(B) Indicate how persons who are not citizens or nationals of such foreign country are denied the opportunity to secure, exercise, and enforce rights relating to patents, process patents, registered trademarks, copyrights, or mask works, and

(C) Provide information on the relevant laws of the foreign country and an analysis of how the foreign country's law or policies conform to provisions of international law or international agreements to which both the United States and the foreign country are parties;

(iii) If the petition asserts that fair and equitable market opportunities are denied through the toleration by a foreign government of systematic private anticompetitive activities, the petition shall specifically

(A) Identify the private firms in the foreign country whose systematic anticompetitive activities have the effect of restricting access of United States goods to purchasing by those firms, inconsistent with commercial considerations,

(B) Describe in detail the private activities in question,

(C) State whether evidence of such activities has been provided (by petitioner or others) to the appropriate foreign government authorities, and describe the evidence indicating that the foreign government is aware of and supports, encourages, or tolerates such activities,

(D) Describe the duration and pervasiveness of such activities,

(E) Indicate whether such activities are inconsistent with the laws of the foreign country involved, making specific reference to any laws in question, and

(F) Indicate whether the foreign government's enforcement of (or failure to enforce) its relevant laws with respect to the private activities at issue is inconsistent with its enforcement practices in other situations;

(iv) If the petition asserts that an act, policy or practice, or combination thereof consistutes export targeting, the petition shall

(A) Identify the specific enterprise, industry, or group thereof which has been assisted in becoming more competitive in the export of the affected product or products,

(B) describe the elements of the foreign government's plan or scheme consisting of coordinated actions to assist that enterprise, industry or group, and

(C) Provide information on how and to what degree exports of the affected products by that enterprise, industry, or group have become more competitive as a result of the foreign government's plan or scheme; and

(v) If the petition asserts that an act, policy or practice, or combination thereof consistutes a persistent pattern of conduct that denies workers the right of association or the right to organize and bargain collectively, or permits forced or compulsory labor, or fails to provide a minimum age for employment of children or standards for minimum wages, hours, and occupational safety and health of workers, the petition shall

(A) Describe the rights or standards denied and provide information on the laws, policies and practices of the foreign country involved, if any, that relate to such rights or standards, and

(B) Indicate, to the extent such information is available to petitioner, whether the foreign country has taken, or is taking, actions that demonstrate a significant and tangible overall advancement in providing these rights or standards.

**§ 2006.2 Adequacy of the petition.**

If the petition filed pursuant to section 302 does not conform substanially to the requirements of §§ 2006.0 and 2006.1, the Chairman of the Section 301 Committee may decline to docket the petition as filed and, if requested by petitioner, return it to petitioner with guidance on making the petition conform to the requirements, or may nevertheless determine that there is sufficient information on which to proceed to a determination whether to initiate and investigation.

**§ 2006.3 Determination regarding petitions.**

Within 45 days after the day on which the petition is received, the Trade Representative shall determine, after receiving the advice of the Section 301 Committee, whether to initiate an investigation.

(a) If the Trade Representative determines not to initiate an investigation, the Section 301 Chairman shall notify the petitioner of the reasons and shall publish notice of the negative determination and a summary of the reasons therefor in the **Federal Register**.

(b) If the Trade Representative determines to initiate an investigation regarding the petition, the Section 301 Chairman shall publish a summary of the petition in the **Federal Register**, and provide an opportunity for the presentation of views concerning the issues, including a public hearing if requested. A hearing may be requested by the petitioner or any interested person, including but not limited to a domestic firm or worker, a representative of consumer interests, a United States product exporter, or any industrial user of any goods or services that may be affected by actions taken under section 301 with respect to the act, policy or practice that is the subject of the petition.

**§ 2006.4 Requests for information made to foreign governments or instrumentalities.**

If the U.S. Trade Representative receives a petition alleging violations of any international agreement, he will notify the foreign government or instrumentality of the allegations and may request information, in English, necessary to a determination under section 304(a)(1)(A) of the Trade Act. The Trade Representative may proceed on the basis of best information available if, within a reasonable time, no information is received in response to the request.

**§ 2006.5 Consultations with the foreign governments.**

(a) If the Trde Representative determines to initiate an investigation on the basis of a petition he shall, on behalf of the United States, request consultations with the foreign country concerned regarding the issues involved in such an investigation. In preparing United States presentations for

consultations and dispute settlement proceedings, the Trade Representative shall seek information and advice from the petitioner and any appropriate private sector representatives, including committees established pursuant to section 135 of the Trade Act.

(b) To ensure an adequate basis for consultation, the Trade Representative may, after consulting with the petitioner, delay requests for consultations for up to 90 days in order to verify or improve the petition. If consultations are delayed, the time limits referred to in § 2006.12 shall be extended for the period of such delay.

**§ 2006.6 Formal dispute settlement.**

If the issues in a petition are covered by a trade agreement between the United States and the foreign government involved and a mutually acceptable resolution cannot be reached within the consultation period provide for the agreement, or by 150 days after consultations begin, whichever is earlier, the Trade Representative shall institute the formal dispute settlement proceedings, if any, provided for in the trade agreement.

**§ 2006.7 Public hearings.**

(a) A public hearing for the purpose of receiving views on the issues raised in a petition shall be held by the Section 301 Committee:

(1) within 30 days after the date that an investigation is initiated under section 302(a)(2) if a hearing is requested in the petition (or later, if agreed to by the petitioner); or

(2) within a reasonable period if, after the investigation is initiated, a timely request is made by the petitioner, or any other interested person as defined in § 2006.3(b).

(b) Prior to making a recommendation on what action, if any, should be taken in response to issues raised in the petition, the Section 301 Committee shall hold a public hearing upon the written request of any interested person. An interested person should submit an application to the Section 301 Chairman stating briefly the interest of the person requesting the hearing, the firm, person, or association he represents, and the position to be taken. A hearing so requested shall be held:

(1) prior to determining what action should be taken under section 301, and after at least 30 days' notice; or

(2) within 30 days after the determination of action is made, if the Trade Representative determines that expeditious action is required.

(c) After receipt of a request for a public hearing under sections 302(a)(4)(B) or 304(b)(1)(A) of the Trade Act, the Chairman of the Section 301 Committee will notify the applicant whether the request meets the requirements of this part, and if not, the reasons therefor. If the applicant has met the requirements of this part, he will receive at least 30 days' notice of the time and place of the hearing.

(d) Notice of public hearings to be held under sections 302(a)(4)(B) and 304(b)(1)(A) shall be published in the **Federal Register** by the Chairman of the Section 301 Committee.

**§ 2006.8 Submission of written briefs.**

(a) In order to participate in the presentation of views either at a public hearing or otherwise, an interested person must submit a written brief before the close of the period of submission announced in the public notice. The brief may be, but need not be, supplemented by the presentation of oral testimony in any public hearing scheduled in accordance with § 2006.7.

(b) The brief shall state clearly the position taken and shall describe with particularity the supporting rationale. It shall be submitted in 20 copies, which must be legibly typed, printed, or duplicated.

(c) In order to assure each interested person an opportunity to contest the information provided by other parties, the Section 301 Committee will entertain rebuttal briefs filed by any interested person within a time limit specified in the public notice. Rebuttal briefs should be strictly limited to demonstrating errors of fact or analysis not pointed out in the briefs or hearing and should be as concise as possible.

**§ 2006.9 Presentation of oral testimony at public hearings.**

(a) A request by an interested person to present oral testimony at a public hearing shall be submitted in writing before the close of the period of submission announced in the public notice and shall state briefly the interest of the applicant. Such request will be granted if a brief has been submitted in accordance with § 2006.8.

(b) After consideration of a request to present oral testimony at a public hearing, the Chairman of the Section 301 Committee will notify the applicant whether the request conforms to the requirements of § 2006.8(a) and, if it does not, will give the reasons. If the applicant has submitted a conforming request he shall be notified of the time and place for the hearing and for his oral testimony.

**§ 2006.10 Waiver of requirements.**

To the extent consistent with the requirements of the Trade Act, the requirements of §§ 2006.0 through 2006.3 and 2006.8 may be waived by the Trade Representative or the Chairman of the Section 301 Committee upon a showing of good cause and for reasons of equity and the public interest.

**§ 2006.11 Consultations before making determinations.**

Prior to making a determination on what action, if any, should be taken in regard to issues raised in the petition, the Trade Representative shall obtain advice from any appropriate private sector advisory representatives, including committees established pursuant to section 135 of the Trade Act, unless expeditious action is required, in which case he shall seek such advice after making the determination. The Trade Representative may also request the views of the International Trade Commission regarding the probable economic impact of the proposed action.

**§ 2006.12 Determinations; time limits.**

On the basis of the petition, investigation and consultations, and after receiving the advice of the Section 301 Committee, the Trade Representative shall determine whether U.S. rights under any trade agreement are being denied, or whether any other act, policy, or practice actionable under section 301 exists and, if so, what action (if any) should be taken under section 301. These determinations shall be made:

(a) In the case of an investigation involving a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), within 30 days after the dispute settlement procedure concludes, or 18 months after the initiation of the investigation, whichever is earlier.

(b) In all other cases, within 12 months after initiating an investigation.

**§ 2006.13 Information open to public inspection.**

(a) With the exception of information subject to § 2006.15, an interested person may, upon advance request, inspect at a public reading room in the Office of the United States Trade Representative:

(1) Any written petition, brief, or similar submission of information (other than that to which confidentiality applies) made in the course of a section 302 proceeding;

(2) Any stenographic record of a public hearing held pursuant to section 302 or 304.

(b) In addition, upon written request submitted in accordance with section 308 of the Trade Act, any person may

obtain from the Section 301 Chairman the following, to the extent that such information is available to the Office of the U.S. Trade Representative or other Federal agencies:

(1) Information on the nature and extent of a specific trade policy or practice of a foreign government or instrumentality with respect to particular goods, services, investment, or intellectual property rights:

(2) Information on United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

(3) Information on past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

(c) Fees will be charged for duplication of documents requested in accordance with the fee schedule and payments provisions of 15 CFR 2004.9 and 2004.10.

**§ 2006.14 Information not available.**

If the Office of the U.S. Trade Representative does not have, and cannot obtain from other Federal agencies, information requested in writing by any person, the Section 301 Chairman shall, within 30 days after the receipt of the request:

(a) Request the information from the foreign government involved; or

(b) Decline to request the information and inform the person in writing of the reasons for the refusal.

**§ 2006.15 Information exempt from public inspection.**

(a) The Chairman of the Section 301 Committee shall exempt from public inspection business information submitted in confidence if he determines that such information involves trade secrets or commercial and financial information the disclosure of which is not authorized by the person furnishing such information nor required by law.

(b) An interested person requesting that the Chairman exempt from public inspection confidential business information submitted in writing must certify in writing that such information is business confidential, the disclosure of such information would endanger trade secrets or profitability, and such information is not generally available. The information submitted must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each copy, and shall be accompanied by a nonconfidential summary of the confidential information.

(c) The Section 301 Chairman may use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use in any investigation under section 302, or make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

(d) The Section 301 Chairman may deny a request that he exempt from public inspection any particular business information if he determines that such information is not entitled to exemption under law. In the event of a denial, the interested person submitting the particular business information will be notified of the reasons for the denial and will be permitted to withdraw the submission.

**Joshua Bolten,**

*General Counsel.*

[FR Doc. 89-12261 Filed 5-22-89; 8:45 am]

BILLING CODE 3190-01-M

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 250

**[Release No. 35-24891; File No. S7-14-89]**

### Issue and Sale of Certain Securities by Public Utility Subsidiary Companies of Registered Public Utility Holding Companies; Acquisitions of Public Utility Subsidiary Company Securities by Registered Holding Companies

**AGENCY:** Securities and Exchange Commission.

**ACTON:** Proposed rulemaking.

**SUMMARY:** The Commission requests comments on a proposal to adopt a rule exempting certain transactions from the requirement of a declaration under section 6(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79(a) *et seq.*) ("Act") and from the application requirement of section 9(a) of the Act. The rule is proposed in furtherance of the Commission's responsibilities under the Act and in response to a rulemaking petition filed by a task force ("the task force") of a number of registered public utility holding companies subject to the Act. If adopted, the rule would exempt from specific Commission approval certain financings by public utility subsidiary companies of registered holding companies as long as specified conditions are met. In addition, where the exempt securities are to be acquired by a parent holding company, a limited exemption would be available from the application requirements of section 9(a) of the Act. If adopted, the rule should eliminate unnecessary paperwork associated with a significant percentage of financing applications under the Act.

**DATE:** Comments must be received on or before July 7, 1989.

**ADDRESSES:** Send comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. All comment letters should refer to File No. S7-14-89. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street NW., Washington, DC 20549.

**FOR FURTHER INFORMATION CONTACT:** William C. Weeden, Assistant Director, (202) 272-7676 or Robert F. McCulloch, Special Counsel, (202) 272-7676, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549.

### Discussion

Proposed rule 52 would exempt from section 6(a)'s requirement of Commission approval under section 7 of the Act, the issuance and sale of securities by public utility subsidiary companies of registered public utility holding companies, subject to specified terms and conditions.[1] In this regard, the proposed rule is in furtherance of the mandate contained in section 6(b) of the Act that the Commission exempt certain security issuances or sales from section 6(a)'s declaration requirements.[2]

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[1] Section 6(a) of the Act provides:

Except in accordance with a declaration effective under section 7 and with the order under such section permitting such declaration to become effective, it shall be unlawful for any registered holding company or subsidiary company thereof, * * * directly or indirectly (1) to issue or sell any security of such company. * * *

[2] Section 6(b) provides in relevant part:

The Commission * * * shall exempt from the provisions of subsection (a) the issue or sale of any security by any subsidiary company of a registered holding company, if the issue and sale of such security are solely for the purpose of financing the business of such subsidiary company and have been expressly authorized by the State commission of the State in which such subsidiary company is organized and doing business, or if the issue and sale of such security are solely for the purpose of financing the business of such subsidiary company when such subsidiary company is not a holding company, [or] a public utility company. * * *

The directive to the Commission to adopt such rules was the result of a compromise between the House and Senate versions of section 6. Section 6(a) of both the substitute Senate bill (S. 2796, 74th Cong., 1st Sess. (1935)) ("S. 2796") and S. 2796 as amended by the House required Commission approval for the issuance and sale of securities. The Senate subsection applied to any registered holding company or subsidiary company, while the House amendment applied only to registered holding companies and to any subsidiary company thereof which is a public utility company the issuance of

Continued

Proposed rule 52 would also exempt from section 9(a)'s requirement of Commission approval under section 10 of the Act the acquisition by a parent holding company of securities of its public utility subsidiary companies. Under section 9(a) of the Act, it is unlawful for a registered holding company to acquire securities except pursuant to an application which has been approved by the Commission. Section 9(c)(3) excepts from the application requirement the acquisition of securities by registered holding companies which are appropriate in the ordinary course of the companies' business provided that there is no detriment to the public interest or the interest of investors or consumers.[3] The standards proposed in rule 52 are designed to guard against detriment to these protected interests.

The requirements of proposed rule 52 are that (i) the state commission has approved the issuance of the securities; (ii) the securities are solely for financing the business of the public utility subsidiary; (iii) the securities are: a common or preferred stock, a first mortgage bond, or a note issued to a parent company, the terms of which parallel a debenture or preferred stock issued by the parent company; (iv) the securities are sold consistent with the competitive bidding provisions of rule 50;[4] and (v) the corporation's Capitalization and the holding-company system's Consolidated Capitalization (as these terms are defined in proposed rule 52) are and remain within certain debt to equity limits. In addition, preferred stock and first mortgage bonds issued pursuant to the rule would have to be in compliance with the Commission's Statements of Policy regarding Preferred Stock and First Mortgage Bonds ("Statements of Policy") as contained in HCAR Nos. 13105 and 13106 (February 16, 1956) and as amended in HCAR Nos. 16369 and 16758 (May 8, 1969 and June 22, 1970, respectively).[5] Deviations from the Statements of Policy and competitive bidding would be permitted, if at all, only after notification of the Commission and with its written approval.

**Differences Between The Commission's Proposed Rule and The Rulemaking Petition**

The rule proposal published for comment by the Commission differs from the rulemaking petition filed by the registered holding company task force in three important respects. Of principal importance, the task force's proposal would have extended the proposed exemptions from sections 6(a) and 9(a) of the Act to the issuance and sale of securities by non-utility as well as utility subsidiaries of registered holding companies. With respect to non-utility subsidiaries, the rule as proposed by the task force would provide exemptions where: (i) The security to be issued is for the purpose of financing the existing business of the subsidiary; (ii) the security is one that could be issued by a public-utility subsidiary or is a debenture or a note issued to a commercial bank or other financial institution; (iii) the security issuance would not cause the Consolidated Capitalization (as defined in the proposed rule) of the holding-company system to violate proposed guidelines; and (iv) the sale of securities is subject to competitive bidding.

The Commission is deferring action on the task force's proposal concerning the financing of non-utility subsidiaries pending further review by the staff. The Commission's deferral stems from concern that the task force's proposal does not deal adequately with the adverse consequences that potential growth of debt in the non-utility subsidiary companies could have for the holding-company system and the public-utility subsidiaries.[6] Without a limitation on the level of corporate debt that a nonutility subsidiary company may incur, and none was proposed by the task force, the amount of debt that may be undertaken by the aggregate of all non-utility subsidiaries in a public-utility holding-company system may be so large as to impede or eliminate the ability of that holding-company system to issue debt to carry on its utility business. Further, without safeguards as to the absolute and relative size of the non-utility businesses, the integrated public-utility system ultimately could be dwarfed by the non-utility subsidiaries, a result not intended by Congress when the Act was passed. The only check the Commission would have on the growth of the non-utility companies would be through ordering an after-the-fact proceeding under section 11(b)(1) to require "limit[ing] the operations of the holding-company system . . . to such other businesses as are reasonably incidental, or economically necessary or appropriate . . . ." This procedure would not be a prudent or efficient way to administer the Act.

The same concerns do not arise concerning the financing of utility subsidiaries, because the amount of debt which may be undertaken by subsidiary utility companies is limited by their indentures, charters, and relevant Commission cases which are reflected in the proposed rule.[7] For the present the Commission is proposing to limit rule 52 to the issue or sale of securities by public-utility subsidiary companies.

A second difference between the task force's proposed rule and the proposed rule put forth by the Commission is that the task force's rule would permit two-tier financing by holding-company

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whose securities is not subject to regulation by a State commission or State securities commission. (H.R. Rep. No. 1318, 74th Cong., 1st Sess. 5 (1935)) Thus, under the House version, Commission authorization would have been required only for the issuance of securities by the parent and by unregulated utility subsidiaries. As stated in the Conference Report: "The substitute agreed upon is the language of the Senate bill, which is qualified by a provision in Section 6(b) which directs the Commission to exempt the issue of securities by subsidiary companies in cases where holding company abuses are unlikely to exist" (H.R. Rep. No. 1903, 74th Cong., 1st Sess. 66–67 (1935)). The version of the bill reported by the Conference Committee allowed for the exemption from the declaration requirements of section 6(a) of the Act of the issuance and sale of securities which have been expressly approved by a state commission.

[3] Section 9(c)(3) excepts from the application requirement of section 9(a) the acquisition of such commercial paper and other securities, within such limitations, as the Commission may by rules and regulations or order prescribe as appropriate in the ordinary course of business of a registered holding company or subsidiary company thereof and as not detrimental to the public interest or the interest of investors or consumers.

[4] 17 CFR 250.50 [rule 50 sets forth the requirement of public invitation of proposals for the purchase or underwriting of securities].

[5] The Statements of Policy adopted various protective provisions that issuers of first mortgage bonds and preferred stock were to incorporate into the indentures and charters. These provisions include: (1) Limiting additional secured debt to 60% of property additions; (2) limiting unsecured debt of the issuer of preferred stock to 20% of total capitalization; (3) requiring an earnings coverage for the issuance of additional first mortgage bonds and preferred stock of 2 times and 1.5 times earnings, respectively; (4) requiring for first mortgage bonds a minimum sinking fund equal to 1% of the outstanding principal balance of first mortgage bonds; (5) limiting the nonrefundability of first mortgage bonds and preferred stock to a maximum of five years from the date of issuance; (6) requiring a renewal and replacement fund to keep in good repair the property that secures the first mortgage bond; and (7) limiting the declaration and payment of common stock dividends.

[6] Section 7(d)(1) of the Act provides that the Commission shall permit a declaration regarding the issue or sale of a security to become effective unless the Commission finds that—

(1) The security is not reasonably adapted to the security structure of the declarant and other companies in the same holding-company system.

[7] *See, e.g., Kentucky Power Co.*, 41 S.E.C. 29 (1961) (Commission will not impose any terms and conditions or make adverse findings under section 6(b) or make adverse findings under section 7 concerning capitalization ratios with respect to any proposed financing of holding-company system where upon completion of the financing common stock equity is not less than 30% of total capitalization and long-term debt is not in excess of 65% of total capitalization). *See also Ohio Power Co.*, 46 S.E.C. 332 (1976) (computation of total capitalization included short-term debt).

systems, that is, the issuance and sale of securities to third parties by both the parent and subsidiary companies. Presently, electric holding companies and gas holding companies conduct their public long-term debt and preferred stock financing only at one level. The electric holding companies generally finance at the subsidiary level, [8] while the gas holding companies finance at the holding-company level. Common stock financing is always conducted at the holding company level.

Section 11(b)(2) of the Act prohibits any undue or unnecessary complexity in the corporate structure of a registered holding-company system. The Commission has long held that the existence of publicly owned long-term debt and preferred stock at more than one level in a registered holding-company system constitutes an undue or unnecessary complexity in the capital structure and should be permitted only in extraordinary situations. [9] The complexity arises because the holding company's earnings are derived from dividends declared and paid by its operating subsidiary companies. Thus, all security holders of the parent holding company are subordinated to all holders of comparable securities issued by any subsidiary company; *i.e.*, the latter have a prior claim to the earnings of the subsidiary company. Such "pyramiding" of system securities was one of the evils the Act was designed to prevent. [10] Consequently, the Commission has required that all public financings by registered holding-company systems be done either at the parent or operating subsidiary company level, but not at both.

The debenture indentures of the three gas registered holding companies would permit the subsidiary companies to issue and sell funded debt and preferred stock to non-associate persons in addition to that issued and sold by the holding company. Thus, an undue and unnecessary complexity of the capital structure might result if the task force proposal were not modified. Accordingly, the proposed rule would allow the subsidiary companies of registered holding companies to issue or sell securities to nonassociated persons only when the financing at the holding-company level consists exclusively of common stock.

[8] This is accomplished through the issue and sale of first mortgage bonds, unsecured debt and preferred stock.

[9] *See Columbia Gulf Transmission Co.*, 38 S.E.C. 761, 772–73 (1958); *Eastern Utilities Associates*, 38 S.E.C. 728, 732–36 (1958).

[10] *See Columbia Gulf Transmission Co.*, 38 S.E.C. at 772; *Eastern Utilities Associates*, 38 S.E.C. at 732–33.

The third difference between the instant proposal and the task force proposal is that the latter would have limited the amount of securities purchased by the parent company from its subsidiary. The proposed rule would not impose such limits so long as the parent were purchasing securities the issuance and sale of which were exempted by the proposed rule from prior Commission approval. The Commission believes that limits are unnecessary because the parent's ability to acquire securities is largely dependent, among other things, on its ability to raise funds externally. Inasmuch as a holding company must commit a large amount of its cash flow to pay the dividends on its common stock, it is unlikely, based on the Commission's experience, that a holding company would be able to acquire such securities without accessing the capital markets. To raise funds, the parent would need to issue and sell common stock, preferred stock, or debt, all of which activities require prior Commission approval. Further, it is unlikely that a public-utility subsidiary company could issue and sell unlimited amounts of securities to its parent holding company, even if the holding company was disposed towards acquiring them, because the state commission authorizing such issuance and sale of securities would be cognizant that the cost of such financing would be a recoverable expense in rates.

### Request for Comments

The Commission requests public comments on proposed rule 52.

### Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the proposed rule will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reason therefor, is attached to this release.

### Cost/Benefit of Proposal

The proposed rule will substantially decrease regulatory compliance costs for the registered holding companies. In fiscal year 1988, for example, 24 applications would not have been filed had proposed Rule 52 been in place. In addition to the $2,000 filing fee per application, estimated savings per application would have been approximately $12,500 including legal, accounting, and management costs. Thus, for 24 applications filed in FY 1988 the aggregate savings would have been approximately $348,000. Moreover, the reduction in aggregate staff hours associated with reviewing and analyzing these applications would have been approximately 3,744 hours. The only cost incurred by the registered holding companies in complying with the proposed rule involves completing a Form U-6B-2 after the issue or sale of any security. It is estimated that approximately thirty minutes will be required to complete such form.

### List of Subjects in 17 CFR Part 250

Utilities.

### Text of Proposed Amendment

The Commission proposes to amend Part 250 of Chapter II, Title 17, Code of Federal Regulations as set forth below.

## PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The authority citation for Part 250 is amended by adding the following citation:

**Authority:** Secs. 3, 20, 49 Stat. 810, 833; 15 U.S.C. 79c, 79t, unless otherwise noted. * * * § 250.52 is also issued under the authority contained in sections 6(b), 9(c)(3), and 20(a) of the Act.

2. Add new section 250.52 to read as follows:

**§ 250.52 Exemption for issue and sale of certain securities.**

(a) Except as provided in paragraph (b) of this section, any subsidiary of a registered holding company which is itself a public utility company shall be exempt from section 6(a) of the Act or any rule thereunder with respect to the issue and sale of any common stock, preferred stock, first mortgage bonds, or of any notes issued to a parent holding company the interest rates and maturity dates of which are designed to parallel a debenture or preferred stock issued by the parent holding company (collectively, "security") of which it is the issuer if:

(1) The issue and sale of such security are solely for the purpose of financing the business of such public utility subsidiary company; and

(2) The issue and sale of such security have been expressly authorized by the State commission of the State in which such subsidiary company is organized and doing business; and

(3) The issue and sale of such security will not cause the Corporate Debt of the company proposing to issue and sell the security to exceed 65% of its Corporate Capitalization; will not cause the Consolidated Debt of the holding company system to exceed 65% of its

Consolidated Capitalization; will not cause the Corporate Common Stock Equity of the company proposing to issue and sell the security to fall below 30% of its Corporate Capitalization; and will not cause the Consolidated Common Stock Equity of the holding company system to fall below 30% of its Consolidated Capitalization; and

(4) Such preferred stock and/or first mortgage bonds issued and sold conform with the Commission's Statements of Policy Regarding First Mortgage Bonds and Preferred Stock ("SOP") as expressed in HCAR Nos. 13105 and 13106 (February 16, 1956), as amended in HCAR Nos. 16369 and 16758 (May 8, 1969 and June 22, 1970, respectively), and as may be further amended by the Commission at any time after the adoption of this rule; provided, however, that a company may issue and sell first mortgage bonds and/or preferred stock which deviate from the SOP if the company notifies the Commission in writing of its proposed deviation and the Commission has stated in writing that the Commission has no objection thereto; and

(5) The issue and sale of common stock by the subsidiary company are only to the holding company; and

(6) The issue and sale of securities to nonassociated persons occurs only when financing at the holding company level consists exclusively of common stock; and

(7) The issue and sale of the security are: (i) Excepted under rule 50(a)(1)–(4) (§ 250.50(a)(1)–(4)) from the requirement for competitive bidding of rule 50 (b) and (c) (§ 250.50 (b) and (c)); or (ii) made pursuant to competitive bidding under rule 50 (b) and (c) or under the Commission's Statement of Policy Concerning Application of Rule 50 Under the Public Utility Holding Company Act of 1935 as Related to the Distribution of Securities Registered Under Rule 415 Under the Securities Act of 1933 as expressed in HCAR No. 22623 (September 2, 1982); or (iii) made after the company shall have notified the Commission in writing of its intent to issue and sell the securities pursuant to a negotiated offering and the Commission has stated in writing that the Commission has no objection thereto; and

(8) The security issued or sold pursuant to this section is not convertible into any other security nor (except for stockholders' preemptive rights) entitles the holder to purchase or otherwise acquire any other security.

(b) Within ten days after the issue or sale of any security exempt under this section, the issuer or seller shall file with the Commission a Certificate of Notification on form U-6B-2 containing the information prescribed by that form.

(c) If the issue and sale of a security which is exempted from the requirements of section 6(a) pursuant to section 6(b) and this section thereunder is part of a transaction in which a subsidiary utility company of a registered holding company is issuing and selling and such holding company is acquiring a security issued and sold by the subsidiary utility company, such acquisition is likewise exempt pursuant to section 9(c)(3) from the requirements of section 9(a) of the Act and rules thereunder.

(d) For the purposes of this section, the following terms shall have the meanings assigned:

(1) "Consolidated Capitalization" of a holding-company system shall mean, as of any particular time, an amount equal to the sum of (i) Consolidated Debt; (ii) the aggregate of the par value of, or stated capital represented by, the outstanding shares of all classes of common and preferred stock of all companies in a holding-company system which are held by any person not associated with such holding-company system; and (iii) the consolidated surplus of the holding-company system, paid-in surplus, earned surplus, and other surplus, if any.

(2) "Consolidated Debt" of a holding-company system shall mean, as of any particular time, an amount equal to the total principal amount of all indebtedness for borrowed money, secured or unsecured, created or incurred by all companies in a holding-company system which is held by any person not associated with such holding-company system.

(3) "Consolidated Common Stock Equity" of a holding-company system shall mean, as of any particular time, an amount equal to the sum of (i) the aggregate of the par value, or stated capital represented by, the outstanding shares of common stock of all companies in a holding-company system which are held by any person not associated with the holding-company system and (ii) the consolidated common stock surplus of the holding-company system, paid-in surplus, earned surplus, and other surplus, if any.

(4) "Corporate Capitalization" of a particular company shall mean, as of any particular time, an amount equal to the sum of (i) indebtedness for borrowed money, secured or unsecured, of such company, (ii) the aggregate of the par value of, or stated capital represented by, the outstanding shares of all classes of common or preferred stock of such company, and (iii) the surplus of such company, paid-in surplus, earned surplus, and other surplus, if any.

(5) "Corporate Debt" shall mean, as of any particular time, an amount equal to the total principal amount of all indebtedness for borrowed money, secured or unsecured, created or incurred by any company.

(6) "Corporate Common Stock Equity" shall mean, as of any particular time, an amount equal to the sum of (i) the aggregate of the par value, or stated capital represented by, the outstanding shares of common stock of the company and (ii) the common stock surplus of such company, paid-in surplus, earned surplus, and other surplus, if any.

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

May 17, 1989.

**Regulatory Flexibility Certification**

I, David S. Ruder, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed rule 52 under the Public Utility Holding Company Act of 1935 ("Act") [15 U.S.C. 80a-1 *et seq.*], set forth in Holding Company Act Release No. 24891, if promulgated, will not have a significant impact on any small entities. The reason for this certification is that it does not appear that any small entities would be affected by the rule.

**David S. Ruder,**

*Chairman.*

Dated: May 17, 1989.

[FR Doc. 89-12257 Filed 5-22-89; 8:45 am]

BILLING CODE 8010-01-M

## POSTAL RATE COMMISSION

## 39 CFR Part 3001

**[Docket No. RM89-3]**

## Rules of Practice and Procedure Relating to Documentation of Statistical and Volume Evidence

May 17, 1989.

**AGENCY:** Postal Rate Commission.

**ACTION:** Second notice of proposed rulemaking.

**SUMMARY:** The Commission has revised and invited a second round of comment on its proposals of March 1, 1989, to require improved documentation of econometric studies offered in evidence (Rule 31(k)(2)), improved documentation of volume estimates offered in evidence by the Postal Service (Rule 54(j)), and periodic reports by the Postal Service of certain data relating to volumes (Rule 102(b)).

**DATE:** Comments must be received May 13, 1989.

**ADDRESS:** Comments and correspondence relating to this Notice should be sent to Charles L. Clapp, Secretary of the Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268. (Telephone: 202/789-6820.)

**SUPPLEMENTARY INFORMATION:** On March 1, 1989, the Commission issued proposals to amend rule 31(k)(2) of our rules of practice (39 CFR 3001.31(k)(2)), which governs the statistical presentations of all parties to our proceedings; rule 54(j) of our rules of practice (39 CFR 3001.54(j)), which governs the Postal Service's presentation of projected volumes in our proceedings; and rule 102(b) of our rules of practice (39 CFR 3001.102(b)), which governs periodic data reporting requirements to the Commission. (See 54 FR 9848-52, March 8, 1989.) Our proposals were meant to establish initial documentation standards for these categories of evidence that would be clearer and more specific than those contained in our current rules. Their purpose was to expedite discovery and cross-examination of such evidence and to facilitate its analysis in the limited time available in our rate hearings. Most of the comments applauded our proposals generally, agreeing that there is a need to expedite discovery and cross-examination of such evidence through improved documentation requirements. Many of them asked that we make a similar effort to improve documentation standards for other categories of evidence where they see a similar need to expedite the discovery and cross-examination.

We received comments on our proposals from the Postal Service, the American Newspaper Publishers Association (ANPA), the Bureau of Economics of the Federal Trade Commission (Bureau), the Direct Marketing Association (DMA), the Office of the Consumer Advocate (OCA), Time, Inc. (Time), and United Parcel Service (UPS). These comments were extensive, and suggested a significant number of modifications to our proposals, including some directly relevant new proposals. Therefore, in this Second Notice, we are revising our proposed rules and providing a second opportunity for comment, both on them, and on new proposals that are directly relevant.

As we have noted, several parties suggested changes to our rules that were not directly related to the proposals in our Notice of March 1, 1989. The OCA proposed extensive revisions to our rules governing documentation of sample surveys (rule 31(k)(2)(i)), and our rules governing ongoing reporting by the Postal Service of costing data (rule 102(a)). It also proposed less extensive revisions to our rules governing documentation of "other statistical studies" (rule 31(k)(2)(iv)); computer-based evidence (rule 31(k)(3)); costing data (rule 54(h)); and the requirement that an independent audit accompany each formal rate request (rule 54(q)).

Time made the general proposal that we amend rule 31(k) to provide that whatever data and documentation rule 31(k) requires for statistical studies, econometric studies, and computer analyses be produced automatically at the time that the study is filed. It also made the general proposal that rule 102(a) be amended to require the Postal Service to file annually the data and reports produced by its city carrier street cost data collection systems. Time Comments at 3.

DMA proposed that we amend rule 54(j) to require the Postal Service to provide volume data and forecasts broken down by rate category to facilitate the analysis of revenues and costs. DMA Comments at 2.

We are not inviting comment on these indirectly related proposals for two reasons. One is that they are so basic and wide ranging that their inclusion in this docket would make it unmanageable.

Another reason is that the large majority of them appear to represent only the formative stage of serious proposals. Most seem to fall into two categories. One category consists of exceedingly general proposals unaccompanied by specific proposed language, or substantial supporting rationale. The other category consists of very elaborate proposals framed in exceedingly detailed proposed language that do not appear to be tied to a well defined need, or to reflect a thorough consideration of their interrelationships, or their impact upon hearing participants. In short, these indirectly relevant proposals need to be "fleshed out" or "boiled down," depending upon which category they belong to, before it would be productive to launch a docket to evaluate them.

Some of our initial proposals drew favorable responses from all of the commenters. Our initial proposal that econometric studies be accompanied at the outset by descriptions and source citations for input data (proposed rule 31(k)(2)(iii)(*f*)), and by a set of standard measures of statistical reliability (proposed rule 31(k)(2)(iii)(*g*)), were generally concured in. Our initial proposals that the Postal Service provide with its filing a "turn-key" computer implementation of its forecasting procedure (proposed rules 54(j)(6)(iii)-(v)), and machine-readable input files and progams sufficient to replicate the Postal Services demand study (proposed rules 54(j)(7) (i) and (v)) were generally concurred in by the commenters. The Postal Service's assurance that it will provide this material has persuaded us to delete some of our documentation proposals, and observe over the next rate cycle whether a turn-key computer implementation is sufficient to achieve the objectives of those deleted proposals.

In its comments, the Postal Service said that it perceived a theme running throughout our original proposal that demand analysis and volume forecasting should be devoid of judgment. Postal Service Initial Comments, at 4. That is a misimpression. We are aware that judgment plays a legitimate role in the development of econometric demand models. We recognize that, among other things, it is indispensable to the process of sifting through reasonable candidates for the functional form and variables of the demand equation. We also agree that judgment is necessary to determine whether, and in what manner, an econometric demand model should be modified, for example, with unmodellable "add factors," in order to improve the accuracy of a forecast.

Substantively, we have expressed as our goal that the Postal Service's forecasts be based on the best econometric practice. This is not a question of whether judgment is used, or not used, but how it is used. We have expressed some criticism in the past of the subtantive manner in which the Postal Service has employed judgment in its econometric analysis. *See* PRC Op. R87-1, paras. 2175-80 and Appendix H at 13. Our concern with these proposals, however, is procedural, not substantive. The intended theme was not that judgment in these areas should be suppressed, but that its role be made explicit and trackable, to the maximum extent possible. It is precisely because the role of judgment is so crucial in econometric analysis and in volume forecasting, that our rules should place a premium on documenting and articulating it.

**Proposed Rule 54(j)(6).**

Of our initial proposals, perhaps the one that was most responsible for the Postal Service's impression that we were seeking to suppress the use of judgment in demand anlysis and

forecasting was our proposed rewording of the preamble to current rule 54(j)(6). We had proposed to add to that preamble a requirement that the Postal Service's volume forecast "conform exactly to the assumptions and specifications used in the econometric demand study."

In our Notice of March 1, 1989, at 11, we explained that our intent was to prevent "unacknowledged differences between the Postal Service's demand model as presented, and its model as implemented in making the forecasts required by the current rule." The Postal Service has pointed out to us that this language is susceptible to being misconstrued to mean that its volume forecast must be a mechanistic extrapolation of its econometric model of historic demand, with judgmental modifications or unmodelled "add factors" prohibited.

As stated in our initial Notice, our intent was only to require that any modifications made to the forecasts that are derived from the econometric demand model be acknowledged and explained. It was not to prohibit or discourage judgmental adjustments to such forecasts. The Postal Service expressed some concern in its comments that our proposal would bar the use of its net trend "add factor" to judgmentally adjust its forecasts. Postal Service Comments at 23. It had some justification for this concern, based upon remarks made by Commission staff in an informal public conference on our proposals. It is not our intent, however, to restrict judgmental adjustments to forecasts, such as net trend.

To avoid misconstruction of our intent, we have revised the language that we originally proposed for the preamble to rule 54(j)(6) to convey our intent that the Postal Service acknowledge and explain any departures from the assumptions and specifications of its econometric demand model that it makes in its forecasting procedure. Illustrations of departures to which the proposed language would apply can be found in section "G. Discrepancies" of Appendix H, in PRC Op. R87-1, Volume 2.

The purpose of this proposed change is to make it easier to track and evaluate the Postal Service's forecasting method. The OCA suggested language for proposed rules 54(j)(5) (ii) and (iii) that would require the Postal Service to demonstrate a step-by-step derivation of each volume forecast from its econometric demand model. OCA Comments at 15, and at Attachment 1, 8 of 12.

The OCA s suggested language would promote the purpose underlying our proposed preamble. Its suggestion has merit. Since it would require a detailed derivation for all classes of mail, however, it would greatly increase the quantity of workpapers above what the Postal Service currently provides, with no commensurate increase in information about the process. The Postal Service's forecasting procedure is essentially the same for all classes and subclasses of mail, since it is the Postal Service's current practice to provide detailed derivations for First- and Third-class mail only. As revised, our proposed rule 54(j)(6)(i) incorporates language similar to that suggested by the OCA for rules 54(j)(5) (ii) and (iii). It is, however, more concise, and requires the Postal Service to provide only representative derivations for two major mail classes, and identification of departures from that representative method for remaining classes.

**Proposed Rule 31(k)(2)(iii)(e).**

As originally proposed, this rule would have required the party submitting an econometric study to provide a detailed reference to a text or manual for each econometric technique used in the estimation process. The purpose of this proposal was to avoid the use of *ad hoc* techniques that the Commission would have to judge as a technical reviewer.

Technical review of a novel econometric techniques in professional journals is a demanding and time consuming undertaking. It typically requires several layers of expert review and revision, followed by a record of post-publication comments evaluating the technique before it acquires the status of an acceptable econometric practice. Clearly, this is a difficult role for the Commission to perform adequately within the narrow window provided by a general rate case.

The Postal Service criticized the proposed rule on the ground that the parties' hearing rights required that *ad hoc* econometric techniques not be restricted. Postal Service Comments at 14–18. The FTC's Bureau of Economics also argued that *ad hoc* econometric techniques should not be excluded from consideration, at least where it can be shown that there are no viable alternatives. Bureau Comments at 12. UPS suggested that the allowable references be broadened to include journals or university working papers. UPS Comments at 2.

The OCA suggested that the proposed rule be expanded to require identification and referencing of "mixed" estimation techniques that incorporate such things as results from hypothesis tests or other models, and could be considered to be estimation techniques themselves. OCA Comments at 9.

We have reconsidered the desirability of excluding reliance upon *ad hoc* econometric techniques on the grounds that they are difficult to review in the confines of a rate case. We have revised our proposed rule to allow such reliance, but to require supporting evidence sufficient for a technical evaluation.

We have revised it in this manner rather than follow the Postal Service's suggestion that we condition the requirement on the request for a reference by another party, and that we allow a statement of reasons for not using a standard econometric technique to substitute for the required reference. Postal Service Comments at 18. Although similar in intent, we think that requiring evidence sufficient for technical review of ad hoc techniques to be more useful than a mere statement of the reasons that a standard technique was not used.

The Postal Service's suggestion that the requirement should be conditioned on the request of another party is based upon the premise that the large number of econometric techniques used in any econometric study would make it impractical to reference them all. *Id.*

Perhaps we should clarify that by "econometric technique used in the estimation process" we mean only techniques used for fitting equations to data. By this definition, the econometric techniques used by the Postal Service in its demand model in Docket No. R87-1 would only have involved those half-dozen techniques listed in paragraphs 005–018 of Appendix H in Volume 2 of our opinion. Our revised referencing proposal would, in our view, impose only a minor burden with respect to standard econometric techniques.

We have not adopted the OCA's suggestion that we require a statement identifying each "estimation technique" used. We do not think that it adds materially to the useful information required by our revised rule.

**Proposed Rules 31(k)(2)(iii) (d) and (i), and 54(j)(7)(ii).**

A major goal of our original proposals was to ensure that the judgmental decisions which play such an important role in developing most econometric models would be preserved and presented with the submitted model. This goal was to be implemented by proposed rules 31(k)(2)(iii) (*d*) and (*i*), and 54(j)(7)(ii).

As initially proposed, rule 31(k)(2)(iii)(*d*) would have required that parties who submit econometric models

include in their submission a brief description of any alternative models with different assumption or specifications that were tested and rejected. Proposed rule 54(j)(7)(ii) would have required that their submission include the computer input files used to implement such alternatives. Proposed rule 31(k)(2)(iii) would have required that the computed econometric results of such alternatives be provided, upon request.

Rules 31(k)(2)(iii) (*d*) and (*i*), as originally proposed, were intended to prompt the econometrician to keep brief notes of his explorations that culminate in the selection of his preferred model. These would include the equation forms and variables tried, and a brief statistical expression of results. The premise of these rules was that the researcher would make such minimal notes at each decision point on the path to his preferred model. Proposed rule 31(k)(2)(iii)(*i*) would have required him to keep and provide the computer input files used to implement rejected alternatives so that if opposing parties wished to reconstruct a particular "experiment" they would be able to.

We are revising these proposed rules so that they will better reflect our intent, and will more clearly indicate what documentation would have to be preserved and provided, and the probable burden involved. Our revisions are also meant to reduce that burden, in response to the concerns expressed by the commenters.

As the comments point out, by requiring a summary description of rejected alternatives, proposed rule 31(k)(2)(iii)(*d*) did not expressly require preservation of sufficient documentation of the "choice trail" to illuminate technical judgments leading to the selection of the preferred model. OCA Comments at 9. We therefore have revised proposed (iii)(*d*) to spell out that the minimum documentation to be retained should consist of an indication of why a relevant alternative was rejected, and an identification of the elements of the rejected alternative, *i.e.*, the variable definition, equation form, data, or estimation method, that differ from the preferred model.

Proposed rule 31(k)(2)(iii)(*i*) required that computed econometric results for any alternatives covered by proposed rule (iii)(*d*) be provided upon request. This rule would have required that the analyst be able to reproduce computed results for rejected alternatives. We are retaining this requirement in our revised proposed rules but, for drafting purposes, we are incorporating it in our revised rule 31(k)(2)(iii)(*d*).

We agree with the Postal Service that if the computed results for rejected alternative models need only be provided upon request, it is unwarranted to require mandatory production of the input files used to generate those results. We have come to the conclusion that to require that such files be preserved for all relevant rejected alternatives could be an excessive burden if the number of alternatives is substantial. Therefore, we are deleting rule 54(j)(7)(ii) from our proposals. We do so with the expectation that if an opposing party through normal discovery should request that a particular rejected alternative be reproduced, that the researcher could recreate such files from the notes that revised rules (iii)(*d*) would require him to keep.

Several commenters argued that as originally proposed, rule 31(k)(2)(iii)(*d*) would have required descriptions of trivial or dead-end explorations that had no influence on the design of the submitted model, and would have imposed a substantial and unnecessary documentation burden. Postal Srvice Comments at 48–50. ANPA Comments at 2.

This is a valid criticism. As revised, proposed rule 31(k)(2)(iii)(d) explicitly limits the alternatives that must be described to those that influenced the selection of the preferred model. Several commenters argued that this material should not be required at the outset, but only if requested by a participant. The rationale was primarily to narrow the focus to relevant alternatives, and therefore reduce the burden of complying. Postal Service Comments at 48. OCA Comments, Attachment 1 at 4 of 12.

Since our revised proposed rule 31(k)(2)(iii)(*d*) is narrowed to apply only to relevant alternatives, and requires only a simple statement for each, we think that the documentation burden will now be modest. Requests for production of this minimal documentation, in our view, will be almost inevitable. Therefore, we see little to be gained from the delay that would be caused by conditioning this disclosure on the request of participants. If the Postal Service is concerned that it would have difficulty documenting the "choice trail" as required by this rule because the "trail" was blazed long before this rule was proposed, and it did not keep and can no longer reproduce it, we will assure them that the rule would not require them to recreate the documentation.

Adopting DMA's suggestion at page 2 of its comments, we have added a statement of reasons for rejecting a relevant alternative to the disclosure required by revised rule 31(k)(2)(iii)(*d*). We agree that this will help bring the technical judgments made in selecting the preferred model quickly into focus.

**Proposed Rule 31(k)(2)(iii)(j).**

Proposed rule 31(k)(2)(iii)(*j*) would have allowed opposing parties or the Commission to request that the party submitting an econometric model compute results for specified variations in its model, where it could be done by a simple "plug-in" of different input data. The purpose was to allow other parties to investigate the reasonableness of the judgments made in the course of the submitting party's econometric investigation, by observing the effect of small variations in the model.

The safeguards that we contemplated were that the request be made through the Presiding Officer, that it include a showing of its likely value in validating the specific judgment being probed, that the computation requested be simple, straightforward, and non-burdensome, and that the allowed use of the result be strictly limited to validation of the submitted model. Notice at 8. (We agree with the commenters that all of our contemplated safeguards should have been explicitly stated in the rule.)

Several commenters objected that this procedure was not appropriate for an adversary proceeding, because it required the submitting party to help make its opponent's case. Postal Service Comments at 34; ANPA Comments at 4.

We think that this criticism is unfounded. Although the proposed procedure is somewhat unorthodox, it is a legitimate application of evidentiary procedures. As we discussed in connection with the adoption of our computer evidence rule, validation is an essential part of the foundation that must be laid before analytical models of real-world phenomena may be accepted into evidence. The burden of validating the model rests with the submitting party. Proposed rule 31(k)(2)(iii)(*j*) would have provided a means of validating the submitting party's model where the submitting party has not carried its burden in the eyes of the Presiding Officer. Where the submitting party had already adequately documented the behavior of the model relative to plausible alternatives, as proposed rule 31(k)(2)(iii)(*d*) contemplates, opposing parties would have had difficulty demonstrating to the Presiding Officer the likely value of their request in validating the model.

The Postal Service objected that we would not, as a practical matter, be able to restrict this procedure to its intended

validating function. It argued that if an opposing party wished to base an affirmative case upon the alternative computation that it requested, that we could not prevent it from using the result in that manner. Postal Service Comments at 34–35. We see no reason that this should be true. If the evidence is allowed in the record for a restricted purpose, we are fully able to respect that restriction in our deliberations, especially where the submitting party is diligent in reminding us of the restriction.

A more legitimate criticism of proposed rule 31(k)(2)(iii)(*j*), in our view, is that it might spawn excessive litigation of the issue of the appropriateness of requests. ANPA Comments at 5.

We recognize that proposed rule 31(k)(2)(iii)(*j*) is a "second-best" solution. Several commenters have pointed out that, ideally, the validation and testing functions of proposed rule 31(k)(2)(iii)(*j*) could be performed by opposing parties themselves, if the submitted model is documented in the manner that our other rules would require. Postal Service Comments at 36; ANPA Comments at 4–5.

We agree that if our proposed rules governing econometric studies and our current computer evidence rule (rule 31(k)(3)) are faithfully complied with, this should be possible. We have decided to defer further consideration of proposed rule 31(k)(2)(iii)(*j*) until we have had a chance, over the next rate cycle, to evaluate the adequacy of the balance of our rules to accomplish the purpose underlying this proposal.

**Sensitivity Tests**

Providing for validating sensitivity tests was the main purpose of proposed rule 31(k)(2)(iii)(*j*). The FTC's Bureau of Economics proposed that we require parties to submit sensitivity tests with their econometric models, to provide an indication of the robustness of the results. Bureau Comments at 11.

We agree that this is standard practice for good econometrics, and it is our strong preference that econometric studies offered in evidence in our hearings be accompanied by such tests. But it seems to us that not much would be gained from a rule requiring, in the abstract, that sensitivity tests be performed. That requirement would be open-ended, and likely to elicit only self-servingly selective sensitivity tests. It would be very difficult to try to specify in advance a standard set of sensitivity tests to counter this tendency. Useful sensitivity tests would likely only be those that a party voluntarily presents because they confirm the robustness of its results, or those that, as in proposed rule 31(k)(2)(iii)(*j*), would be specified by opposing parties after seeing the design of the model submitted. We would, nevertheless, entertain comments on a more specific proposal to require sensitivity tests.

**Seasonal Adjustment Requirements (Proposed Rules 54(j)(5)(iv), 54(j)(7)(iv), and 102(b)(5))**

Proposed rule 54(j)(5)(iv) would have required the Postal Service to provide, as part of its filing, observed and estimated quarterly volumes in seasonally adjusted form, at annual rates. Proposed rule 54(j)(7)(iv) would have required it to provide the input files and computer programs used to make seasonal adjustments. Proposed rule 102(b)(5) would require the Postal Service to seasonally adjust the quarterly volume updates called for in that proposed rule for ongoing data reporting.

The Postal Service devoted a considerable portion of its comments objecting to these proposals, if they are construed to impose a requirement that deseasonalized data be incorporated in its econometric method. Postal Service Comments at 25–32. It stated at the end of its discussion, however, that if these proposals merely require it to perform a seasonal conversion after its forecast is made, that it would comply with them, despite its skepticism as to their value. *Id.* at 33.

We did, indeed, intend that the Postal Service would be free under these proposals to perform the seasonal conversion after its forecast is made. Our proposals were not intended to affect its forecasting method, but merely the presentation of its results.

The Postal Service has argued that to present its volume data in seasonally adjusted form would be a complex and burdensome effort. Presumably the Postal Service could find among the wide array of government and commercial software packages available for the task, one that it considered suitable for converting its data. But presenting results in seasonally adjusted form is not central to our overall objectives in revising our volume evidence rules. The proposal was merely intended to make it easier for all participants to recognize volume trends and to evaluate the accuracy of volume forecasts.

Because the Postal Service insists that it would be a complex and burdensome task, we have decided to delete requirements for seasonally adjusted data from our revised proposed rules. We believe, however, that seasonally adjusted data allows us to directly compare observations and forecasts for adjacent quarters, as an aid in evaluating the reasonableness of forecasts over the near term. For this reason it is likely that we would request some seasonally adjusted volume data in the next rate proceeding, even though it would not be required by rule.

**Proposed Rules 54(j)(5) (ii) and (iii)**

These proposed rules would require the Postal Service to extend its before- and after-rates forecast one year beyond the test year. The Postal Service argues that since we only recommend rates for the test year, events after the test year are irrelevant. It argues that how reasonable a model's prediction of those events is, and consistent its post-test year prediction is with its test year prediction, are not relevant to our proceedings. Postal Service Comments at 47.

Of course predicting events for the year after the test year is not the direct purpose of our proceedings. But how a predictive model behaves if it is incrementally extended beyond the test year certainly has a bearing on the reasonableness of its test-year prediction. If a model predicted modest growth in volume for a major mail class through the test year, but a pronounced decline for the following year, the post test-year prediction would undermine the credibility of the model's test-year prediction, in the absence of a change in external variables that would explain the reversal of the trend.

The Postal Service's argument that a model's predictions for periods outside the test year are irrelevant to evaluating its test-year predictions could be applied with equal force to the interim years. Surely the Postal Service would agree that the performance of its forecasting model in the interim period reflects upon the probable accuracy of its test-year forecast, and that such information is properly required by our current rules, even though we do not recommend new rates for the interim period.

The relevance of a post test-year forecast in evaluating a test-year forecast can be illustrated on a common sense level by referring to our experience in Docket No. R84–1. There observed volumes for Bulk Rate Regular Mail for the interim period were running substantially above the Postal Service's estimated volumes for the test year. If the Postal Service's forecast had extended to the year beyond the test year, its underestimation of test-year Bulk Rate Regular volumes would have become apparent to all of the participants much earlier in the

proceeding. This would have facilitated the task of correcting the forecast.

That a model's volume forecast for the year beyond the test year would be useful in evaluating its forecast for the test year itself, can be demonstrated not only on a common sense level, but on a technical level. The forecasting model that the Postal Service has been using incorporates price effects with lags of up to one year. This means that transition effects from new rates persist into the test year. It is important that we be able to view and evaluate the impact of new rates free of transition effects. This cannot be done without a forecast of volumes for some reasonable period beyond the test year. Under the Postal Service's current model, one year is sufficient to insure that transition effects are gone.

For these reasons we have not revised proposed rules 54(j)(5) (ii) and (iii).

**Proposed Rule 54(j)(5)(v)**

Proposed rule 54(j)(5)(v) would have required the Postal Service to present confidence intervals for its volume forecasts. We are aware that the model that Postal Service has been using is not ideally suited to calculating an unambiguous confidence interval for many reasons, including those that the Postal Service points out in its comments.

The Postal Service argues both that a meaningful confidence interval cannot be calculated for its forecasts, and that the exercise would be burdensome. Postal Service Comments at 43–46. With the variance/covariance matrix of the estimates included in its documentation, opposing parties should be able to calculate confidence intervals and other statistical tests for themselves. For these reasons we are deleting this requirement from our revised proposed rules.

**Updating Volume-Related Data, Proposed Rules 102(b) (4) and (5)**

Proposed rules 102(b) (4) and (5) would have added to the Postal Service's ongoing data reporting obligations, requirements that it provide current extensions and revisions in the values of all explanatory variables used in its econometric demand study from the most recent rate proceeding, and current extensions and revisions of the unadjusted and seasonally adjusted actual quarterly volumes provided in the most recent rate proceeding.

The Postal Service objects to these proposed additions on the ground that they impose an excessive burden, since it does not update the input variables to its demand model between rate cases, and does not seasonally adjust its volume data. It contends that all of these updates come from publicly available sources, and, with the "turn-key" computer implementation that it will provide, the parties will be able to perform the requested updates themselves. Postal Service Comments at 51–52.

If the Postal Service doesn't update the explanatory variables in its demand model on a regular basis, then the requirement in rule 102(b)(4) as originally proposed is not likely to assist us in keeping our data current with respect to demand analysis. It would be useful, however, to obtain updated information from which price indices could be calculated.

A single class or subclass of mail typically consists of mail categories with different characteristics, such as zone distance or presort level, used to determine the postage paid by the mailer. Becuase of the plethora of rate categories, the Postal Service constructs price indices for subclasses to be used in the estimation of its econometric models. These indices are usually calculated as a weighted average of the rates that apply to categories within the subclass. In Docket Nos. R84–1 and R87–1, the Postal Service constructed price indices for every major class and subclass of mail, and used these indices in their econometrics and forecasting.

Billing determinants contain disaggregated volume and revenue information that is representative of the rate categories for each subclass of mail. This level of disaggregation is greater than that provided in the RPW reports. This disaggregation is necessary in order to construct price indices by the method that the Postal Service currently uses. The Postal Service is the only source of the detailed information needed to produce the billing determinants from which price indices must be calculated. Therefore, a need remains for updated billing determinants to allow interested parties to analyze volumes on an ongoing basis. Accordingly, although we are deleting proposed rule 102(b)(4) from our revised proposals, we propose that billing determinants be added to the list of annual data reports required from the Postal Service under rule 102(a).

We are also deleting rule 102(b)(5) from our revised proposal. As discussed above in connection with proposed rules 54(j) (5)(iv) and (7)(iv), we are deleting requirements that the Postal Service present volume data in seasonally adjusted form from our revised proposed rules, in responses to the Postal Service's objections to the burden that it would impose. If billing determinants were provided under our proposed rule 102(a)(10), they would contain volume information at the level of detail that rule 102(b)(5) was intended to elicit (although only on an annual basis for some categories of mail). This comes close enough to the objective of proposed rule 102(b)(5) to prompt us to delete it from our revised proposals.

**Proposed Rule 31(k)(2)(iii)(g)(VI)**

This rule would have required that computed residuals be provided for every econometric study submitted. The Postal Service points out that this requirement is reasonable unless large databases are involved. It suggests either that the requirement be conditioned upon a request from other parties, or that it be applicable only to studies involving less than some maximum number of observations. Postal Service Comments at 54. Because we anticipate that requests for the residuals would almost always be made, we have adopted the second of its suggestions, and limited the requirement to studies involving fewer than 250 observations.

ANPA proposed that the reports of econometric results required by proposed rule "(g)" include the date, and identification of the name and version of the software package used. ANPA Comments at 3. We have decided not to adopt its suggestion. We are not sure why requiring a date for the report would be useful. Requiring identification of the software used might have some value, but is more appropriately considered in connection with amendments to rule 31(k)(3), our computer evidence rule.

**Track Record for Postal Service Forecasting Model**

The FTC's Bureau of Economics proposed that we amend rule 54 to require the Postal Service to submit econometric analyses indicating the reliability of previous Postal Service models in predicting demand, and the reliability of its current model in predicting past changes in demand, using historical data. The purpose of its proposal is to help assess the reliability or bias of Postal Service forecasting models. Bureau Comments at 12.

We agree, in principle, that being able to demonstrate a track record of consistent and accurate forecasts is very important to establishing the credibility of a demand forecasting model. Indeed, a meaningful track record is one of the few reliable ways of establishing the credibility of a forecasting model where, as with the Postal Service's current model, judgmental "add factors" have a large impact on the result.

A meaningful track record can be demonstrated for models that are continuously maintained, and have been implemented numerous times on a regular basis, as the national macroeconomic models are. Such models tend to be modified only in a very gradual evolutionary manner, so that the performance of the previous version remains a meaningful indicator of the reliability of the current version.

The model that the Postal Service currently uses, however, seems not to be exercised between rate cases. Based upon all that is publicly known, it has only been implemented three times, and has been significantly altered each of those times. Its performance over those three implementations has been mixed, with some significant misestimations occurring in the Docket No. R84-1 implementation. If there were only a few, discontinuous implementations of significantly altered versions, we are not sure how meaningful the track record presented under the Bureau's proposal would be. We would, nevertheless, entertain comments on a proposal that is more specifically framed.

**Other Proposed Rules**

We have adopted the Postal Service's suggestion that we substitute the words "In addition" for "For example" in the third sentence of the preamble to our proposed rule 31(k)(2), in order to make it clear that the material covered by the balance of the rule is to be provided simultaneously with the submitted study. We have also adopted its suggestion that we delete from the preamble that portion which would have permitted parties to request that stuides not initially submitted in computerized form be converted to computerized form.

"Statistical studies" in the preamble to rule 31(k)(2)(iii) is not expressly defined. That term is therefore understood in the ordinary "textbook" sense to apply to studies that draw inference from data. The OCA proposes that a definition of the term "statistical studies" be expressly included in the preamble that would appear to go considerably beyond the normal definition. It proposes to define them as "all analyses that make use of formulas, or deterministic models, in the characterization or projection of data." Nonparametric statistics are apparently excluded from this definition. Deterministic models clearly are not within the ordinary definition of statistical studies. By including all studies that use formulas to characterize data, the OCA's proposed definition could include what would normally be considered operations research.

We prefer not to extend the definiton of statistical studies to include those suggested by the OCA. In our view, they do not share the unique, common properties that we associate with statistical studies, as that term is traditionally understood. To try to stretch this rule to include them would, we think, risk requiring inappropriate kinds of documentation for such studies.

The specific purpose that the OCA cites for its proposal is to have adquate documentation requirements apply to the Postal Service's calculation of presort shares. OCA Comments at 3. Our other proposed rules (31(k)(2)(iii)*(f)*; 54 (j)(6) preamble, and (iii); 54 (j)(7)(ii)) should be adequate to obtain thorough documentation of these calculations.

The OCA proposes that we amend proposed rule 31(k)(2)(iii)*(c)* to require that the submitting party justify not only the selection of variables in its study but their functional form as well, in order to illuminate hidden assumptions in the study. Comments at 8. In our view, essentially the same information already would be required as part of the specification of the model under proposed rule 31(k)(2)(iii)*(b)*. For this reason we have not adopted the OCA's suggestion.

ANPA and the OCA suggest that we add to proposed rule 31(k)(2)(iii)(f) a provision whereby parties may request a complete listing of input data to assist them in replicating submitted econometric studies. ANPA Comments at 3; OCA Comments at 10. This would already be required for econometric studies to which our computer evidence rule (rule 31(k)(3)) applies. We believe that the ability to replicate econometric studies is so important, however, that we will include it in proposed rule 31(k)(2)(iii)*(f)* as well.

The OCA suggests that we amend proposed rule 31(k)(2)(iii)*(f)* to require that all computations that combine input data with other information for further analysis be provided, to aid in the analysis of such things as the Postal Service's price indices in its demand study. OCA Comments at 10. We have adopted this suggestion by adding transformations of data to the documentation required under the revised rule.

The OCA suggests that we expand proposed rule 31(k)(2)(iii)*(h)* to require that statistical tests of hypotheses concerning the functioning form of the model, or the model's parameter constraints, be provided. It criticizes the Postal Service for often having employed untested parameter constraints. OCA Comments at 11. We do not believe that making such tests mandatory is appropriate. Functional forms, as such, are usually received hypotheses not capable of an econometric test. Accordingly we have not adopted the OCA's suggestion.

The OCA suggests that we amend proposed rule 54(j)(5)(i) to require the Postal Service to document its econometric demand study in sufficient detail to allow parties to replicate it, regardless of whether they have the exact software application that the Postal Service used. OCA Comments at 14. We agree that such detail should be provided, and have required it already in proposed rule 54(j)(7)(i). Because it would be redundant to add it to proposed rule 54(j)(5)(i), we have not adopted the OCA's suggestion.

UPS suggests that we add to proposed rule 54(j)(7)(i) a requirement that commercially available software programs used to implement the econometric demand study be identified, and the instructions given to the software program be identified. UPS Comments at 3. This requirement is probably not appropriate for studies conducted in an interactive computer environment. We have not adopted UPS's suggestion because we believe that the terms "input files and programs" is already well defined, and the information that UPS seeks is already required under our computer evidence rule.

## PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for 39 CFR Part 3001 continues to read as follows:

**Authority:** 39 U.S.C. 404(b), 3603, 3622–3624, 3661, 3662, 84 Stat. 759–762, 764, 90 Stat. 1303; (5 U.S.C. 553), 80 Stat. 383.

2. Sections 3001.31(k)(2) introductory text, and (k)(2) (ii)–(iv), 3001.54(j) (5)–(7), and 3001.102(a)(10) are revised to read as follows:

**§ 3001.31 Evidence.**

* * * * *

(k) * * *

(2) *Statistical studies.* All statistical studies offered in evidence in hearing proceedings or relied upon as support for other evidence shall include a comprehensive description of the assumptions made, the study plan utilized and the procedures undertaken. Where a computer analysis is employed to obtain the result of a statistical study, all of the submissions required by rule 31(k)(3) shall be furnished, upon request. In addition, for each of the following types of statistical studies, the indicated information should be furnished:

* * * * *

(ii) *Experimental analyses. (a)* A complete description of the experimental design, including a specification of the controlled conditions and how the controls were realized;

(*b*) A complete description of the methods of making observations and the adjustments, if any, to observed data.

(iii) *Econometric Studies. (a)* A presentation of the economic theory underlying the study;

(*b*) A complete desciption of the econometric model(s) and the reasons for each major assumption and specification;

(*c*) The definition of the variables selected and the justification for their selection;

(*d*) For any alternative model whose computed econometric results influenced the choice of the preferred model, a statement of the reasons for rejecting that alternative, an identification of any differences between that alternative and the preferred model with respect to variable definitions, equation forms, data, or estimation methods, and, upon request, the computed econometric results for that alternative;

(*e*) A reference to a detailed description in a text, manual, or technical journal for every econometric technique used in the estimation process and the reasons for selecting the technique, or, in the alternative, a description and analysis of the technique that is sufficient for a technical evaluation;

(*f*) Summary descriptions and source citations for all input data and, upon request, a complete listing of the data. Complete descriptions of any alterations or transformations made to the data as received from the original sources, and the reasons for making the alterations;

(*g*) A complete report of the econometric results including, where applicable:

(*1*) Coefficient estimates,

(*2*) Standard errors and t-values,

(*3*) Goodness-of-fit statistics,

(*4*) Other appropriate test statistics,

(*5*) The variance/covariance matrix of the estimates,

(*6*) Computed residuals for results computed from samples composed of fewer than 250 observations, and, upon request, other computed residuals;

(*h*) Descriptions of all statistical tests of hypotheses and the results of such tests;

(iv) *All other studies involving statistical methodology. (a)* The formula used for statistical estimates;

(*b*) The standard errors of each component estimated;

(*c*) Test statistics and the description of statistical tests andall related computations, and final results; and

(*d*) Summary descriptions of input data, and upon request the actual input data shall be made available at the offices of the Commission.

* * * * *

**§ 3001.54 Contents of formal requests.**

* * * * *

(j) * * *

(5) Subject to paragraph (a)(2) of this section, there shall be furnished in every formal request, for each class and subclass of mail and postal service, the following:

(i) An econometric demand study relating postal volumes to their economic and noneconomic determinants including postal rates, discounts and fees, personal income, business conditions, competitive and complementary postal services, competitive and complementary nonpostal activities, population, trend, seasonal patterns and other factors.

(ii) The actual or estimated volume of mail at the prefiled rates for each postal quarter beginning with the first quarter of the most recent complete fiscal year and ending one year beyond the last quarter of the future fiscal year.

(iii) The estimated volume of mail assuming the effectiveness of the suggested rates for each postal quarter beginning with the quarter in which the rates are assumed to become effective and ending one year beyond the last quarter of the future fiscal year.

(6) The estimated volumes and revenues referred to in paragraphs (j)(2), (3) and (5) of this section shall be derived from the econometric demand study referred to in paragraph (j)(5)(i) of this section. Any departure from the assumptions and specifications in the demand study made in estimating volumes of any class or subclass of mail shall be explained.

(i) Subject to paragraph (a)(2) of this section, there shall be furnished in every formal request a detailed explanation of the methodology employed to forecast volumes for each class and subclass of mail and postal service. Representative derivations of these forecasts from the econometric demand study shall be presented in detail for two major mail classes, showing each intermediate value or factor employed. Methodological departures from these representative derivations for remaining classes and subclasses of mail, if any, shall also be presented.

(ii) Subject to paragraph (a)(2) of this section, there shall be furnished in every formal request a detailed explanation of the methodology employed to forecast changes in revenues for each class and subclass of mail and postal service resulting from changes in rates and fees.

(iii) Subject to paragraph (a)(2) of this section, there shall be furnished in every formal request a computer implementation of the methodology employed to forecast volumes and revenues for each class and subclass of mail and postal service.

(iv) The computer implementation described in paragraph (j)(6)(iii) of this section shall be able to compute forecasts of volumes and revenues compatible with those referred to in paragraphs (j) (2), (3) and (5) of this section for:

(*a*) Any set of rates and fees within a reasonable range of the prefiled and suggested rates,

(*b*) Any date of implementation within the range spanned by the assumed date and the start of the future fiscal year.

(*c*) Alternative forecasts of the economic determinants of postal volumes other than postal rates and fees, and

(*d*) Alternative values of any parameters with assigned values that are based upon unverifiable judgments.

(v) The computer implementation described in paragraph (j)(6)(iii) of this section shall comply with rule 31(k)(3).

(7) Subject to paragraph (a)(2) of this section, there shall be made available at the offices of the Commission with every formal request, in a form that can be read directly by a standard digital computer, the following:

(i) All of the input files and programs needed to replicate the econometric demand study referred to in paragraph (j)(5)(i) of this section;

(ii) Any input files and programs employed to derive a price index for any class or subclass of mail or postal service from postal rates, discounts and fees;

(iii) Any input files and programs used to prepare data for use in the econometric demand study referred to in paragraph (j)(5)(i) of this section.

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**§ 3001.102 Filing of reports.**

(a) * * *

(10) Billing Determinants, at the level of detail employed in the most recent formal request for a change in rates or fees.

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By the Commission.

**Charles L. Clapp,**

*Secretary.*

[FR Doc. 89–12279 Filed 5–22–89; 8:45 am]

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of Child Support Enforcement**

**45 CFR Parts 301, 302, 303, 304 and 306**

**RIN 0970-AA61**

## Child Support Enforcement Program—Extension of Services to Medicaid Applicants and Recipients and to Former AFDC Recipients

**AGENCY:** Office of Child Support Enforcement (OCSE), HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** These proposed rules implement sections 9141 and 9142 of Pub. L. 100-203, the Omnibus Budget Reconciliation Act of 1987, which amended title IV-D of the Social Security Act (the Act). Section 9141, effective December 22, 1987, amended section 457(c) of the Act to require State Child Support Enforcement (IV-D) agencies to provide appropriate notice and to continue to provide IV-D services to persons no longer eligible for Aid to Families with Dependent Children (AFDC) under title IV-A of the Act. The IV-D agency must continue to provide services and pay any amount of support collected to the family on the same basis and under the same conditions as pertain to other non-AFDC families, except that no application, other request to continue services or any application fee for services may be required.

Section 9142, effective July 1, 1988, amended section 454 of the Act to require State IV-D agencies to provide IV-D services to all families with an absent parent who receive Medicaid and have assigned to the State, under section 1912 of the Act, their rights to medical support, and to provide for distribution by the State of medical support collections under section 1912 of the Act.

**DATES:** Consideration will be given to written comments and suggestions received by July 24, 1989.

**ADDRESS:** Address comments to: Associate Deputy Director, Office of Child Support Enforcement, Department of Health and Human Services, 370 L'Enfant Promenade, SW., Washington, DC 20447. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m. in the Department's office at the above address.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Hagan, Policy Branch, OCSE, (202) 252-5375.

**SUPPLEMENTARY INFORMATION:**

### Paperwork Reduction Act

Public reporting burden for the collections of information requirements at 45 CFR 302.33(a), 302.33(a)(4), 302.33(d)(1)(ii), 302.33(d)(5), 302.33(e)(2), 302.51(e), 303.72(h)(3), 303.72(i)(2), 303.102(c), 306.50(a) and combined 306.50(b) and 306.51(c) is estimated to average 5.0, 05., 1.0, 0.5, 0.5, 0.5, 0.1, 0.1, 0.1, 5.0, and 0.1 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. We have combined the reporting burden at 42 CFR 306.50(b) and 306.51(c) since they have the same information requirement of informing the individual of the availability of medical support enforcement services. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Child Support Enforcement, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

### Background

*Continuation of Services to Former AFDC Recipients.* When section 457(c) of the Act was amended by the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) to require (rather than allow) provision of IV-D services to families after AFDC eligibility ends, the intent of Congress was that all IV-D services continue to be provided, as in non-AFDC IV-D cases, to families whose AFDC eligibility was terminated, without payment of a fee or filing of an application for services. However, the Act, as amended by Pub. L. 98-378, provided a transition period of up to five months during which former AFDC cases were treated differently from non-AFDC cases.

During the five-month period, States were not given the option to recover costs of providing services as in other non-AFDC cases and distribution of amounts collected was inconsistent with distribution in other non-AFDC cases. The statute also required authorization for continuation of IV-D services after the five-month period, while prohibiting the necessity of filing an application or paying an application fee. The enactment of section 9141 of Pub. L. 100-203, effective December 22, 1987, eliminates this temporary category of cases. Without an application or application fee, these cases become non-AFDC cases once AFDC eligibility ends.

*Services to Medicaid-only applicants and recipients.* Applicants and recipients of Medicaid are required under section 1912(a)(1) of the Act to assign to the State their rights to support for medical care and payment for medical care from any third party and to cooperate with the State in establishing paternity and securing support. However, when assignment of rights to medical support was made a condition of eligibility for Medicaid by the Deficit Reduction Act of 1984 (section 2367 of Pub.L. 98-369), there was no corresponding amendment added to title IV-D of the Act requiring IV-D agencies to provide services to Medicaid applicants and recipients who assigned their rights to support under section 1912 of the Act. Therefore, prior to enactment of Pub. L. 100-203, IV-D agencies were required to provide services only to Medicaid families who were referred to the IV-D agency because they were AFDC applicants and recipients. IV-D services were also available to Medicaid-only families (those families determined eligible for or receiving Medicaid but not AFDC), but only by application (and payment of an application fee), making these cases indistinguishable from non-AFDC IV-D cases.

Effective July 1, 1988, section 9142 of Pub. L. 100-203 requires that the IV-D agency provide IV-D services to families who have assigned their rights to medical support as a condition of receipt of Medicaid. IV-D agencies must provide all appropriate IV-D services to Medicaid applicants and recipients with an absent parent, whether or not they are also eligible for AFDC, without an application or application fee.

We are considering the types of information collection that would be useful in monitoring medical support enforcement in general and the implementation of section 9142 of Pub. L. 100-203 (and this regulation) in particular. At this point, there is no dependable data on medical support. One option is to add medical support information and Medicaid-only caseload data to existing program reports. We request comment on the desirability and usability of such data and the effort required to develop it. We request suggestions of any other options that could yield annual, statistically valid data on medical support.

### Statutory Authority

This regulation is published under the authority of section 1102 of the Act which requires the Secretary to publish

regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Section 9141 of Pub. L. 100-203, effective December 22, 1987, amended section 457(c) of the Act to require State IV-D agencies to provide appropriate notice and to continue to provide IV-D services to persons no longer eligible for AFDC under title IV-A of the Act. The IV-D agency must continue to provide services and pay any amount of support collected to the family on the same basis as in the case of other non-AFDC families, except that no application, other request to continue services or application fee may be required.

Section 9142 of Pub. L. 100-203, effective July 1, 1988, amended section 454(4) of the Act to require State IV-D agencies to provide IV-D services to families who have assigned to the State, under section 1912 of the Act, their rights to medical support and payment for medical care from any third party, and have agreed to cooperate with the State in establishing paternity and securing support, unless the Medicaid agency determines that it is against the best interests of the child to do so. Section 9142 also amended section 454(5) of the Act to require that, in any case in which support payments assigned by an individual under section 1912 of the Act are collected, the payments shall be made to the State for distribution under section 1912, except that this requirement shall not apply to payments for any month after the month in which the individual ceases to be eligible for Medicaid.

**Changes to Existing Regulations**

45 CFR Part 301

*Section 301.1—General Definitions*

Section 301.1 contains definitions of terms used in the IV-D regulations. We propose to revise § 301.1 to include definitions of the terms "assigned support obligation," "assignment," and "Medicaid-only applicant or recipient."

"Assigned support obligation" would be defined as, unless otherwise specified, any support obligation which has been assigned to the State under 45 CFR 232.11 (AFDC cases) or section 471(a)(17) of the Act (title IV-E foster care cases), or any medical support obligation or payment for medical care from any third party which has been assigned to the State under 42 CFR 433.146 (which implements assignment of medical support rights under section 1912 of the Act.) "Assignment" would be defined as, unless otherwise specified, any assignment of rights to support under 45 CFR 232.11 or section 471(a)(17) of the Act, or any assignment of rights to medical support and to payment for medical care from any third party under 42 CFR 433.146.

By including the definitions of "assigned support obligation" and "assignment" in § 301.1, we would be able to simplify IV-D regulations which refer to assigned support obligations or assignments under the AFDC, title IV-E foster care and Medicaid programs by deleting reference to each type of assignment under the various programs. For example, in § 302.31, instead of adding reference to an assignment under 42 CFR 433.146 to require IV-D agencies to establish paternity and secure support for children with respect to whom an assignment under § 232.11, section 471(a)(17) or 42 CFR 433.146 is effective, we would merely revise § 302.31 to refer to providing services to children for whom an assignment as defined in § 301.1 is effective. Thus, unless a regulation specifically defines an assigned support obligation as other than that included in the definition in § 301.1, any reference to an assigned support obligation would encompass assignments under the AFDC, title IV-E foster care and Medicaid programs. We address each of these conforming changes later in this preamble.

"Medicaid-only applicant or recipient" would be defined as any individual who has been determined eligible for or is receiving Medicaid under title XIX of the Act but who has not been determined eligible for or is not receiving AFDC under title IV-A of the Act. We are proposing to include this term to differentiate between individuals determined eligible for or receiving both AFDC and Medicaid and individuals determined eligible for or receiving only Medicaid. As discussed in more detail under changes to § 302.33, Services to Individuals Not Otherwise Eligible for Paternity and Support Services, it is necessary to differentiate between these two types of cases because we propose that Medicaid-only applicants and recipients will be treated for the most part as non-AFDC cases.

45 CFR Part 302

We propose to revise certain sections in Part 302 to clarify treatment of Medicaid-only and former AFDC cases.

*1. Section 302.31 Establishing Paternity and Securing Support*

Section 302.31, which implements section 454(4) of the Act, requires IV-D agencies to undertake to establish paternity and secure support for any individual for whom an assignment is effective under the AFDC or title IV-E foster care program. Section 9142 of Pub. L. 100-203 amended section 454(4) to require IV-D agencies to establish paternity and secure support for individuals who have assigned their rights to medical support under section 1912 of the Act, unless the Medicaid agency determines that it is against the best interests of the child to do so. We would implement these new requirements in two ways.

First, rather than add reference to assignments under the Medicaid program to § 302.31(a) (1) and (2), we would delete, for simplicity, reference to assignment "under § 232.11 of this title or section 471(a)(17) of the Act" from § 302.31(a) (1) and (2). As previously discussed, the term "assignment" would be defined broadly to include, except where otherwise specified, assignment of rights to support under the AFDC, title IV-E foster care, and Medicaid programs.

Second, we would include reference in § 302.31 (b) and (c) to the Medicaid agency as a source of notice of claims or determinations of good cause for failing to cooperate in establishing paternity and securing support. Section 302.31 (b) and (c) address suspension of efforts to establish paternity or secure support if the IV-D agency is notified by the IV-A or IV-E agency that there has been a claim or determination of good cause for failing to cooperate. Therefore, proposed § 302.31(b) would require the IV-D agency, upon receiving notice from the IV-A, IV-E, or Medicaid agency that there has been a claim of good cause for failure to cooperate, to suspend all activities to establish paternity or secure support until notified of a final determination by the appropriate agency (i.e., either the IV-A, IV-E or Medicaid agency.)

Proposed § 302.31(c) would prohibit the IV-D agency from undertaking to establish paternity or secure support in any case for which it has received notice from the IV-A, IV-E or Medicaid agency that there has been a finding of good cause unless there has been a determination by the appropriate agency that support enforcement may proceed without the participation of the caretaker or other relative.

*2. Section 302.32 Support Payments to the IV-D Agency*

Section 302.32(b) requires the IV-D agency to notify a family which ceases to receive AFDC that it will continue to provide services pursuant to § 302.51(e)(1). Section 302.51(e) addresses required IV-D activities once eligibility for AFDC ends. As discussed in more detail below, we propose to address the changes made by Pub. L.

100–203 to requirements for continuation of services to former AFDC cases by deleting § 302.51(e) and revising § 302.33, Services to Individuals Not Otherwise Eligible for Paternity and Support Services. To correspond with those changes, we propose to change the reference in § 302.32(b) from § 302.51(e)(1) to § 302.33.

*3. Section 302.33 Individuals Not Otherwise Eligible for Paternity and Support Services*

Section 302.33 sets forth requirements for providing IV–D services to any individual not receiving AFDC who files an application for services. We propose to revise § 302.33 to implement changes made by Pub. L. 100–203 with respect to providing services to individuals once AFDC eligibility ends and services to individuals who have been determined eligible for or are receiving Medicaid but not AFDC (Medicaid-only applicants and recipients, as defined in this proposed regulation.) First, we will explain our rationale for treating both types of cases as non-AFDC cases. Then we will address specific changes to implement the new statutory requirements as well as other proposed changes to this section.

a. *Continuation of services after AFDC eligibility ends.* As explained earlier, section 9141 of Pub. L. 100–203 revised section 457(c) of the Act to eliminate the temporary category of cases which existed for a period of up to five months between the end of AFDC eligibility and conversion to regular non-AFDC status. Section 457(c) now requires the State to provide notice to the family and to continue to provide IV–D services under the same conditions and on the same basis as provided to other non-AFDC cases. The State may not require an application or other request to continue services or an application fee in these cases.

We propose to implement this change by deleting current requirements in § 302.51(e) governing the former temporary category of cases (to be discussed later) and requiring under § 302.33 that IV–D agencies provide services to former AFDC recipients under the same conditions and requirements as apply in other non-AFDC cases. We propose to revise § 302.33 to require States to notify the family that the case will become a non-AFDC case and that IV–D services will continue to be provided without the need for an application, other request for continued services or payment of an application fee. The notice would inform the family that services will be continued unless the IV–D agency is notified by the family that continued services are not desired. However, families which continue to be eligible for Medicaid after AFDC eligibility ends may not refuse IV–D services for their Medicaid eligible dependents.

Once Medicaid eligibility ends in former AFDC cases, the IV–D agency must continue to provide services as a non-AFDC case unless the family refuses IV–D services. Once Medicaid eligibility ends in Medicaid-only cases in which the family was not receiving AFDC, the family must apply for IV–D services and pay an application fee in accordance with § 302.33 in order to continue to receive IV–D services, because the statute does not waive application or an application fee in these cases.

These proposed changes would implement the statutory requirements and are consistent with the intent of Congress that former AFDC recipients continue to receive IV–D services on the same basis as other non-AFDC cases. This means that all appropriate services must be provided in these cases. The State may charge fees other than the application fee and recover costs of providing services in these cases if it recovers costs of providing services in other non-AFDC cases in accordance with § 302.33(d).

Distribution of collections for former AFDC recipients would be consistent with each State's non-AFDC distribution policy, i.e., priority must be given to current support but the State may choose whether to distribute collections of past-due support first to reimburse itself for AFDC payments or to the family. For purposes of computing incentives under § 303.52 and the performance indicator components of the program audit under § 305.98, collections in these cases which the State uses to reimburse itself for AFDC payments would be counted and reported as AFDC collections, while collections which the state distributes to the family would be counted and reported as non-AFDC collections. Under § 302.51(f), the IV–D agency must attempt to collect any unpaid support obligation which had accrued under the assignment of support rights while the family was receiving AFDC. In sum, in nearly every way these former AFDC cases are non-AFDC cases, except that the State may not require an application or other request to continue services or an application fee and the family may not opt out of the IV–D program for as long as it continues to receive Medicaid.

b. *Provision of services to Medicaid-only applicants and recipients.* As explained earlier, Pub. L. 100–203 revised section 454 of the Act to require State IV–D agencies to provide IV–D services to Medicaid applicants and recipients who assigned their rights to support under section 1912 of the Act. Since Medicaid cases which are also AFDC cases are automatically referred to the IV–D agency by the IV–A agency, the primary impact of this statutory change is on families who have been determined eligible for or are receiving Medicaid but not AFDC. The intent of Congress is that these Medicaid-only applicants and recipients receive IV–D services without having to file an application or to pay an application fee.

For simplicity of IV–D program administration, we propose to treat these Medicaid-only cases basically as non-AFDC cases because Medicaid-only cases closely resemble non-AFDC cases, except in the following ways. As with former AFDC cases, the IV–D agency may not require an application or application fee. The second distinguishing factor is that, because Medicaid-only applicants and recipients are required to assign medical support rights to the State and cooperate in establishing paternity and obtaining support as a condition of eligibility for Medicaid, Medicaid-only applicants and recipients may not refuse these IV–D services. Therefore, while the assignment is limited to medical support rights, Medicaid-only applicants and recipients may not refuse any appropriate IV–D services, because they are required to cooperate in establishing paternity and securing support, unless the Medicaid agency determines it is not in the best interests of the child(ren) to proceed. However, if both Medicaid eligible and non-Medicaid eligible children are in the household, the custodial parent should be permitted to decline IV–D services for the non-Medicaid eligible children.

The third factor that distinguishes Medicaid-only cases from other non-AFDC cases is that the State may not charge fees or recover costs of providing services in these cases, even if it recovers costs in other non-AFDC cases in accordance with § 303.33(d), because the Medicaid-only recipient may not refuse IV–D services.

Finally, collections of support assigned under 42 CFR 433.146 must be distributed in accordance with 42 CFR 433.154, which governs distribution of medical support collections under section 1912 of the Act, as opposed to paying those collections to the family.

In all other ways, we propose that these Medicaid-only cases be treated as non-AFDC cases. This means that all appropriate services must be provided in these cases and neither a Medicaid-

only applicant or recipient nor the IV-D agency may opt to receive or provide only medical support enforcement services in these cases if other services are appropriate. The IV-D agency would be required to establish paternity and a support obligation, if necessary, including petitioning the court or administrative authority to include health insurance in accordance with § 306.51, if appropriate.

The IV-D agency would be required to enforce any support order, including collection specific dollar amounts designated for medical care purposes in the order, using appropriate enforcement techniques. Although we believe requiring the absent parent to obtain health insurance coverage for the child(ren) is generally preferable to including a specific dollar amount for medical purposes in the support order, there are some cases in which the court or administrative authorities have considered specific cash amounts for medical purposes to be more appropriate. The IV-D agency's responsibility to enforce support obligations which order the absent parent to secure health insurance would be limited, as provided under § 306.51, to ensuring that the absent parent secures health insurance. Collecting health insurance payments would be necessary only if the IV-D agency enters into a cooperative agreement with the Medicaid agency to so do in accordance with Subpart A of Part 306.

For purposes of computing incentives under § 303.52 and performance indicator components for purposes of the audit under § 305.98, any collections in these cases would be counted as non-AFDC collections since the statutory definition of "AFDC collections" for purposes of computing incentives was not amended to include collections in these cases. Support collections would be reported as non-AFDC collections.

Distribution of support collections, other than those assigned under 42 CFR 433.146, for Medicaid-only applicants and recipients would be consistent with each State's non-AFDC distribution policy, i.e., priority must be given to current support and the State may choose whether to reimburse itself for any AFDC payments made to the family first or pay collections of past due support to the family first. Distribution of assigned collections which represent specific dollar amounts designed for medical purposes in the order will be discussed under changes to § 302.51.

c. *Proposed changes to § 302.33 to include Medicaid-only and former AFDC recipients.* For the reasons set out above, we propose to revise § 302.33 as follows. We propose to revise the title of § 302.33 to more accurately reflect to whom services are available under this section. The section would be entitled Services to Individuals Not Receiving AFDC of Title IV-E Foster Care Assistance.

We propose to revise § 302.33(a) to require, in paragraph (a)(1), the IV-D services be made available to any individual who: (1) Has not been determined to be eligible for or is not receiving assistance under the AFDC, title IV-E foster care, or Medicaid programs who files an application for services with the IV-D agency; (2) is a Medicaid-only applicant or recipient; or (3) is no longer eligible for assistance under the AFDC program. As is currently the case under § 302.33, in an interstate case only the initiating State may require an application for IV-D services. After title IV-E foster care or Medicaid-only assistance ends, individuals would be required to file an application and pay an application fee in order to receive IV-D services, because the statute does not waive application or an application fee in these cases.

Proposed § 302.33(a)(2) would prohibit the State from requiring an application for services, other request for services or an application fee from any current Medicaid-only applicant or recipient or former AFDC recipient. Proposed § 302.33(a)(3) would prohibit the State from charging fees or recovering costs from any Medicaid-only applicant or recipient.

Finally, proposed § 302.33(a)(4) would specify that, whenever a family is no longer eligible for assistance under the AFDC program, the IV-D agency must notify the family that services will be continued unless the IV-D agency is notified to the contrary by families who have not been determined eligible for or are not receiving Medicaid. The notice must inform the family of the consequences of continuing to receive IV-D services, including the available services and the State's fees, cost recovery and distribution policies. A family no longer eligible for AFDC which continues to be eligible for Medicaid must be notified that they may not refuse IV-D services for their Medicaid eligible dependents until Medicaid eligibility ends.

We propose to revise § 302.33(d), which sets forth conditions under which States may elect to recover any costs incurred in providing services in non-AFDC cases, to allow cost recovery in former AFDC cases, once Medicaid eligibility ends. We propose to substitute the phrase "is receiving IV-D services under paragraph (a)(1)(i) of this section, or paragraph (a)(1)(iii) of this section, but only after Medicaid eligibility ends," for the phrase "has filed an application for IV-D services" in § 302.33(d)(1)(ii) to clarify that a State may recover costs from any former AFDC recipient to whom it is providing services under paragraph (a)(1)(iii) of this section, after their eligibility for Medicaid ends, and not just from those who have filed an application for services. For the same reason, in § 302.33(d)(5), we would replace the phrase "has filed an application for IV-D services" with the phrase "is receiving IV-D services under paragraphs (a)(1)(i) and (iii) of this section" and the word "applicant" with the phrase "individual not receiving services."

d. *Proposed changes to § 302.33(e) to reflect changes in the Bankruptcy Code.* Section § 302.33(e) allows IV-D agencies to take assignments of support rights in non-AFDC cases because some States' laws require the State to be a party to any legal action to pursue support. Section 302.33(e)(2) prohibits States from making such assignments a condition of eligibility for services and requires States to notify families of that fact as well as to inform them that assignments in such cases may have the effect of making the support debt dischargeable in bankruptcy. There was a possibility that debts assigned to the States in non-AFDC cases could be discharged in bankruptcy actions filed prior to October 8, 1984 (ninety days after the July 10, 1984 enactment of Pub. L. 98-353) because section 553(a)(5)(A) of the Bankruptcy Code only prohibited the discharge of support debts which were assigned to the State as a condition of receiving AFDC. Only July 10, 1984, Pub. L. 98-353 amended section 523(a)(5)(A) to prohibit discharge in bankruptcy of any support assigned to the State (effective as to cases filed ninety days after the July 10, 1984 enactment). Therefore, we propose to delete the requirement in § 302.33(e)(2) that States which take assignment of support rights in non-AFDC cases notify the individual that an assignment may have the effect of making the support debt dischargeable in bankruptcy.

We also propose to replace the reference in paragraph (e)(1) to taking assignments from an individual who "applies for services" with a reference to an individual who is "receiving services" under § 302.33 and the reference in paragraph (e)(2) to the "applicant" with a reference to the "recipient" for consistency with other changes made in this proposed rule.

As a result of these proposed changes, § 302.33(e) would be revised to indicate in paragraph (e)(1) that the IV-D agency

may take an assignment of support rights not already assigned to the State from an individual receiving services under § 302.33. However, as assignment by an individual under § 302.33 would not constitute an assignment as defined in § 301.1 and may not be a condition of eligibility for services under § 302.33. Paragraph (e)(2) would require the IV-D agency, before the recipient of IV-D services makes an assignment of support rights, to inform the individual that the assignment is not a condition of eligibility for services.

*4. Section 302.50 Support Obligations*

We propose to make a conforming change to § 302.50, which addresses support obligations assigned to the State, by substituting the phrase "An assignment of support rights, as defined in § 301.1 of this chapter, constitutes" for the phrase "The support rights assigned to the IV-D agency pursuant to § 232.11 of this title or section 471(a)(17) of the Act constitute" in § 302.50(a) to clarify that all support obligations assigned to the State, as defined in section 301.1, and not just assignments under AFDC and title IV-E foster care cases, are included in this provision.

Section 302.50(a)(3) exempted support obligations established prior to July 1, 1975, from the requirements of paragraphs (a)(1) and (2). Since all such obligations were required to be superseded with orders that meet the requirements of paragraphs (a)(1) and (2) no later than January 1, 1977, we propose to delete this paragraph. In concert with the deletion of § 302.50(a)(3), we propose to delete the word "or" at the end of paragraph (a)(2) and add the word "or" at the end of paragraph (a)(1).

In § 302.50(e), we propose to substitute the phrase "an assigned support obligation as defined under § 301.1 of this chapter" for the phrase "a support obligation assigned under §232.11 of this title" and to clarify that no portion of child collected which represents an assigned support obligation defined under § 301.1 may be used to satisfy a medical support obligation unless the support order designates a specific dollar amount for medical purposes.

*5. Section 302.51 Distribution of Support Collections*

Section 302.51 sets forth requirements for distribution of support collections in AFDC cases. Paragraph (e) of that section contains requirements with respect to the transitional five-month period beginning after AFDC eligibility ends and ending when former AFDC cases become non-AFDC cases. To implement section 9141 of Pub. L. 100-203, which revised section 457(c) of the Act to delete this transitional period, we propose to incorporate certain aspects of the present § 302.51(e) (for example, notice of the consequences of continuing to receive IV-D services) into § 302.33 and delete the remainder of § 302.51(e), as discussed earlier under changes to § 302.33.

A new § 302.51(e) would implement the new section 454(5)(B), added by section 9142 of Pub. L. 100-203, under which amounts collected pursuant to an assignment under section 1912 of the Act shall be made to the State for distribution pursuant to section 1912. Section 454(5)(B) also specifies that this distribution requirement shall not apply to payments for any month after the month in which the individual ceases to be eligible for medical assistance.

Proposed § 302.51(e) would specify that amounts collected by the IV-D agency which represent specific dollar amounts designated for medical purposes in the order that have been assigned to the State under 42 CFR 433.146, shall be forwarded to the Medicaid agency for distribution under 42 CFR 433.154 and that this requirement shall not apply to such collections for any month after the month in which the individual ceases to be eligible for Medicaid. The Medicaid agency will be responsible for determining the status and extent of medical assistance provided to the family under the Medicaid program and for distributing the assigned collections in accordance with 42 CFR 433.154.

Distribution under § 302.51(e) is limited to collections which represent a specific dollar amount designated in the support order for medical purposes for the following reasons. Section 306.51 requires IV-D agencies to petition to include health insurance that is available to the absent parent at reasonable cost in child support orders, unless satisfactory health insurance other than Medicaid is otherwise available to the custodial parent and child(ren). The IV-D agency also must take steps to enforce the health insurance coverage required by the support order if health insurance is available to the absent parent and has not been obtained at the time the order is entered. However, IV-D agencies are required to collect only specific dollar amounts designated in the support order for medical purposes. IV-D agencies are not responsible for collecting medical support in the form of health insurance payments unless collections are made pursuant to a cooperative agreement with the Medicaid agency under Subpart A of Part 306.

If a dollar amount which is designated in a support order for medical purposes is collected in an interstate case, the responding State IV-D agency would send it to the initiating State IV-D agency would send it to the initiating State IV-D agency and the initiating State would be responsible for distribution in accordance with 42 CFR 433.154. Child support collections in interstate Medicaid-only cases would be forwarded to the initiating State IV-D agency which would be responsible for distribution to the family in accordance with the State's distribution policy in other non-AFDC cases.

In § 302.51(f)(4), which requires that priority be given to collection of current support for former AFDC recipients, we propose a conforming amendment to change the citation from § 302.51(e) to § 302.33(a)(1)(iii).

*6. Section 302.70 Required State Laws*

We propose to revise § 302.70(a)(3), which requires States to enforce overdue support due in IV-D cases by offsetting State income tax refunds, by deleting the references to support due individuals who are receiving aid under the AFDC and title IV-E foster care programs or who apply for services under § 302.33. Section 302.70(a)(3) would require States to have in effect and use procedures for obtaining overdue support from State income tax refunds on behalf of individuals receiving IV-D services, in accordance with the requirements of § 303.102. These revisions would clarify that IV-D agencies must use State income tax refund offset procedures in any appropriate IV-D case, including Medicaid only and former AFDC cases.

45 CFR Part 303

We propose to revise several sections in Part 303 to clarify that Medicaid-only and former AFDC cases are included as non-AFDC cases.

*1. Section 303.10 Procedures for Case Assessment and Prioritization*

Section 303.10, which specifies requirements any system implemented by a State for case assessment and prioritization must meet, presently requires in paragraph (b)(2) that the IV-D agency include all of its cases in the system, including AFDC, non-AFDC, and interstate cases. Rather than expand the types of cases listed to include Medicaid-only and former AFDC cases, we propose to delete reference to any type of case and simply indicate that all IV-D cases must be included in any case prioritization system in place in a State.

*2. Section 303.52 Incentive Payments to States and Political Subdivisions*

Section 303.52(a) contains definitions of terms used in § 303.52, which sets forth requirements governing incentive payments to States and political subdivisions under the IV-D program. We propose to delete the words "and collections made under § 302.51(e) of this chapter" from the end of the definition of non-AFDC collections because § 302.51(e), governing treatment of former AFDC cases during the five-month transitional period, would be deleted in these proposed regulations. Section 458(b)(1) of the Act defines AFDC collections for purposes of computing incentives under the IV-D program to include only AFDC and title IV-E foster care cases and defines non-AFDC cases to be all other cases. Therefore, the definition of non-AFDC collections in § 303.53(a) would include any collections on behalf of Medicaid-only applicants and recipients and any collections paid to former AFDC recipients.

*3. Section 303.71 Requests for Full Collection Services by the Secretary of the Treasury*

OCSE proposes to revise § 303.71, which sets forth requirements for requesting full collection services by the Secretary of the Treasury, by clarifying in paragraph (b) that States may request the Secretary to certify the amount of child support owed in any IV-D case for full collection services under section 6305 of the Internal Revenue Code of 1954. Paragraph (c)(5) would specify that only the State that has taken an assignment as defined in § 301.1 or an application or referral under § 302.33 may request full collection services. These revisions would clarify that Medicaid-only cases and former AFDC cases are eligible for requests for full collection services by the Secretary of the Treasury if they meet the other requirements delineated in § 303.71.

*4. Section 303.72 Requests for Collection of Past-Due Support by Federal Tax Refund Offset*

OCSE proposes to revise § 303.72, which specifies requirements governing requests for collection of past-due support by Federal tax refund offset, to clarify that past-due support owed in Medicaid-only and former AFDC cases is eligible for Federal tax refund offset, if the requirements in § 303.72 for submitting past-due support owed in non-AFDC cases are met. Although the Congress, as part of Pub. L. 100-203, did not amend section 464 of the Act governing the Federal income tax refund offset process to include assignment of support rights under section 1912 of the Act, we are using our general rulemaking authority, under section 1102 of the Act, to allow States to submit any past-due support which the State has agreed to collect in a IV-D case which meets conditions for submittal in Federal statute and regulations. We believe that these cases should have access to the same establishment and enforcement services as other IV-D cases and are extending access to this particularly effective enforcement technique to ensure equal access for all those in need of IV-D services.

Therefore, we propose to revise § 303.72(a)(1) to specify that past-due support qualifies for offset if there has been an assignment of support rights under § 232.11 of this title or section 471(a)(17) of the Act to the State making the request for offset or the IV-D agency is providing services under § 302.33 of this chapter. We would amend the introductory language in paragraph (a)(3), which sets forth the conditions for submittal of past-due support in non-AFDC cases, to refer to support owed in cases where the IV-D agency is providing IV-D services under § 302.33. All other requirements governing the submittal of past-due amounts in non-AFDC cases for Federal tax offset would apply in these cases, e.g., notice of offset and procedures for contesting.

We would amend § 303.72(h)(1)which specifies requirements for distribution of amounts received by the IV-D agency as a result of Federal tax refund offset to include reference to proposed § 302.51(e) which provides for distribution by the State of specific dollar amounts which are designated in the order for medical purposes. Past-due support which is designated for medical purposes in a support order and submitted for Federal tax refund offset must be distributed in accordance with proposed § 302.51(e). All other past-due support due in Medicaid-only and former AFDC cases would be distributed in accordance with § 302.51(b) (4) and (5).

Conforming amendments would be made to paragraphs (h) (3) and (4) and (i)(2) as follows. Section 303.72(h)(3) would be amended to specify that the IV-D agency must inform individuals receiving (as opposed to just those applying for) services under § 302.33, in advance, that amounts offset will be applied first to satisfy any past-due support which has been assigned to the State in AFDC, Medicaid-only or title IV-E foster care cases. Section 303.72(h)(4) would be amended to require that, if amounts collected are in excess of the amounts required to be distributed under §§ 302.51(b) (4) and (5), 302.51(e) or 302.52(b) (3) and (4), the IV-D agency must repay the excess to the absent parent whose refund was offset or to the parties filing a joint return within a reasonable period in accordance with State law. Finally, § 303.73(i)(2) would be revised to clarify that the IV-D agency may charge an individual, who is receiving non-AFDC IV-D services under § 302.33(a)(1) (i) (those who apply) or (iii) (former AFDC cases), a fee for submitting past-due support for Federal tax refund offset, but must notify the individual in advance of the amount of any fee charged.

*5. Section 303.102 Collection of Overdue Support by State Income Tax Refund Offset*

We propose to revise § 303.102, which sets forth requirements for collection of overdue support by State income tax refund offset, to clarify that Medicaid-only and former AFDC cases are eligible for the State income tax refund offset, if they meet the other requirements in § 303.102. We would delete the references to AFDC and title IV-E foster care assignments as well as reference to an application for IV-D services, and revise paragraph (a)(1) to specify that overdue support qualifies for State income tax refund offset if there has been an assignment as defined in § 301.1 or the IV-D agency is providing services under § 303.33.

We also propose to revise § 303.102(c), which requires notice to the custodial parent in non-AFDC cases of how amounts offset will be distributed, to clarify that the IV-D agency must notify the custodial parent in advance when overdue support is submitted for offset: (1) That, for cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, amounts offset will be distributed under § 302.15(e) of this chapter; and (2) if amounts offset will be applied first to satisfy any past-due support which has been assigned to the State under § 232.11 of this title or section 471(a)(17) of the Act.

We propose to revise § 302.102(f) to clarify that the fee for State tax refund offset which States may charge in non-AFDC cases may be charged only to those who are receiving non-AFDC IV-D service under § 302.33(a)(1) (i) (those who apply) and (iii) (former AFDC cases).

Finally, we propose to revise § 302.102(g)(1), which specifies the requirements for distribution of amounts

received by the IV-D agency as a result of State income tax refund offset, to include in revised § 302.102(g)(1)(i) and new § 302.102(g)(1)(iv) reference to proposed § 302.51(e) which provides for distribution by the State of specific dollar amounts which are designated in the order for medical purposes. Past-due support which is designated for medical purposes in a support order and submitted for State tax refund offset must be distributed in accordance with proposed § 302.51(e). Reference to proposed § 302.51(e) would be added to the distribution requirements for an AFDC case in § 302.102(g)(1)(i). We also propose to revise § 303.102(g)(1)(iii), which allows State to determine the order of distribution in non-AFDC cases, to exclude medical support collections which have been assigned under 42 CFR 433.146. Distribution of those collections would be addressed in § 303.102(g)(1)(iv) under which, for cases in which medical support rights have been assigned under 42 CFR 433.146, amounts collected which represent specific dollar amounts designated in the support order for medical purposes must be distributed in accordance with proposed § 302.51(e).

45 CFR Part 304

We propose several revisions to portions of Part 304 to clarify that Federal funding is available for necessary expenditures under a State's IV-D plan for Medicaid-only and former AFDC cases.

*1. Section 304.20 Availability and Rate of Federal Financial Participation*

OCSE proposes to revise § 304.20, governing the availability and rate of Federal funding of IV-D expenditures, by deleting the references to assignment of rights under the AFDC and title IV-E foster care programs in paragraph (a)(1) and referring to assignments as defined under § 301.1. We would also delete paragraphs (a)(2) and (b)(4)(ii) which refer to the availability of Federal funding for collection services pursuant to § 302.51(e)(1) since we propose to delete current § 302.51(e) and include services to former AFDC recipients under § 302.33, referred to under current § 304.20(a)(4). Current paragraphs (a) (3) and (4) would be redesignated as paragraphs (2) and (3); and current paragraphs (b)(4) (iii) through (vi) would be redesignated as (b)(4) (ii) through (v). These changes will clarify that Federal funding is available for necessary expenditures of providing IV-D services in Medicaid-only and former AFDC cases.

OCSE proposes to revise § 304.20(b)(1), which specifies which administrative functions are reimbursable under the State IV-D plan, by adding a new § 304.20(b)(1)(ix) to address the establishment of agreements with Medicaid agencies necessary to carry out required IV-D activities. Paragraph (b)(1)(ix) would specify that Federal funding is available for expenditures incurred in the establishment of agreements with Medicaid agencies necessary to carry out required IV-D activities. Such agreements could establish criteria for: (1) Referring cases to the IV-D agency; (2) reporting on a timely basis information necessary to the determination and redetermination of eligibility for Medicaid; (3) determining if individuals are cooperating adequately; and (4) transferring support collections from the IV-D agency to the Medicaid agency in accordance with proposed § 302.51(e).

These agreements are not to be confused with cooperative agreements with Medicaid agencies under Subpart A of Part 306. The agreements addressed in paragraph (b)(1)(ix), as proposed, should cover only those activities necessary for the IV-D agency to carry out its required functions for Medicaid-only cases under the IV-D plan.

Finally, OCSE proposes to add a new § 304.20(b)(4)(vi) to clarify that Federal funding under the IV-D program is available for costs incurred in making the Medicaid agency aware of amounts collected and distributed to the family for the purposes of determining eligibility for Medicaid.

45 CFR Part 305

We are not including any revisions to Part 305, which governs the audit of State IV-D programs, in this proposed regulation since we are in the process of revising Part 305 under separate proposed regulations as part of a plan to eliminate redundancy in Part 305 as it relates to other title IV-D regulations. We would audit State IV-D program performance in providing services in former AFDC cases and Medicaid-only cases by measuring compliance with applicable Federal requirements in the title IV-D regulations.

45 CFR Part 306

We propose to revise 45 CFR Part 306 to clarify that IV-D agencies must provide medical support enforcement services in Medicaid-only and former AFDC cases in accordance with the requirements of Subpart B. A IV-D agency may provide required medical support enforcement services, in addition to other services which are not mandatory, as part of a cooperative agreement with the Medicaid agency under Subpart A, as long as all program requirements governing medical support enforcement are met. For example, a IV-D agency may collect support designated in a support order as a specific dollar amount for medical purposes (a mandatory service), as well as seek health insurance payments (which is not a required IV-D activity) under a cooperative agreement with the Medicaid agency under Subpart A. Therefore, a IV-D agency is not precluded from meeting program requirements through cooperative agreement with the Medicaid agency. However, in accordance with § 304.23(g), Federal funding under the IV-D program is not available for medical support enforcement activities performed under a cooperative agreement with a Medicaid agency under Subpart A.

OCSE proposes to revise § 306.50, which requires IV-D agencies to secure medical support information, and § 306.51, which sets forth requirements regarding securing and enforcement of medical support obligations, by substituting the phrase "an assisgnment as defined in § 301.1 of this chapter is in effect" for "an assignment is in effect under § 232.11 of this title or section 471(a)(17) of the Act" in both § 306.50(a) and § 306.51(b). OCSE also proposes to revise § 306.50(b) by replacing the words "applies for" with the words "is eligible for" immediately before the words "services under § 302.33".

We propose to revise § 306.51(c) to clarify when notice and services under § 306.51 must be provided in non-AFDC cases. Section 306.51(c) would provide that the IV-D agency shall inform an individual who is eligible for services under § 302.33 that medical support enforcement services are available and shall provide the services specified in § 306.51(b):

(1) If an individual eligible for services under § 302.33 is a Medicaid applicant or recipient; or

(2) with the consent of the individual who is eligible for services under § 302.33 and is not a Medicaid applicant or recipient, except that health insurance information shall not be transmitted to the Medicaid agency.

All of the foregoing revisions are proposed to clarify that IV-D agencies must provide medical support enforcement services to Medicaid-only and former AFDC cases, in accordance with §§ 306.50 and 306.51.

**Regulatory Flexibility Analysis**

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation will not result in significant

impact on a substantial number of small entities. The primary inpact is on State governments and political subdivisions and we believe that this impact will be nominal because the proposal merely extends the provision of IV-D services to Medicaid-only applicants and recipients and eliminates the requirement that these applicants and recipients file an application and pay an application fee. This proposal also eliminates a mandatory transitional five-month period between the end of AFDC eligibility and transfer of a former AFDC case to non-AFDC status.

This automatic provision of IV-D services to certain families will not increase the IV-D caseloads in the States because most of the affected individuals are already, or would have become, non-AFDC IV-D recipients anyway by applying for services and paying the application fee, or by being automatically converted to non-AFDC status after the transitional five-month period ended.

**Executive Order 12291**

The Secretary has determined, in accordance with Executive Order 12291, that this rule does not constitute a "major" rule. A major rule is one that is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The proposal is expected to have an insignificant impact on State and Federal expenditures because the proposal merely requires the provision of IV-D services to Medicaid-only applicants and recipients without filing an application or paying an application fee and automatically transfers former AFDC cases to non-AFDC status by eliminating a mandatory five-month transitional period during which they received the same services. This clarification will not significantly increase the IV-D caseloads in the States because most of the affected individuals are already receiving IV-D services or would have become IV-D cases under former procedures. These requirements merely eliminate the need to apply for services and pay the application fee in Medicaid-only case and eliminate a transitional five-month period during which services were provided in former AFDC cases before those cases were automatically transferred to non-AFDC status.

**List of Subjects**

*45 CFR Parts 301, 303, 304*

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

*45 CFR Part 302*

Child support, Grant programs/social programs, Reporting and recordkeeping requirements, Unemployment compensation.

*45 CFR Part 306*

Child support, Grant programs/social programs, Medicaid, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 13.783, Child Support Enforcement Program)

Dated: November 17, 1988.

**Wayne A. Stanton,**

*Director, Office of Child Support Enforcement.*

Approved: December 29, 1988.

**Otis R. Bowen,**

*Secretary.*

For the reasons set out in the preamble, 45 CFR Parts 301 through 304 and Part 306 are proposed to be amended as follows:

## PART 301—[AMENDED]

1. The authority citation for Part 301 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396k.

2. Section 301.1 is amended by adding the definitions of the terms "Assigned support obligation" and "Assignment" after the definition of the term "Applicable matching rate", and adding the definition of the term "Medicaid-only applicant or recipient"; after the definition of the term "IV-D Agency" to be read as follows:

**§ 301.1 General definitions.**

* * * * *

"Assigned support obligation" means, unless otherwise specified, any support obligation which has been assigned to the State under § 232.11 of this chapter or section 471(a)(17) of the Act, or any medical support obligation or payment for medical care from any third party which has been assigned to the State under 42 CFR 433.146.

"Assignment" means, unless otherwise specified, any assignment of rights to support under § 232.11 of this chapter or section 471(a)(17) of the Act, or any assignment of rights to medical support and to payment for medical care from any third party under 42 CFR 433.146.

* * * * *

"Medicaid-only applicant or recipient" means any individual who has been determined eligible for or is receiving Medicaid under title XIX of the Act but not AFDC under title IV-A of the Act.

* * * * *

## PART 302—[AMENDED]

1. The authority citation for Part 302 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 568, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396k.

2. Section 302.31 is amended by revising paragraphs (a)(1) and the first sentence of (a)(2), (b) and the first sentence of (c) to read as follows:

**§ 302.31 Establishing paternity and securing support.**

* * * * *

(a) * * *

(1) In the case of a child born out of wedlock with respect to whom an assignment as defined in § 301.1 of this chapter is effective, to establish the paternity of such child; and

(2) In the case of any individual with respect to whom an assignment as defined in § 301.1 of this chapter is effective, to secure support for a child or children from any person who is legally liable for such support, using State laws and reciprocal arrangements adopted with other States when appropriate. * * *

* * * * *

(b) Upon receiving notice from the IV-A, IV-E or Medicaid agency that there has been a claim of good cause for failure to cooperate, the IV-D agency will suspend all activities to establish paternity or secure suport until notified of a final determination by the appropriate agency.

(c) The IV-D agency will not undertake to establish paternity or secure support in any case for which it has received notice from the IV-A, IV-E or Medicaid agency that there has been a finding of good cause unless there has been a determination by the appropriate agency that support enforcement may proceed without the participation of the caretaker or other relative. * * *

**§ 302.32 [Amended]**

3. Section 302.32 is amended by replacing the reference to "§ 302.51(e)(1)" in the last sentence of paragraph (b) with "§ 302.33".

4. Section 302.33 is amended by revising the title and paragraphs (a), (d)(1)(ii), (d)(5), and (e) to read as follows:

**§ 302.33 Services to individuals not receiving AFDC or title IV-E foster care assistance.**

(a) *Availability of services.* (1) The State plan must provide that the services established under the plan shall be made available to any individual who:

(i) Has not been determined eligible for or is not receiving assistance under the AFDC, the title IV-E foster care, or Medicaid programs who files an application for the services with the IV-D agency. In an interstate case, only the initiating State may require an application under this section; or

(ii) Is a Medicaid-only applicant or recipient; or

(iii) Is no longer eligible for assistance under the AFDC program.

(2) The State may not require an application, other request for services or an application fee from any individual who is eligible to receive services under paragraphs (a)(1) (ii) and (iii) of this section.

(3) The State may not charge fees or recover costs from any individual who is eligible to receive services under paragraph (a)(1)(ii) of this section.

(4) Whenever a family is no longer eligible for assistance under the State's AFDC program, the IV-D agency must notify the family that services will be continued unless the IV-D agency is notified to the contrary by a family which has not been determined eligible for or is not receivng Medicaid. The notice must inform the family of the consequences of continuing to receive IV-D services, including the available services and the State's fees, cost recovery and distribution policies. A family no longer eligible for AFDC which continues to be eligible for or is receiving Medicaid must be notified that it may not refuse IV-D services for Medicaid eligible dependents as long as they continue to be eligible for or to receive Medicaid.

* * * * *

(d) * * *

(1) * * *

(ii) From the individual who is receiving IV-D services under paragraph (a)(1)(i), or paragraph (a)(1)(iii) of this section, but only after Medicaid eligibility ends, either directly or from the support collected on behalf of the individual, but only if the State has in effect a procedure for informing all individuals authorized within the State to establish an obligation for support that the State will recover costs from the individual receiving IV-D services under paragraphs (a)(1) (i) and (iii) of this section.

* * * * *

(5) If a State elects to recover costs under this section, the IV-D agency must notify, consistent with the option selected, either the individual who is receiving IV-D services under paragraph (a)(1) (i) or (iii) of this section, or the individual who owes a support obligation that such recovery will be made. In an interstate case, the IV-D agency where the case originated must notify the individual receiving IV-D services of the States that recover costs.

* * * * *

(e) *Assignment.* (1) The IV-D agency may take an assignment of support rights not already assigned to the State from an individual receiving services under this section. However, an assignment by an individual under this section does not constitute an assignment as defined in § 301.1 of this chapter and may not be a condition of eligibility for services under this section.

(2) Before the recipient of IV-D services under this section makes an assignment of support rights, the IV-D agency shall inform the individual that the assignment is not a condition of eligibility for services under this section.

5. Section 302.50 is amended by revising paragraphs (a) and (e) to read as follows:

**§ 302.50 Support obligations.**

* * * * *

(a) An assignment of support rights, as defined in § 301.1 of this chapter, constitutes an obligation owed to the State by the individual responsible for providing such support. Such obligation shall be established by:

(1) Order of a court of competent jurisdiction; or

(2) Other legal process as established by State laws, such as an administrative hearing process or a legally enforceable and binding agreement.

* * * * *

(e) No portion of any amounts collected which represent an assigned support obligation defined under § 301.1 of this chapter may be used to satisfy a medical support obligation unless the court or administrative order designates a specific dollar amount for medical purposes.

* * * * *

6. Section 302.51 is amended by revising paragraphs (e) and (f)(4) to read as follows:

**§ 302.51 Distribution of support collections.**

* * * * *

(e) The amounts collected by the IV-D agency which represent specific dollar amounts designated in the support order for medical purposes that have been assigned to the State under 42 CFR 433.146 shall be forwarded to the Medicaid agency for distribution under 42 CFR 433.154. This requirement shall not apply to such collections for any month after the month in which the individual ceases to be eligible for Medicaid.

(f) * * *

(4) For those case in which collections are authorized under § 302.33(a)(1)(iii), priority shall be given to collection of current support.

7. Section 302.70(a)(3) is revised to read as follows:

**§ 302.70 Required State laws.**

(a) * * *

(3) Procedures for obtaining overdue support from State income tax refunds on behalf of individuals receiving IV-D services, in accordance with the requirements set forth in § 303.102 of this chapter;

* * * * *

## PART 303—[AMENDED]

1. The authority citation for Part 303 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. Section 303.10(b)(2) is revised to read as follows:

**§ 303.10 Procedures for case assessment and prioritization.**

* * * * *

(b) * * *

(2) Include all of its cases in the system.

* * * * *

**§ 303.52 [Amended]**

3. Section 303.52(a) is amended by removing the words "and collections made under § 302.51(e) of this chapter" at the end of the definition of "non-AFDC collections".

4. Section 303.71 is amended by revising the last sentence in paragraph (b) and revising paragraph (c)(5) to read as follows:

**§ 303.71 Requests for full collection services by the Secretary of the Treasury.**

* * * * *

(b) * * * Requests may be made on behalf of families who make assignments as defined in § 301.1 of this chapter and on behalf of families receiving services under § 302.33.

(c) * * *

(5) Only the State that has taken an assignment as defined in § 301.1 of this chapter or an application or referral under § 302.33 of this chapter may request IRS collection services on behalf of a given case.

* * * * *

5. Section 303.72 is amended by revising paragraphs (a)(1) and (3) introductory test, (h) (1), (3), and (4) and (i)(2) to read as follows:

**§ 303.72 Requests for collection of past-due support by Federal tax refund offset.**

(a) * * *

(1) There has been an assignment of the support rights under § 232.11 of this title or section 471(a)(17) of the Act to the State making the request for offset or the IV-D agency is providing services under § 302.33 of this chapter.

* * * * *

(3) For support owned in cases where the IV-D agency is providing IV-D services under § 302.33 of this chapter:

* * * * *

(h) *Distribution of collections.* (1) Collections received by the IV-D agency as a result of refund offset to satisfy AFDC or non-AFDC past-due support shall be distributed as past-due support as required under § 302.51(b) (4) and (5) and (e) of this chapter.

* * * * *

(3) The IV-D agency must inform individuals receiving services under § 302.33 of this chapter in advance that amounts offset will be applied first to satisfy any past-due support which has been assigned to the State under § 232.11 of this title, 42 CFR 433.146, or section 471(a)(17) of the Act and submitted for Federal tax refund offset.

(4) If the amount collected is in excess of the amounts required to be distributed under §§ 302.51(b) (4) and (5) and (e) or 302.52(b) (3) and (4) of this chapter, the IV-D agency must repay the excess to the absent parent whose refund was offset or to the parties filing a joint return within a reasonable period in accordance with State law.

* * * * *

(i) * * *

(2) The State IV-D agency may charge an individual who is receiving services under § 302.33(a)(1) (i) or (iii) of this chapter a fee not to exceed $25 for submitting past-due support for Federal tax refund offset. The State must inform the individual in advance of the amount of any fee charged.

* * * * *

6. Section 303.102 is amended by revising paragraphs (a)(1), (c), (f) and (g)(1) (i) through (iii), and adding paragraph (g)(1)(iv) to read as follows:

**§ 303.102 Collection of overdue support by State income tax refund offset.**

(a) * * *

(1) There has been an assignment of the support obligation under § 232.11 of this title or section 471(a)(17) of the Act or the IV-D agency is providing services under § 302.33 of this chapter, and

* * * * *

(c) *Notice to custodial parent.* When overdue support is submitted for State tax refund offset, the IV-D agency must inform individuals receiving services under § 302.33 of this chapter in advance:

(1) That, for cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, amounts offset will be distributed under § 302.51(e) of this chapter; and

(2) If amounts offset will be applied first to satisfy any past-due support which has been assigned to the State under § 232.11 of this title or section 471(a)(17) of the Act.

* * * * *

(f) *Fee for certain cases.* The State IV-D agency may charge an individual who is receiving services under § 302.33(a)(1) (i) and (iii) of this chapter a reasonable fee to cover the cost of collecting past-due support using State tax refund offset. The State must inform the individual in advance of the amount of any fee charged.

(g) * * *

(1) * * *

(i) For an AFDC case, under § 302.51(b) (4) and (5) and (e) of this chapter;

(ii) For a foster care maintenance case, under § 302.52(b) (3) and (4) of this chapter; and

(iii) For a non-AFDC case, except as specified in paragraph (g)(1)(iv) of this section, by paying offset amounts to the family first or using them first to reimburse the State, depending on the State's method for distributing arrearage collections in non-AFDC cases.

(iv) For cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, under § 302.51(e) of this chapter.

* * * * *

## PART 304—[AMENDED]

1. The authority citation for Part 304 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. Section 304.20 is amended by revising paragraph (a)(1); deleting paragraph (a)(2) and redesignating paragraphs (a) (3) and (4) as paragraphs (a) (2) and (3); adding paragraph (b)(1)(ix); removing paragraph (b)(4)(ii); redesignating paragraphs (b)(4) (iii) through (vi) as paragraphs (b)(4) (ii) through (v); and adding a new (b)(4)(vi) to read as follows:

**§ 304.20 Availability and rate of Federal financial participation.**

(a) * * *

(1) Necessary expenditures under the State title IV-D plan for the support enforcement services and activities specified in this section and § 304.21 provided to individuals from whom an assignment of support rights as defined in § 301.1 of this chapter has been obtained;

* * * * *

(b) * * *

(1) * * *

(ix) The establishment of agreements with Medicaid agencies necessary to carry out required IV-D activities and to establish criteria for:

(A) Referring cases to the IV-D agency;

(B) Reporting on a timely basis information necessary for the determination and redetermination of eligibility for Medicaid;

(C) Determining if individuals receiving Medicaid are cooperating adequately;

(D) Transferring collections from the IV-D agency to the Medicaid agency in accordance with § 302.51(e) of this chapter.

* * * * *

(4) * * *

* * * * *

(vi) Making the Medicaid agency aware of amounts collected and distributed to the family for the purposes of determining eligibility for assistance under the state XIX plan.

* * * * *

## PART 306—[AMENDED]

1. The authority citation for Part 306 continues to read as follows:

**Authority:** 42 U.S.C. 652, 654(4)(B), 654(5), 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. Section 306.50 is amended by revising the introductory text in paragraphs (a) and (b) to read as follows:

**§ 306.50 Securing medical support information.**

(a) If the IV-A or IV-E agency does not provide the information specified in

this paragraph to the Medicaid agency and if the information is available or can be obtained in a IV-D case for which an assignment as defined under § 301.1 of this chapter is in effect, the IV-D agency shall obtain the following information on the case:

* * * * *

(b) When an individual is eligible for services under § 302.33 of this chapter, the IV-D agency shall inform the invididual that medical support enforcement services are available and shall secure the information specified in paragraph (a) of this section:

* * * * *

3. Section 306.51 is amended by revising the introductory text in paragraph (b) and revising paragraph (c) to read as follows:

**§ 306.51 Securing and enforcing medical support obligations.**

* * * * *

(b) With respect to cases for which there is an assignment as defined in § 301.1 of this chapter in effect, the IV-D agency shall:

* * * * *

(c) The IV-D agency shall inform an individual who is eligible for services under § 302.33 of this chapter that medical support enforcement services are available and shall provide the services specified in paragraph (b) of this section:

(1) If an individual eligible for services under § 302.33 is a Medicaid applicant or recipient; or

(2) With the consent of the individual who is eligible for services under § 302.33 and is not a Medicaid applicant or recipient, except that health insurance information shall not be transmitted to the Medicaid agency.

* * * * *

[FR Doc. 89-12313 Filed 5-22-89; 8:45 am]

BILLING CODE 4150-04-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 89-108, RM-6606]**

### Radio Broadcasting Services; Sonora, CA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed on behalf of H Group, Inc., licensee of Station KZSQ-FM, Channel 224A, Sonora, California, seeking the substitution of Channel 224B1 for Channel 224A and modification of its license accordingly. Additionally, an increase in the site restriction on Channel 223A at Atwater, CA, is proposed to accommodate the proposal. Reference coordinates used for Channel 224B1 at Sonora are 37-58-00 and 120-06-59, while those used for Channel 223A at Atwater are 37-16-05 and 120-35-38.

**DATES:** Comments must be filed on or before July 6, 1989, and reply comments on or before July 21, 1989.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Meredith S. Senter, Jr. and Stephen D. Baruch, Esqs., Leventhal, Senter & Lerman, 2000 K St., NW., Suite 600, Washington, DC 20006-1809.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-108, adopted May 3, 1989, and released May 15, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

**Karl A. Kensinger,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-12236 Filed 5-22-89 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 73

**[MM Docket No. 89-110, RM-6639]**

### Radio Broadcasting Services; Harlem, Georgia

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition by TM Broadcasting, proposing the allotment of Channel 236A, to Harlem, Georgia, as that community's first local FM service. The coordinates for the proposed allotment are North Latitude 33-24-54 and West Longitude 82-18-42.

**DATES:** Comments must be filed on or before July 6, 1989, and reply comments on or before July 21, 1989.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: John M. Spencer, Leibowitz and Spencer, 3050 Biscayne Blvd., Suite 501, Miami, Florida 33137, (Counsel).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-110, adopted May 3, 1989, and released May 15, 1989. The full text of this Commission decision available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio Broadcasting.

Federal Communications Commission.

**Karl A. Kensinger,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-12242 Filed 5-22-89; 8:45 am]

BILLING CODE 6712-01-M

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**[MM Docket No. MM-88-56; FCC 89-76]**

**47 CFR Part 73**

## Designation of a Standard Algorithm for Propagation Prediction in the FM and TV Broadcast Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Commission declines to designate its computer algorithm as a replacement for visual graphs now used for propagation predictions in the FM and TV broadcast services. This action is necessary to spare the public unnecessary expense in conforming computer algorithms to the Commission's, when there is likelihood that the latter will not continue in use for a sufficient length of time. The effect of this action is to retain the current policy of allowing the public to use any algorithms deemed expedient pending development of an improved method of propagation prediction.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Hank VanDeursen, Mass Media Bureau, (202) 632-9660.

**SUPPLEMENTARY INFORMATION:** The following is a synopsis of the Commission's *Report and Order* in MM Docket No. 88-56 adopted February 22, 1989 and released May 16, 1989.

The full text of this Commission order is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

### Summary of Report and Order

1. The allocation and assignment of FM and TV stations relies heavily upon predicted signal strength levels to estimate how a new or modified facility would impact existing stations. FCC Rules require that these predictions be obtained by reading curves drawn on graph paper which take into account the radiated power, antenna height, and distance from the antenna. This is a laborious task that suffers from a relative lack of precision and speed compared to modern computerized methods. To provide a substantial savings in human resources over the current manual graphic method of prediction, the FCC, in the Notice of Proposed Rule Making (summarized in 53 FR 6677, March 2, 1988), proposed to evaluate FM and TV engineering applications using its computer algorithm to predict signal strength levels.

2. Responses to that proposal indicate that the Commission's algorithm, although suitable for large mainframe computers, is very complex and would be impractical for many typical personal computers owned by applicants and consultants. Commenters suggested that a preferred approach would be to select a new and less complex algorithm based upon a greater number of reference points. Selection of another algorithm, however, would require further rulemaking and could also involve a large expenditure of resources by both the Commission and the public. Pursuit of that approach does not appear fruitful at this time. Accordingly, the Commission terminates this proceeding without action.

3. Because this action makes no change in the way applications for broadcast stations must be completed or in the way such applications will be processed by the Commission's staff, and does not impose a new public reporting burden or information collection requirement, no final regulatory flexibility analysis is necessary and there is no impact in terms of the requirements of the Paperwork Reduction Act.

4. Accordingly, *It is ordered* That pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, this proceeding is terminated.

### List of Subjects in 47 CFR Part 73

Radio Broadcasting, Television broadcasting.

Federal Communications Commission.

**Donna R. Searcy,**

*Secretary.*

[FR Doc. 89-12235 Filed 05-22-89; 8:45 am]

BILLING CODE 6712-01-M

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**47 CFR Part 73**

**[MM Docket No. 89-109, RM-6642]**

## Television Broadcasting Services; Sun Valley, ID

**AGENCY:** Federal Communications Commssion.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition by Sun Valley Television proposing the allotment of VHF Television Channel 5 to Sun Valley, Idaho as its first commercial television service. The allotment can be made in compliance with § 73.610 of the Commission's Rules. The coordinates for this allotment are 43-41-48 and 114-21-00. This proposal is not affected by the freeze on television allotments, or applications.

**DATES:** Comments must be filed on or before July 6, 1989, and reply comments on or before July 21, 1989.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: John P. Bankson, Jr., Hopkins, Sutter, Hamel & Park, 888 16th Street, NW., Washington, DC 20006 (Attorney).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-109, adopted May 3, 1989, and released May 15, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. see 47 CFR 1.204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission

Karl A. Kensinger,

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-12237 Filed 5-22-89; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 217, 219, 232, 244, and 252

### Department of Defense Federal Acquisition Regulation Supplement; DFARS Implementation of Section 1207 of Pub. L. 99-661 and Section 806 of Pub. L. 100-180; Contracting With Small Disadvantaged Business Concerns, Historically Black Colleges and Universities, and Minority Institutions

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule and request for comment.

**SUMMARY:** The Department of Defense is inviting public comments concerning proposed changes to the Defense Federal Acquisition Regulation Supplement (DFARS) to implement further section 1207 of Pub. L. 99-661 and section 806 of Pub. L. 100-180. These statutes establish a goal for DoD of awarding five percent of contract dollars to Small Disadvantaged Businesses (SDBs), Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs) during fiscal years 1987-1989. Section 844 of Pub. L. 100-456 extended the five percent goal through 1990. The proposed DFARS changes are intended to facilitate the Department's effort to accomplish the five percent goal.

**DATE:** Comments concerning the proposed rule must be received by July 24, 1989 to be considered in formulating a final rule. Please cite DAR Case 89-23 in all correspondence related to this issue.

**ADDRESS:** Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(P&L) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

**SUPPLEMENTARY INFORMATION:**

### A. Background

As summarized above, section 1207(a) of Pub. L. 99-661 established an objective that five percent of total combined DoD obligations (i.e., procurement, research, development, test and evaluation; construction; and, operation and maintenance) for contracts and subcontracts awarded during FY 1987 through FY 1989, be entered into with (1) SDB concerns, (2) HBCUs and (3) MIs. To facilitate attainment of that goal, Congress permitted DoD, in section 1207(e) to use less than full and open competitive procedures in awarding contracts, provided the contract price does not exceed 10 percent.

Public Law 100-180, section 806 required DoD to take certain actions to make substantial progress toward the goal. On February 19, 1988, DoD issued for public comment an interim regulation implementing the provisions of section 806 as well as the policies pertinent to the HBCU/MI program. The public comments were reviewed and a final rule was published on June 6, 1988.

On December 8, 1988, DoD published a proposed rule with a request for public comments (53 FR 49577). This rule provided for additional changes to the implementing procedures under the five percent goal program. The comment period ended on January 9, 1989, but was extended until February 9, 1989. These comments are currently being evaluated for the purpose of developing a final rule.

The proposed revisions published herein are additional changes developed to further assist in making substantial progress toward the five percent goal.

In addition to the proposed DFARS changes listed below, the DoD will also conduct a test to determine whether significant improvements in the award of subcontracts to SDBs can be achieved by providing higher progress payments to prime contractors who exceed SDB goals that have been established on a plant or division wide basis, and lower progress payment rates to prime contractors who fail to meet these goals.

The proposed rule:

- Modifies the DFARS to specify consideration of SDB producers in leader-follower contracting.
- Permits the payment of an incentive fee to contractors who exceed the established SDB/HBCU/MI subcontracting goal and permits the use of an award fee provision as an alternative to the incentive fee provision.
- Establishes a progress payment rate of 90 percent for SDBs and makes progress payments availale to SDBs for contracts of $50,000 or more.
- Emphasizes the use of remedies currently available for noncompliance with the subcontracting plan.
- Establishes a repetitive SDB set-aside procedure.
- Broadens the HBCU/MI set-aside program to include acquisitions that are normally acquired from Higher Educational Institutions.
- Authorizes prime contractors to restrict competition to SDBs in the award of their subcontracts.

### B. Regulatory Flexibility Act

The proposed rule may have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.* An Initial Regulatory Flexibility Analysis has therefore been deemed necessary and will be provided to the Chief Counsel for Advocacy of the U.S. Small Business Administration. Interested parties desiring to obtain a copy of the analysis may contact the individual listed above. Comments received from the public concerning the analysis will be considered in performing a Final Regulatory Flexibility Analysis.

Comments from small entities concerning the affected subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 89-610D in correspondence.

### C. Paperwork Reduction Act

The proposed rule does not impose information collection requirements within the meaning of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

### List of Subjects in 48 CFR Parts 217, 219, 232, 244, and 252

Government procurement.

Charles W. Lloyd,

*Executive Secretary, Defense Acquisition Regulatory Council.*

Therefore, it is proposed that 48 CFR Parts 217, 219, 232, 244, and 252 be amended as follows:

1. The authority citation for 48 CFR Parts 217, 219, 232, 244, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

## PART 217—SPECIAL CONTRACTING METHODS

2. A new Subpart 217.4 is added to read as follows:

## Subpart 217.4—Leader Company Contracting

**217.401 General.**

(S-70) When a Leader-follower arrangement is to be considered, special effort will be taken to select a small disadvantaged business (SDB) concern as the follower company. Where other than an SDB is selected as the follower company, the contracting officer shall document the contract file to reflect the extent of actions taken to identify SDB concerns for participation in the acquisition, and the rationale for selection of a non-SDB as the follower company.

## PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

3. Section 219.501 is amended by revising paragraph (g) to read as follows:

**219.501 General.**

* * * * *

(g) This procedure is applicable to DoD. In addition, once a product or service has been acquired successfully by a contracting office on the basis of an SDB set-aside, all future requirements of that office for that particular product or service, not subject to simplified small purchase procedures, shall be acquired on the basis of a repetitive SDB set-aside. This procedure will be followed unless the contracting officer determines that there is not a reasonable expectation that the requirements of 219.502-72(a) can be met. Withdrawal of a repetitive SDB set-aside shall be in accordance with 219.502-72(d).

* * * * *

4. Section 219.704 is amended by adding a paragraph (a)(1) and by revising paragraph (a)(3) to read as follows:

**219.704 Subcontracting plan requirements.**

* * * * *

(a)(1) The percentage goal for use of SDB concerns shall be a composite goal which includes anticipated use of HBCUs and MIs as subcontractors in addition to anticipated use of SDB concerns. (See 252.219-7000.)

* * * * *

(a)(3) A description of those efforts the contractor plans to undertake to provide technical assistance to SDB concerns and to restrict competition to SDB concerns.

* * * * *

5. Section 219.705-4 is amended by adding paragraph (S-71) to read as follows:

**219.705-4 Reviewing the subcontracting plan.**

* * * * *

(S-71) In reviewing a subcontracting plan which proposes a goal of less than five percent for SDB concerns, the contracting officer shall consider the extent to which the offeror plans to utilize competition restricted to SDB concerns.

## PART 232—CONTRACT FINANCING

**232.501-1 [Amended]**

6. Section 232.501-1 is amended by adding in the second sentence of paragraph (a) a comma after the words "large businesses"; by removing the word "and"; by changing the period to comma at the end of sentence and adding the words "and 90 percent for small disadvantaged businesses.".

7. Section 232.502-1 is amended by adding paragraph (b)(1) to read as follows:

**232.502-1 Use of customary progress payments.**

(b)(1) If the contractor is a small disadvantaged business, progress payments may be provided when the contract will involve $50,000 or more.

* * * * *

**232.502-4 [Amended]**

8. Section 232.502-4 is amended by adding paragraph (S-75) to read as follows:

* * * * *

(S-75) If the contract is with a small disadvantaged business concern, the contracting officer shall use the FAR clause at 52.232-16, with its Alternate I, and small change each mention of the progress payment and liquidation rates (excepting paragraph (k)) to the customary rate of 90 percent of small disadvantaged business concerns.

## PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

**244.303 [Amended]**

9. Section 244.303 is amended by adding at the end of the section an additional sentence to read "Nothing in Supplement 1 should be read as precluding contractors from utilizing competition limited to small disadvantaged business concerns.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Section 252.219-7009 is amended by changing the date of the clause to read "(MAY 1989)" in lieu of "(JUN 1988)"; by adding in paragraph (a) of the clause after the word "Colleges" the words "and Universities"; by revising paragraph (b); and by substituting at the end of the introductory text in Alternate I the words "(c), (d) and (e) as (d), (e) and (f)" in lieu of the words "(c) and (d) as (d) and (e)", to read as follows:

**252.219-7009 Incentive Program for Subcontracting With Small and Small Disadvantaged Business Concerns, Historically Black Colleges and Universities and Minority Institutions.**

* * * * *

(b) If the Contractor exceeds its SDB/HBCU/MI subcontracting goal in performing this contract, it will receive _____ (Insert the appropriate number between 1 and 10) percent of the dollars in excess of the SDB/HBCU/MI subcontracting goal in the plan.

* * * * *

[FR Doc. 89-12268 Filed 5-22-89; 8:45 am]

BILLING CODE 3810-01-M

# Notices

Federal Register
Vol. 54, No. 98
Tuesday, May 23, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### Feed Grain Donations for the Santee Sioux Tribe Indian Reservation in Nebraska

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Santee Sioux Tribe Reservation in Nebraska has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Santee Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the Tribe to be acute distress areas and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the CCC may commence upon May 8, 1989, and shall be made available through May 31, 1989, or such other date as may be stated in a notice issued by the USDA.

Signed at Washington, DC on May 18, 1989.

Keith D. Bjerke,

*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc. 89-12348 Filed 5-22-89; 8:45 am]

BILLING CODE 3410-05-M

### Agricultural Stabilization and Conservation Service and Commodity Credit Corporation

### 1989-90 National Marketing Quota and Price Support Level for Flue-Cured Tobacco

**AGENCY:** Agricultural Stabilization and Conservation Service (ASCS) and Commodity Credit Corporation (CCC), (USDA).

**ACTION:** Notice of determination.

**SUMMARY:** The purpose of this notice is to affirm determinations made by the Secretary of Agriculture with respect to the 1988 crop of flue-cured tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended. In addition to other determinations, the Secretary of Agriculture determined the 1989 marketing quota for flue-cured tobacco to be 890.5 million pounds and that the price support level for 1989 would be $1.468 per pound.

This notice also affirms the proclamation made by the Secretary on December 15, 1988 that marketing quotas will be in effect for flue-cured tobacco for the three marketing years beginning July 1, 1989 and sets forth the results of the referendum held during the period January 9-12, 1989, in which producers of flue-cured tobacco approved marketing quotas for the 1989-90, 1990-91, and 1991-92 marketing years.

**EFFECTIVE DATE:** December 15, 1988.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, Room 3736-South Building, P.O. Box 2415, Washington, DC 20013, (202) 447-5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

**SUPPLEMENTARY INFORMATION:** This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since neither the Agricultural Stabilization and Conservation Service (ASCS) nor the Commodity Credit Corporation (CCC) are required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice of determination is issued in accordance with the Agricultural Adjustment Act of 1938, as amended (the "1938 Act"), and the Agricultural Act of 1949, as amended (the "1949 Act"), in order to announce for the 1989 marketing year for flue-cured tobacco the following:

1. The amount of domestic manufacturers' intentions;
2. The amount of the average exports for the 1986, 1987, and 1988 crop years;
3. The amount of the reserve stock level;
4. The amount of adjustment needed to maintain loan stocks at the reserve stock level;
5. The amount of the national marketing quota;
6. The national average yield goal;
7. The national acreage allotment;
8. The national acreage reserve:

A. For establishing acreage allotments for new farms, and

B. For making corrections and adjusting inequities in old farms;

9. The national acreage factor;
10. The national yield factor; and

11. The price support level.

12. The Deficit Reduction Assessment.

The determinations set forth in this notice have been made on the basis of the latest available statistics of the Federal Government.

Since the 1988–89 marketing year is the last of the three consecutive years for which marketing quotas previously proclaimed on an acreage-poundage basis will be in effect, section 317(d) of the 1938 Act provides that the Secretary shall proclaim marketing quotas for flue-cured tobacco on either an acreage basis or an acreage-poundage basis for the 1989–90, 1990–91, and 1991–92 marketing years, whichever the Secretary determines would result in a more effective quota. It has been determined that, in view of the better supply control resulting from the acreage-poundage quota program beginning in 1965, a more effective quota would result by continuing marketing quotas on an acreage-poundage basis.

**Marketing Quotas**

Section 317(a)(1) of the 1938 Act provides, in part, that the national marketing quota for a marketing year for flue-cured tobacco is the quantity of such tobacco that is not more than 103 percent nor less than 97 percent of the total of: (1) The amount of flue-cured tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on U.S. auction markets or from producers, (2) the average quantity exported annually from the U.S. during the three marketing years immediately preceding the marketing year for which the determination is being made and (3) the quantity, if any, necessary to adjust loan stocks to the reserve stock level. Section 317(a)(1)(C) further provides that, with respect to the 1986 through 1989 marketing years, any reduction in the national marketing quota being determined shall not exceed six percent of the previous years national marketing quota. The "reserve stock level" is defined in section 301(b)(14)(C) of the 1938 Act as the greater of 100 million pounds or 15 percent of the national marketing quota for flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 320A of the 1938 Act provides that all domestic manufacturers of cigarettes with more than 1 percent of U.S. cigarette production and sales shall submit to the Secretary a statement of purchase intentions for the 1989 crop of flue-cured tobacco by December 1, 1988. Six such manufacturers were required to submit such a statement for the 1989 crop and the total of their intended purchases for the 1989 crop was 543.6 million pounds.

The three-year average of exports is 388.1 million pounds. This is based on Census-reported exports of 393.3 million pounds for 1986 and 385.3 million pounds for 1987, and USDA-projected exports of 385.6 million pounds for 1988.

In accordance with section 301(b)(14)(C) of the 1938 Act, the reserve stock level is the greater of 100 million pounds or 15 percent of the 1988 marketing quota for flue-cured tobacco. The national marketing quota for the 1988 crop year was 755 million pounds (53 FR 16175). Accordingly, the reserve stock level for use in determining the 1989 marketing quota for flue-cured tobacco is 113.2 million pounds.

As of December 2, the Flue-Cured Tobacco Stabilization Corporation had in its inventory 126.9 million pounds of flue-cured tobacco (excluding pre-1985 stocks committed to be purchased by manufacturers and covered by deferred sales). Accordingly, the adjustment to maintain loan stocks at the reserve supply level is a decrease of 13.7 million pounds.

The total of the three marketing quota components for the 1989–90 marketing year is 918 million pounds. Section 317 of the 1938 Act further provides that the Secretary may increase or decrease the total by 3 percent. To ensure against the development of an oversupply situation, the Secretary exercised this discretionary authority to decrease the three-component total by three percent. Accordingly, the national marketing quota for the marketing year beginning July 1, 1989 for flue-cured tobacco is 890.5 million pounds.

Section 317(a) of the 1938 Act provides that the national average yield goal be set at a level, which on a national average basis, the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making such determination, the Secretary is to give consideration to such Federal-State production research data as is deemed relevant. In determining such goal, the extension service tobacco specialists in major tobacco producing States were contacted. These individuals generally agreed the national average yield goal should be increased to reflect increased productivity. Accordingly, it has been determined that the national average yield goal for the 1989–90 marketing year will be 2,088 pounds per acre, up 5 percent from last year.

In accordance with section 317(a)(3) of the 1938 Act, the national acreage allotment for the 1989 crop of flue-cured tobacco is determined to be 426,484.67 acres, which is the result of dividing the national marketing quota by the new national average yield goal.

In accordance with section 317(e) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 3 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that a national reserve for the 1989 crop of flue-cured tobacco of 717 acres is adequate for these purposes.

**Price Support**

Price suport is required to be made available for each crop of a kind of tobacco for which quotas are in effect, or for which marketing quotas have not been disapproved by producers, at a level which is determined in accordance with a formula prescribed in section 106 of the 1949 Act.

With respect to the 1989 crop of flue-cured tobacco, the level of support is determined in accordance with sections 106(d) and (f) of the 1949 Act. Section 106(f)(4) of the 1949 Act provides that the level of support for the 1989 crop of flue-cured tobacco shall be: (1) The level in cents per pound at which the 1988 crop of flue-cured tobacco was supported plus or minus respectively, (2) an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of:

(A) 66.7 percent of the amount by which: (I) The average price received by producers for flue-cured tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

(II) The average price received by producers for flue-cured tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(B) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

For the purpose of calculating the market-price component of the support level, the 1949 Act provides that the average market price be reduced 25 cents per pound for the 1985 marketing year and 30 cents per pound for prior marketing years.

The difference between the two 5-year averages (the difference between (A)(I) and (A)(II)) is 3.6 cents per pound. The difference in the cost index from January 1 to December 31, 1988 is 4.7 cents per pound. Applying these components to the price support formula (3.6 cents per pound, two-thirds weight; 4.7 cents per pound, one-third weight) result in an increase in the price support level of 4.0 cents per pound. However, section 106 further provides that the Secretary may limit the change in the price support level to no less than 65 percent of the change that otherwise would have occurred if an oversupply exists for such kind of tobacco. Because the total supply of flue-cured tobacco is sufficient for about 2.5 years use, with 2.4 years being considered normal, the Secretary has determined that supplies of flue-cured tobacco are excessive. Accordingly, the 1989 crop of flue-cured tobacco will be supported at 146.8 cents per pound, 2.6 cents higher than in 1988.

The level of support for the 1989 crop of flue-cured tobacco and the national marketing quota for the 1989 flue-cured marketing year were announced on December 15, 1988 by the Secretary of Agriculture. This notice affirms these determinations.

Accordingly, the following determinations have been made for flue-cured tobacco for the marketing year beginning July 1, 1989:

**Proclamation of National Marketing Quotas**

Since the 1988–89 marketing year in the last of three consecutive marketing years for which marketing quotas previously proclaimed will be in effect for flue-cured tobacco, a national marketing quota for such kind of tobacco for each of the three marketing years beginning July 1, 1989, July 1, 1990, and July 1, 1991 is hereby proclaimed.

**Determinations 1989–90 Marketing Year**

(a) Marketing quotas shall be in effect for the 1989–90 marketing year for flue-cured tobacco. In a referendum held during the period January 9–12, 1989, 97.9 percent of producers of flue-cured tobacco voted in favor of marketing quotas.

The following is a summary, by State, of the results of the referendum:

| State | Votes cast | Percentage favoring quotas |
|---|---|---|
| Alabama | 9 | 100.0 |
| Florida | 245 | 97.1 |
| Georgia | 1,488 | 96.8 |
| North Carolina | 16,990 | 98.1 |
| South Carolina | 1,655 | 98.6 |
| Virginia | 3,055 | 97.1 |

(b) *Domestic manufacturers' intentions.* Manufacturers' intentions for the 1989 year totaled 543.6 million pounds.

(c) *3-year average exports.* The 3-year average of exports is 388.1 million pounds, based on exports of 393.3 million pounds, 385.3 million pounds and 385.6 million pounds for the 1986, 1987, and 1988 crop years, respectively.

(d) *Reserve stock level.* The reserve stock level is 113.2 million pounds, based on 15 percent of 1988's national marketing quota of 755 million pounds.

(e) *Adjustment for the reserve stock level.* The adjustment for the reserve stock level is 13.7 million pounds, based on a reserve stock level of 113.2 million pounds and anticipated loan stocks of 126.9 million pounds.

(f) *National marketing quota.* The national marketing quota is 890.5 million pounds based on the total of the three components which comprise the quota minus a three percent downward discretionary adjustment in those three components.

(g) *National average yield goal.* The national average yield goal is determined to be 2,088 pounds. This goal is 5 percent larger than last year.

(h) *National acreage allotment.* The national acreage allotment on an acreage-poundage basis is determined to be 426,484.67 acres. This allotment is determined by dividing the national marketing quota of 890.5 million pounds by the national average yield goal of 2,088 pounds.

(i) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm acreage allotments and for establishing allotments for new farms has been determined to be 717 acres.

(j) *National acreage factor.* The national acreage factor is determined to be 1.125.

(k) *National yield factor.* The national yield factor is determined and announced to be .928.

(l) *Types of tobacco.* It has been determined that types 11, 12, 13, and 14 shall constitute one kind of tobacco for the 1989–90, 1990–91, and 1991–92 marketing years. It has been determined also that no substantial difference exists in the usage or market outlets for any one or more of the types of flue-cured tobacco.

(m) *Price support level.* The level of support for the 1989 crop of flue-cured tobacco is 146.8 cents per pound.

(n) *Deficit Reduction Assessment.* The Deficit Reduction Assessment is 0.24 cents per pound for the 1989 crop of flue-cured tobacco.

Sections 7 U.S.C. 1301, 1313, 1314c, 1375, 1445, 1421.

Signed at Washington, DC on May 15, 1989.

**Vern Neppl,**

*Acting Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 89–12253 Filed 5–22–89; 8:45 am]

BILLING CODE 3410–05–M

## Farmers Home Administration

## Submission of Information Collection to OMB (Under Paperwork Reduction Act and 5 CFR 1320)

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Notice.

**SUMMARY:** The information collection requirement described below has been submitted to OMB for emergency clearance under 5 CFR 1320.18. The agency solicits comments on subject submission. This action is necessary in order to comply with the Agricultural Credit Act of 1987 (Pub. L. 100–233).

**ADDRESSES:** Interested persons are invited to submit comments regarding this submission. Comments should refer to the proposal by name and should be sent to: *Lisa Grove,* USDA Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Chester a. Bailey, FmHA Farmer Programs, USDA Room 5025-South USDA Building, 14th & Independence Avenue, SW., Washington, DC 20250—202–382–1471.

**SUPPLEMENTARY INFORMATION:** The agency has submitted the proposal for collection of information as described below, to OMB for clearance as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). It is requested that OMB approve this submission within seven days.

The Agricultural Credit Act of 1987 (Pub. L. 100–233, enacted on January 6,

1988; requires FmHA and all other Agencies of USDA to participate in mediation of farm-credit disputes and to otherwise support farmer-creditor mediation programs wherever they are available. FmHA has certified statewide agricultural loan mediation services in fourteen States, and FmHA expects to certify more in the coming year.

Section 353 of the Act requires the Secretary to determine the borrower's eligibility for restructuring within 60 days after receipt of a written request. Before eliminating the option to use debt write-down in cases where a borrower cannot develop a feasible plan, the Secretary must encourage the creditors of such borrowers to participate with the Secretary in the development of a restructuring plan for the borrower. Where there is no USDA Certified Mediation Program established, the Secretary must provide the means of conducting a voluntary meeting of creditors, either with a mediator or a designated FmHA representative. The information to be collected is needed immediately to identify an essential sources from which bids can be solicited from qualified mediators thereby strengthening the competitive bidding process for contract mediators.

The USDA has developed a Preliminary Regulatory Impact Analysis (PRIA) that was summarized in the proposed rule published on May 23, 1988. (53 FR 18392). The analysis showed that of about 118,000 borrowers delinquent in early 1988, about 37,000 borrowers were considered able to resolve delinquency through normal servicing actions, including subordination, rescheduling and deferral.

Of the remaining 81,000 borrowers, it is estimated that 54,000 will not be able to show repayment ability and may request Mediation of a Voluntary Meeting with their Credits. This survey is a first step in a nationwide effort to provide FmHA State Directors a roster of qualified mediators for contracting purposes this spring when the bulk of these 54,000 cases will be processed.

This submission consists of a statement of duties, qualifications and responsibilities for Mediation of FmHA credit disputes and the questionnaries to be used to assess the resources available to provide mediation services.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44, U.S.C. 3507.

**Supporting Statement**

*A. Justification*

*1. Circumstances:* The Farmers Home Administration (FmHA) is charged under Title V of the Agricultural Credit Act of 1987 (Pub. L. 100-233) with the responsibility for certifying State created and supported agricultural mediation services, and with participation in the processes of such services where disputes may arise between FmHA and borrowers (farmers) or other providers (private creditors) of agricultural credit. To date (April 10, 1989) fifteen such services have been certified.

FmHA believes that the need for mediators is urgent as nearly 89,999 borrowers nationwide have been notified since November 1, 1988, that their loan payments are delinquent and adjustments are required. Many thousands of these are entitled to and would benefit from access to mediation services.

FmHA believes that it must identify mediators in all 50 states to ensure that adequate resources are available to mediate these disputes in certified states and to provide comparable services in the non-certified states. FmHA therefore wishes to undertake a preliminary national survey to identify persons and organizations interested and able to provide these services.

*2. Purpose and Consequence:* Information gathered from responses to this survey will be compiled into a national roster of persons interested in providing mediation services to FmHA. This roster will be made available to all FmHA State Directors who will then be charged with the responsibility for acquiring the services needed on a state-by-state basis.

If the collection is not carried out, FmHA State Directors will be required to identify resources within their own jurisdictions. They are neither trained nor equipped to conduct this search on their own. If this survey is not conducted, persons may be hired to provide mediation services without adequate definition of services or comparison of services from multiple sources.

*3. Use of Technology.* Responses to this survey will be processed electronically to facilitate access by State Directors, to ensure current information if changes are subsequently submitted by roster listees.

*4. Avoidance of Duplication:* Consultation with the Administrative Conference of the US, Mediator Trade Associations in the USA, and consultant experts in this field affirm that this roster will not duplicate any other existing or contemplated list. Selection of lists for this survey will further seek to avoid duplication of effort.

*5. Use of Similar Information:* No similar nationwide body of information exists.

*6. Minimizing Burden:* The use of simple questionnaires requesting very brief information or multiple choice answers minimizes the burden involved in responding to this questionnaire. Further, the questionnaire is entirely voluntary, and response is expected only from those anticipating benefit from completion of the instrument and subsequent listing on the national roster described above.

*7. Less Frequent Collection:* This survey is a one-time unique effort. It is not possible to collect less frequently than once.

*8. Special Circumstances:* This collection is not inconsistent with the guidelines in 5 CFR 1320.6.

*9. Outside Consultation:* Preliminary drafts of the roster survey instruments were circulated for comment to the following persons and organizations in the Spring of 1989:

Mr. Charles Pou, Administrative Conference of the US, Washington, DC 202/254-7065
Mr. John Wagner, Federal Mediation and Conciliation Service, Washington, DC 202/653-5390
Ms. Cathy Mangum, MN Farmer-Creditor Mediation Program, Minneapolis, MN 612/625-9721
Mr. Mike Thompson, IA Farmer Creditor Mediation Program, Des Moines, IA 515/244-8214
Ms. Linda Nelson, MS Ag-Loan Mediation Program, Jackson, MS 601/359-3639
Mr. Gary Condra, TX Ag-Loan Mediation Program, Lubbock, TX 806/742-1949
Mr. Robert Meade, American Arbitration Association, New York, NY 212/484-4000
Mr. Lester Wolf, Academy of Conciliators, Chevy Chase, MD 301/654-6515
Mr. Jim Mclamed, Academy of Family Mediators, Eugene, OR 503/345-1205
Mr. Tom Fee, National Institute for Dispute Resolution, Washington, DC 202/466-4764
Mr. Frank Blechman, The Conflict Clinic, Inc., George Mason University, Fairfax, VA 703/764-6225

Their comments were successfully integrated into subsequent drafts.

*10. Confidentiality:* Information submitted will be distributed via a published national roster. No confidentiality applies to this project.

*11. Sensitive Questions:* No unusual or sensitive questions are included on this questionnaire.

*12. Annualized Cost:* This is a one-time survey. No annual costs will be incurred. One-time costs to print, distribute and tabulate the survey will be less than $100,000. Cost to each respondent will be less than one half hour ($50 to $100/hour) for the professional and clerical time required to complete whichever questionnaire applies. The total public cost will be approximately $375,000.00. This cost factor considers that the respondent's

time will consist of professional and other expenses of the respondent in carrying out the required responses as verified by outside consultants previously identified in their notice.

*13. Burden of Collection:* This one-time survey will be distributed to over 40,000 contacts but not to exced 50,000 contacts. Actual responses are expected from approximately 5,000 persons and organizations based upon results experienced by the George Mason University from surveys made for similar purposes.

*14. Changes in Burden:* As a one-time survey, no changes are expected.

*15. Statistical Use:* Data collected is primarily narrative and as such is not subject to statistical analysis. Analysis of geographic distribution of the respondents will be done. Collection of information is expected to begin on or about May 15, 1989, and to end on about July 1, 1989.

Data is expected to be brought together and presented for distribution by FmHA on or about September 1, 1989.

*B. Collection of Information*

*1. The Sampling Universe:* The Universe to be sampled by this survey is approximately 42,000 persons and organizations identified as active members of national trade associations of mediators and conflict resolvers, and additional persons and organizations who, having heard about the roster through the media or other means, voluntarily request a survey for their use.

*2. Procedures:* No special procedures were employed in the development of this survey.

*3. Maximizing Response:* No target goals for response have been set. The survey and accompanying materials have been written in relatively simple, clear language to encourage response.

*4. Testing:* No testing of this survey was conducted.

*5. Analysis:* The survey results will be tabulated by Kendrick and Company of Washington, DC, under the supervision of Dr. Susan Horowitz—202/872–4004. The results will be analyzed by Frank Blechman, Associate of the Conflict Clinic, Inc., at George Mason University, Fairfax VA—703/764–6225.

**Statement of Duties, Qualifications and Responsibilities for Mediation of FmHA Credit Disputes**

*General Information*

This roster is being developed in accordance with responsibilities and authority granted to the U.S. Department of Agriculture and the Farmers Home Administration by Congress and the President of the United States under Pub. L. 100–223, the Agricultural Credit Act of 1987. This roster is being developed by Kendrick & Company of Washington, DC and The Conflict Clinic, Inc. of Fairfax, VA through a contract with the Training and Development Division of the Farmers Home Administration (FmHA). The resulting roster will be managed by officials of the Farmer Programs Division of FmHA. For further information about this program, contact Chester A. Bailey, Farmer Programs, FmHA, Room 5025, U.S. Department of Agriculture, 14th & Independence Avenue, SW., Washington, DC 20250 (202–382–1471).

*Scope and Term of Roster Program*

This survey is one of the first attempts by any U.S. Government Agency to develop a *national* roster of persons and organizations able and willing to provide mediation services for the U.S. Government on a contractual basis (in states that do not have a U.S. Department of Agriculture certified state agricultural loan mediation programs).

Survey results should be available for distribution by September 1989. It may be updated from time to time to reflect those wishing to be added or deleted. Otherwise, it will remain in effect until the end of fiscal year 1991 (September 30, 1991).

This will be a descriptive roster. Information provided in this survey will be compiled without any attempt to certify or qualify those listed. FmHA state directors will use the roster to select individuals and organizations. These may be contracted by FmHA to provide mediation services as described below. Being listed on the roster is simply a statement of interest and availability at this time. Completion of this survey instrument is not a commitment on your part to perform any service if requested. Listing on the roster does not constitute certification of ability by FmHA nor does it assure listees of any professional contract work.

A clear statement of your capability to provide mediation services will be important. Directors in most cases will seek to contract with a single agency or individual to provide as much of the mediation services as possible within his/her State or multi-state jurisdication. At the same time, someone able to provide only limited amounts of mediation, or services only within a particular area or region, should not be discouraged from applying.

*Qualifications*

To be listed on this roster, individuals or organizations must have experience mediating complex multi-party disputes [involving creditors of individuals and companies]. To perform mediation services, individuals must have either [both] a minimum of 40 hours of training in mediation or two years practical mediation experience. [Mediators with no experience resolving agricultural credit disputes should receive additional training in this technical area.] Mediators must understand the role of impartial intervenor in such disputes, and must have the professional and administrative capability to conduct the following tasks:

—Identify potential parties,
—Identify an appropriate mediation site convenient for the parties,
—Establish ground rules for productive mediation,
—Help the parties understand the process of mediation so they can come prepared and gain maximum benefit from mediation sessions,
—Convene one or more meetings of interested parties if needed,
—Assist the parties in developing, exploring and selecting options,
—Recognize and capture agreements,
—Develop final written agreements where appropriate,
—Report final disposition (agreement or failure to agree) to FmHA and other interested parties.

Experience with agricultural credit or the specific issues involved in complex credit disputes is also desirable, but is secondary to mediation experience.

All applicants must fully explain any characteristics or activities involving themselves or their organizations which might impair their impartiality or lead to appearance of partiality. In particular, applicants should disclose any financial or personal interests in agriculture, agricultural credit or other financial institutions. If you are currently barred from Federal contracting or have debarment procedures pending you are strongly discouraged from applying.

Persons and organizations listed on this roster are, above all, expected to perform honestly and ethically in the service of all parties, not just FmHA, to help the parties find the best possible resolution to their dispute. Mediators must be impartial, fair, creative, able to maintain confidentiality, able to maintain the confidence of diverse parties and able to provide timely response to reasonable requests for services.

*Duties and Responsibilities*

Contracted mediators may receive requests for services from FmHA when an agricultural loan made or guaranteed by FmHA or another Federal lender or guarantor is in default [or delinquent] and existing debt restructuring programs alone cannot produce a projected cash-flow sufficient to relieve the default and provide a reasonable expectation of timely maintenance of the loan.

Mediators will contact the primary parties, seek to identify additional parties, and advise all parties of their rights to mediation under Federal and/or State law. The mediator will assure that participation by the borrower and any non-federal or non-initiating lender is voluntary. The mediator will help all parties understand the nature of the mediation process, the procedures (to be followed), the role of the mediator, and the parties' rights and responsibilities in mediation.

Mediators will work with the parties to establish ground rules and identify a location for mediation which is comfortable, suitable, and convenient to the majority of parties. Mediators will then convene one or more meetings (if needed) which permit the parties to jointly explore the issues, information, emotions, alternatives and options within the case. Mediators may also, as their judgment dictates, convene meeting of subgroups or caucuses which may facilitate the discussion of the whole group.

The mediator will assist the parties to develop, explore and select options. In doing this, the mediator will help structure the discussions among the parties to maintain order, will ensure that all parties understand the meaning and implications of statements, offers or agreements, and will help the parties overcome deadlocks or obstacles which may emerge. The mediator may help the parties identify additional technical expertise or may suggest other processes to assist the parties.

The mediator will help the parties identify and capture any agreements which develop and ensure that such agreements are reasonably grounded in reality. Settlements may be recorded by the mediator or by the parties under the supervision of the mediator. The mediator will then ensure that all identified parties are advised of the results of mediation.

*Application*

Enclosed you will find one application for an individual and one for an organization. Individuals associated with an organization may submit individual applications, but should disclose their affiliation. As indicated on the survey instruments, all applications should be completed and returned before June 1, 1989, to: The Conflict Clinic, Inc., George Mason University, Fairfax, VA 22030.

The Farmers Home Administration of U.S. Department of Agriculture is one of the leading providers of agricultural credit in the nation. From time to time, it is appropriate for FmHA to work with farmers and other creditors to consider restructuring these loans. The FmHA is committed to working with certified farmer-creditor mediation programs in the states where they exist and with impartial mediators in the states where certified programs have not yet been established. Individuals wishing to appear on a roster to serve as mediators of FmHA farm debt disputes are requested to complete the following questionnaire and return it before June 1, 1989 to: The FmHA Roster Project, The Conflict Clinic, Inc., George Mason University, Fairfax, VA 22030.

*For Individuals*

1. Name: _____
2. Organizational or Institutional Affiliation (and Title, if applicable):

_____

3. Address: _____

_____

City: _____
State: _____
Zip _____
4. Phone Number(s): _____
5. Formal Academic Credentials: _____

_____

6. Formal Training in Mediation: (Where, Who, When, How Long?)

_____

7. Mediation Experience: (Where, when what type, how many?)

_____

8. Other Relevant Training or Experience: (Agriculture or Finance, where, when, who?)

_____

9. Area in which you would be willing and able to mediate farmer-creditor disputes:
Section of State _____
State _____
Multi-state Region _____
Dist. from Home (Mi) _____
10. General Fee: $_____/hr. $_____/day _____
11. Availability/Capacity:
Hours of mediation/mo.? [ ] 1–10 [ ] 11–20, [ ] Over 20
Services provided? [ ] Convening, [ ] Mediating, [ ] Reporting

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575–0000), Washington, DC 20503.

13. Disclosure of Conflicts: (Do you have any positions or relationships with farmer, creditor, or governmental organizations which might be viewed as prejudicial to your service as an impartial mediator? Disclose any past, current or pending actions barring you from Federal contracting.)

_____

_____

14. Please list two references who know you personally and can vouch for your ability and character:
Name _____
Address _____

_____

Phones _____
Name _____
Address _____

_____

Phones _____

The Farmers Home Administration of U.S. Department of Agriculture is one of the providers of agricultural credit in the nation. From time to time, it is appropriate for FmHA to work with farmers and other creditors to consider restructuring these loans. The FmHA is committed to working with certified farmer-creditor mediation programs in the states where they exit and with impartial mediators in the states where certified programs have not yet been established. Organizations wishing to appear on a roster to serve as mediators of FmHA farm debt disputes are requested to complete the following quetionnaire and return it before June 1, 1989 to: The FmHA Roster Project, The Conflict Clinic, Inc., George Mason University, Fairfax, VA 22030.

*For Organizations*

1. Name of Organization: _____
2. Corporate or Institutional Relationships with other Mediation Organizations:

_____

3. Director: _____
4. Address: _____
City: _____
State: _____
Zip _____
5. Phone Number(s): _____
6. Number of Mediators: (Check One) [ ] 0–5, [ ] 6–15, [ ] Over 15
Paid Full-Time, _____
Paid Part-Time, _____
Volunteer _____

8. Required Mediation Training for Mediators:

9. Relevant Additional/Supplemental Training Provided:

10. Farmer-Creditor Mediation Experience: (Check One)
[ ] 0–10 cases [ ] 11–50 cases [ ] over 50

11. Other Relevant Experience: (Agriculture or Finance)

12. Names of individuals who would perform mediation.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575–0000), Washington, DC 20503.

13. Statement of Geographic Service Area:
National [ ]
Region or State
State
Multi-state area
Within Miles/Hours

14. Range of Fees:
High: $____/hr.$____/day
Low: $____/hr.$____/day

15. Availability/Capacity:
Hours of mediation/mo.? [ ] 1–10 [ ] 11–20, [ ] Over 20
Services provided? [ ] Convening, [ ] Mediating, [ ] Reporting

16. Disclosure of Conflicts: (Does your organization have any positions or relationships with farmer, creditor, or governmental organizations which might be viewed as prejudicial to your service as an impartial mediator? You must disclose any past, current or pending actions to bar you from Federal Contracting.)

17. Please list two references for whom you have performed work and would know your organization's capabilities:

Name
Address

Phones
Name
Address

Phones

Date: May 17, 1989.

**Neal Sox Johnson,**

*Acting Administrator, Farmers Home Administration.*

[FR Doc. 89–12353 Filed 5–22–89; 8:45 am]

BILLING CODE 3410–07–M

## Food Safety and Inspection Service

**[Docket No. 89–019N]**

## Revised Policy for Controlling Listeria monocytogenes

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Food Safety and Inspection Service (FSIS) is revising its policy concerning the control of *L. monocytogenes*-contaminated cooked and ready-to-eat meat and poultry products. FSIS is expanding its current product testing program and revising the actions the Agency will take when positive samples are found. The revised policy pertains to cooked and ready-to-eat meat food products and poultry products prepared in federally inspected establishments or imported from certified foreign establishments.

**DATES:** This revised policy for controlling contamination by *L. monocytogenes* is effective upon implementation of revised sampling procedures and will continue indefinitely.

**FOR FURTHER INFORMATION CONTACT:** Dr. Marvin Norcross, Deputy Administrator, Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6495.

### Background

Since 1982 *Listeria monocytogenes* has been implicated in illnesses and deaths from consuming *L. monocytogenes*-contaminated food products. Pregnant women and individuals with impaired immunity are most susceptible. Farm animals are believed to be a primary source of *L. monocytogenes*.

Thorough cooking of product will destroy any *L. monocytogenes* that may be present. However, some processed products that appear to have been thoroughly cooked at the processing establishment may not have been, and purchasers may be misled into assuming the product is free of *L. monocytogenes*. Therefore, FSIS must closely monitor those products that are, or may be considered by consumers to be, "ready-to-eat" upon purchase because they may not be thoroughly cooked or reheated before consumption. Contamination of ready-to-eat or cooked meat and poultry products with *L. monocytogenes* can result from inadequate processing, or improper handling and storage. Contamination must be stringently avoided during production since *L. monocytogenes* can grow slowly even when held under proper refrigeration temperatures. All cooked and ready-to-eat meat and poultry products are covered by this policy, including cooked sausages such as franks and bologna, cooked and cured pork products, cooked beef and cooked corned beef, jerky, dry-cured pork products, fermented sausages, and cooked luncheon meats.

On March 11, 1987, FSIS published a notice (52 FR 7464) outlining its policy concerning ready-to-eat or cooked meat and poultry products contaminated with *L. monocytogenes*. That notice outlined an expanded testing program and the Agency's response to positive findings. Under the present policy, monitoring samples are collected on a random basis from selected products. When the Agency finds a positive test for *L. monocytogenes* in a monitoring sample, the Agency attempts to find the source of the contamination and ensure that the processor takes action to eliminate the cause of contamination. Additional samples are collected for followup testing, to verify that corrective action has been taken. If additional samples are positive for *L. monocytogenes*, FSIS will then consider the products to be adulterated and the product will be subject to seizure and condemnation or other action as appropriate.

The 1987 policy was consistent with the fact that there were no known cases of human listeriosis caused by the consumption of cooked or ready-to-eat meat and poultry products. However, at the time of the 1987 notice, the Agency announced that if conclusive evidence linking *L. monocytogenes* in meat and poultry products to human illness became available, the Agency would consider revising its 1987 policy.

On April 14, 1989, FSIS received conclusive evidence from the Centers for Disease Control linking a cooked poultry product with a case of human listeriosis. In view of this new evidence, the Agency is revising its sampling and compliance policy concerning product which may be contaminated by *L. monocytogenes*.

In monitoring for microbiological contamination, there are essentially two types of samples. Where practical, the monitoring samples are obtained from sealed, retail packages (generally one pound or less) which can be shipped to a laboratory under the same conditions as the products would be shipped from the plant. The Agency describes these samples as consisting of intact, retail packages. In other cases where product is shipped in larger wholesale-type packages, it is only practical to take a sample that consists of a portion of product that would otherwise be shipped in an intact package. For example, an initial monitoring sample would not consist of an entire round of cooked beef. In these cases, it is necessary to take one or more slices of product, thus introducing a possible contamination source that would not exist for the normal preparation and packaging process.

Under the new policy, when the Agency finds a positive result in a monitoring sample that consists of intact, retail packages, it will consider the sampled lot (production on the day or shift the sample was taken) to be adulterated. If product from the sampled lot is in commerce, FSIS will request that it be recalled. The Agency will immediately retain current production lots of the same product until test results are known and the Agency is assured that corrective action has been successfully implemented. The Agency will also begin collecting, at the establishment, samples of other products it believes may have been produced in a manner exposing it to *L. monocytogenes*. The Agency will take such other inplant action as may be appropriate to prevent the production of contaminated product. In each case, the need for further regulatory action will be determined after consideration of all information available to the Agency.

For product that is not available as intact, retail packages, the Agency will collect monitoring samples consisting of a portion of the unpackaged product which is shipped to a laboratory for testing. Because there will always be some question concerning the source of contamination, the Agency will not request immediate recall of the sampled lot when a positive finding occurs. The Agency will, however, analyze intact samples from subsequent lots and will take such other inplant action as may be appropriate to prevent the production of contaminated product, including holding and testing of new production lots of the suspect product. As with intact, retail packages, inplant restrictions on these products will be continued until the Agency is assured that corrective action has been successfully implemented, and the need for further regulatory action will be determined after consideration of all information available to the Agency.

Under the new policy, the Agency is also modifying the size and numbers of samples to be analyzed in the monitoring program. The Agency believes that a more intense sampling plan is consistent with the demonstrated public health risk from listeriosis. More detailed information regarding the FSIS monitoring program, including sampling procedures and the testing methodology used, is available upon request from the information contact above.

Because of the potentially high morbidity and mortality rates associated with listeriosis among susceptible persons, FSIS is reemphasizing that portion of the 1987 notice encouraging affected establishments to carefully review their operations for conditions which are conducive to the growth of *L. monocytogenes* and, where possible, to reduce the potential for this microorganism to contaminate their products. Processors need to ensure that procedures for handling raw materials and for processing, packaging and storing product will not contribute to the growth of *L. monocytogenes*, that any existent *L. monocytogenes* is destroyed during processing operations, and that the possibility of recontamination is eliminated. For example, under processing, use of insanitary equipment, or improper handling and storage procedures all could lead to growth of *L. monocytogenes* and should be prevented. FSIS will continue to carefully monitor all operations associated with the production of ready-to-eat or cooked meat and poultry products to prevent such conditions and preclude contamination of product with *L. monocytogenes* to the extent possible. Nonetheless, inspected establishments are hereby notified that they are responsible for ensuring all such products are safe and wholesome for consumers and that any finished product found by FSIS to contain *L. monocytogenes* will lead to immediate Agency action regarding such product as may be required to protect public health.

Done at Washington, DC on May 19, 1989.

**Lester M. Crawford,**

*Administrator, Food Safety and Inspection Service.*

[FR Doc. 89-12453 Filed 5-22-89; 8:45 am]

BILLING CODE 3410-DM-M

## Forest Service

### Environmental Statements; Mendocino National Forest, CA; Wind-Thrown Trees Harvesting

**ACTION:** Notice; exemption of decisions from administrative appeal.

**SUMMARY:** The Forest Service is exempting from appeal its decision to harvest wind-thrown trees damaged in a severe windstorm in December 1988, and its decision to restore the areas involved.

During a severe windstorm in December 1988, extensive timber stands on the Mendocino National Forest were blown down. These wind-thrown trees need to be harvested and the lands restored. This proposed restoration consists of recovery of the wind-thrown and damaged timber and the rehabilitation of the National Forest System Lands (NFSL) where this wind-thrown and damaged timber are removed. Any undue delay in these activities could result in further unacceptable degradation of the physical and biological condition of NFSL and substantial deterioration of the wind-thrown timber which would result in loss of value to the economy. Delays will also significantly increase the risk of severe forest insect and pest infestation to the surrounding undamaged trees.

Pursuant to 36 CFR Part 217.4(11) it is my decision to exempt from appeals the decisions covering the harvest and restoration of the Bredehoft, the revised Hayden, Lazyman, Mendocino Pass, Doe, Bear, Armstrong and Howard Basin areas. The Forest Supervisor has determined through environmental analysis that there is good cause to expedite these projects which are necessary to rehabilitate the NFSL and to recover the wind-thrown, dead and dying timber resulting from the December 1988 windstorm. The Environmental Assessments (EA's) which will document the expected environmental effects of the actions, will also document public involvement and will address the issues raised by the public.

Due to the length of time it has taken to develop an acceptable restoration and rehabilitation program and to properly evaluate its effects, the time remaining for accomplishment of the project is critical. Additional delays will result in further damage to presently undamaged resources and could result in a complete loss of the salvageable resources as well.

The decision to rehabilitate Mendocino NFSL and offer salvage

timber for sale in the Bredehoft, Hayden, Lazyman, Mendocino Pass, Doe, Bear, Armstrong, and Howard Basin areas will not be subject to administrative appeal and review pursuant to 36 CFR 217.

**EFFECTIVE DATE:** This decision was effective May 26, 1989.

**FOR FURTHER IMFORMATION CONTACT:** Questions about this decision should be addressed to George A. Cadzow, Timber Appeals Coordinator, Timber Management Staff, Pacific Southwest Region, Forest Service, USDA, 630 Sansome Street, San Francisco, CA 94111 at (415) 556-2185, or Paul F. Schuller, Forest Timber Management Officer, Mendocino National Forest, 420 E. Laurel St., Willows, CA 95988 at (916) 934-3316.

**SUPPLEMENTARY INFORMATION:** The catastrophic windstorm of December 1988 damaged timber on an estimated 10,000 acres of NFSL on the Mendocino National Forest in the Bredehoft, Hayden, Lazyman, Mendocino Pass, Doe, Bear, Armstrong, and Howard Basin areas. Maps of these areas are available for public review at the Covelo Ranger Station, 78150 Covelo Road, Covelo, CA 95428, and at the Mendocino National Forest Supervisor's Office, 420 East Laurel St., Willows, CA 95988. The analyses for these proposals will be reported in the Bredehoft, Hayden, Lazyman, Mendocino Pass, Doe, Bear, Armstrong and Howard Basin EA's.

On March 23, 1989 the Mendocino National Forest Supervisor published a notice in local newspapers of intent to prepare environmental documents for proposals to rehabilitate NFSL and to salvage damaged timber and trees damaged beyond recovery by the December 1988 windstorm. Pursuant to 40 CFR 1501.7 scoping was conducted by the Mendocino National Forest to determine the issues to be addressed in the environmental analyses. Additional scoping will be conducted, and a field trip is planned for interested parties prior to completing the environmental analyses on the Armstrong and Howard Basin areas.

The Mendocino National Forest has completed the analyses for the salvage and rehabilitation of the Bredehoft, Hayden, and Doe areas and is in various stages of completing the analyses and EA's for the other areas named. The Bredehoft EA and the revised Hayden and Doe EA's are scheduled for completion by May 22, 1989. The Bear EA and the revised Mendocino Pass EA are scheduled for June 1, 1989. The Armstrong and Howard Basin EA's are scheduled for July 15 and August 1, 1989, respectively. The revised Lazyman EA is scheduled for August 15, 1989.

Analyses of the timber volume and value indicates that about 25 million board feet (MMBF) valued at about 4.5 million dollars was damaged during the windstorm. Complete loss of this timber could result in an estimated loss of about 1.12 million dollars to Mendocino County in National Forest Receipts. There are also about 5,000 acres of land that requires rehabilitation and restoration to prevent further resource damage. Site preparation and reforestation is also necessary. Additional rehabilitation and restoration measures will be necessary for stream restoration and erosion prevention.

Delays for any reason could jeopardize chances of accomplishing recovery and rehabilitation of the damaged resources this field season. These delays could result in volume and value losses, increased risk of insect population build-up in the damaged and undamaged trees, delay in implementing stream channel restoration and erosion control, and delay in reforestation.

Dated: May 17, 1989.

**Paul F. Barker,**

*Regional Forester.*

[FR Doc. 89-12280 Filed 5-22-89; 8:45 am]

BILLING CODE 3410-11-M

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## Comprehensive Management Plan; North Fork and South Fork Kern Wild and Scenic Rivers; Sequoia and Inyo National Forests, Tulare and Kern Counties, CA; Intent to Prepare an Environmental Impact Statement

As required by the Wild and Scenic Rivers Act of 1968, as amended, the Department of Agriculture, Forest Service will be preparing an environmental impact statement to determine future management practices for the North and South Forks of the Kern Wild and Scenic River (W&SR), located on the Sequoia and Inyo National Forests. For that portion of the North Fork Kern W&SR that flows through the Sequoia National Park (upper 27 miles), management practices will be determined by the Department of Interior, Park Service, at the time the Park's General Development Plan is updated.

A range of alternatives will be considered. These alternatives will analyze various management practices and policies and their effects on resources, recreation and other current uses, and the protection of the W&SR's "Outstandingly Remarkable Values" as identified in the Sequoia National Forest Land and Resource Management Plan for the South Fork and the Final Environmental Impact Statement and Study Report for the North Fork.

Federal, State, and local agencies, and individuals or organizations who may be interested in or affected by the decisions have been invited to participate in the scoping process. This process includes:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

Public comments have been, and will continue to be, solicited in a variety of ways including requests for written comments, information mailings, and public meetings, including an on-site field trip.

Paul F. Barker, Regional Forester, Pacific Southwest Region, San Francisco, California, is the responsible official.

The analysis is expected to take about seven months. The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and be available for a 90 day public review period by November 1989. At that time EPA will publish a notice of availability of the draft EIS in the **Federal Register**. It is very important that those interested in the managementof the North Fork and South Fork Kern Wild and Scenic Rivers participate at that time. To be most helpful, comments on the draft EIS should be specific as possible and may address adequacy of the statement or the merits of the alternatives discussed (see The Council on Envionmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519,553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS, Wisconsin Heritages, Inc. v. Harris, 490 F Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time

when it can meaningfully consider them and respond to them in the final.

After the comment period ends on the DEIS, comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by April 1990. In the final EIS, the Forest Service is required to respond to comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal.

Written comments and suggestions concerning the analysis should be sent to Robert D. Addison, District Ranger, Cannell Meadow District, Sequoia National Forest, P.O. Box 6, Kernville, California 93238.

Questions about the proposed action and environmental impact statement should be directed to David M. Freeland, Wild and Scenic River Planner, at the above address, phone (619) 376-3781.

**James A. Crates,**

*Forest Supervisor.*

Date: May 11, 1989.

[FR Doc. 89-12343 Filed 5-22-89; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Export Trade Certificate of Review

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of Issuance of an Export Trade Certificate of Review, Application No. 89-00003.

**SUMMARY:** The Department of Commerce has issued an Export Trade Certificate of Review to Passport International. This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free numher.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 ("the Act) (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

**Description of Certified Conduct**

*Export Trade*

Products and Services

Process control equipment, computer hardware and software, electronic test and repair equipment, medical equipment, paper and paper products, and consumer products.

Export Trade Facilitation Services (as they relate to the export of Products)

Consulting, international market research, financing, insurance, advertising, packing and crating, warehousing, trade documentation and shipping, foreign exhibit marketing, and customs brokerage.

*Export Markets*

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

*Export Trade Activities and Methods of Operation*

Passport International may:

1. Coordinate the participation of various Suppliers in foreign trade exhibitions through the sharing of trade information that is generally available to the public.

2. Provide Export Trade Facilitation Services to domestic Suppliers for the export of their Products to foreign customers.

3. Enter into exclusive agreements with domestic Suppliers to arrange for the export of Products to foreign customers in response to foreign invitations to bid.

4. Enter into exclusive agreements with foreign customers to select domestic Suppliers of Products in order to match foreign buyer specifications.

5. Meet and negotiate with domestic Suppliers concerning the terms of their participation in each bid, invitation or request to bid, or other sales opportunity in the Export Markets.

6. Establish export prices for domestic Suppliers seeking to respond to a foreign bid opportunity.

7. Contract with other Export Intermediaries and consultants for the arrangement of the export of the Products of domestic Suppliers to the Export Markets.

A copy of each certificate will be kept in the International Trade Administrations Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: May 16, 1989.

**George Muller,**

*Acting Director, Office of Export Trading Company Affairs.*

[FR Doc. 89-12221 Filed 5-22-89; 8:45 am]

BILLING CODE 3510-DR-M

### Export Trade Certificate of Review

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of Issuance of an Export Trade Certificate of Review, Application No.: 89-00004.

**SUMMARY:** The Department of Commerce has issued an Export Trade Certificate of Review to KIAD International Trading Company, Inc. This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the

United States to set aside the determination on the ground that the determination is erroneous.

**Description of Certified Conduct**

*Export Trade*

Products

All products.

Export Trade Facilitation Services (as they relate to the Export of Products)

All trade-facilitating services in connection with the export of Products, including matching buyers with sellers; furnishing financing; placement of marine, casualty, and war risk insurance; coordinating the shipment of Products; processing documentation; establishing repayment mechanisms; providing ancillary procurement services; market analysis and research; countertrade services; and consulting.

*Export Markets*

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

*Export Trade Activities and Methods of Operation*

1. KIAD may enter into any number of nonexclusive agreements with individual buyers in the Export Markets or with individual Suppliers to act as a sales representative or broker for the export of Products and the provision of Export Trade Facilitation Services.

2. KIAD may enter into agreements with individual Suppliers for the export of Products and the provision of Export Trade Facilitation Services wherein:

a. KIAD establishes prices for Products in Export Markets; and/or

b. KIAD agrees to serve as the exclusive sales representative. "Exclusive" means that KIAD may agree not to represent any competitors of the Supplier unless authorized by the Supplier; and/or the Supplier may agree not to sell, directly or indirectly through any other intermediary, into the Export Markets in which KIAD represents the Supplier.

3. KIAD may enter into exclusive agreements with persons in the Export Markets (including distributors and sales or marketing agents) wherein KIAD agrees to pay a competitive commission or other compensation. "Exclusive" means:

a. KIAD may agree to deal in Products in the Export Markets only through that person; and/or

b. that person may agree not to represent in Export Markets, or purchase Products from, anyone other than KIAD.

4. KIAD may establish price, quantity, territorial, and customer restrictions for Products to be sold in the Export Markets for KIAD's own account or on behalf of an individual Supplier.

5. KIAD may enter into exclusive or nonexclusive agreements with individual buyers to provide Export Trade Facilitation Services and to act as a purchasing agent with respect to transactions involving the export of Products.

6. Upon receiving a request from a buyer in an Export Market for the price of a particular Product, KIAD may ask one or more U.S. Suppliers individually to supply a price quotation to KIAD for that Product; add its own markup to the Suppliers price, and transmit a price quotation to the buyer. Upon placement of an order by a buyer, KIAD may purchase Products and ship to the buyer.

7. As KIAD becomes aware of invitations to bid or other sales opportunities in the Export Markets, KIAD may:

a. Contact individual Suppliers of the Products specified in the invitation to bid or the purchase specifications;

b. Invite the Suppliers to provide independent quotations to KIAD for the export of the Products (provided that KIAD does not reveal to any Supplier the quotation of any other Supplier); and

c. Enter into independent, individual agreements with Suppliers whereby KIAD will submit a response to the bid invitation or the purchase specifications.

*Definition*

"Supplier" means a person who produces, provides, or sells Products or Export Trade Facilitation Services.

*Terms and Conditions of Certificate*

(a) In engaging in Export Trade Activities and Methods of Operation, KIAD will not intentionally disclose, directly or indirectly, to any Supplier any information that is about any other Suppliers costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

(b) KIAD will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities, or Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

A copy of each Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: May 16, 1989.

**George Muller,**

*Acting Director, Office of Export Trading Company Affairs.*

[FR Doc. 89-12222 Filed 05-22-89; 8:45 am]

BILLING CODE 3510-DR-M

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## National Oceanic and Atmospheric Administration

### New England Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will meet on May 24-25, 1988, at the Ramada Inn, I-95 and Route 27, Mystic, CT. The meeting will begin at 10 a.m. on May 24 and will adjourn at 5 p.m. The meeting will reconvene on May 25 at 9 a.m., and may be lengthened or shortened depending on progress on the agenda.

Discussions on the first day will include reports from the Groundfish and Scallop Oversight Committees. Discussions on the second day will include a report from the Foreign Fishing Committee, updates on bluefish and lobster, and reports on the Atlantic States Marine Fisheries Commission spring meeting and government support programs. The Council also will hear a presentation on the Icelandic fisheries management system, and other limited entry programs.

For more information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 09106, telephone: (617) 231-0422.

Date: May 17, 1989.

**Joe P. Clem,**

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

[FR Doc. 89-12229 Filed 5-22-89; 8:45 am]

BILLING CODE 3510-22-M

## North Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Groundfish Plan Teams for the Gulf of Alaska and the Bering Sea/Aleutian Islands Fishery Management Plans (FMPs) will hold a public meeting on June 5–7, 1989. The meeting will begin at 9 a.m., PDT, on June 5 at the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, Room 2079, 7600 Sand Point Way, N.E., Seattle, WA. The meeting agenda will include: (a) review of public comments on the draft Environmental Assessment/Regulatory Impact Review (EA/RIR) for Amendments 18 and 13, respectively, to the FMPs for Groundfish of the Gulf of Alaska and the Bering Sea/Aleutian Islands, (b) review of a draft interim status of stocks document dealing with pollock in the Gulf of Alaska, and (c) review of a draft EA/RIR for Amendments 19 and 14, respectively, to the FMPs for Groundfish of the Gulf of Alaska and the Bering Sea/Aleutian Islands dealing with pollock roe stripping. The Plan Teams also will review a list of possible alternative management actions that may be analyzed and further developed, at a future date prescribed by the Council, into a draft EA/RIR for an amendment to the Gulf of Alaska and the Bering Sea/Aleutian Islands Groundfish FMPs dealing with (1) roe stripping of any Council-managed groundfish species and (2) full utilization of all fish species under management jurisdiction of the Council.

For more information contact Bill Wilson, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99501; telephone: (907) 271–2809.

Date: May 17, 1989.

**Joe P. Clem,**

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

[FR Doc. 89–12230 Filed 5–22–89; 8:45 am]

BILLING CODE 3510-22-M

## South Atlantic Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will hold a public meeting of the Inter-Council Billfish Committee on June 9, 1989, from 8:30 a.m., to 5 p.m., at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC. The Committee will develop management options for Amendment #1 to the Billfish Fishery Management Plan. A detailed agenda will be available to the public on or about May 26, 1989.

For more information contact Carrie R.F. Knight, Public Information Specialist, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571–4366.

Date: May 17, 1989.

**Joe P. Clem,**

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

[FR Doc. 89–12233 Filed 5–22–89; 8:45 am]

BILLING CODE 3510-22-M

# Department of Commerce

## South Atlantic Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council's Swordfish Committee will hold a public meeting on June 5–6, 1989. The meeting will begin at 1 p.m., on June 5 at the South Atlantic Council's Headquarters (address below), and will conclude on June 6 at 5 p.m. The Committee will develop management options for Amendment #1 to the Swordfish Fishery Management Plan to be presented to the Inter-Council Swordfish Committee. A detailed agenda will be available to the public on or about May 26, 1989.

For more information contact Carrie R. F. Knight, Public Information Specialist, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571–4366.

Date: May 17, 1989.

**Joe P. Clem,**

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

[FR Doc. 89–12231 Filed 05–22–89; 8:45 am]

BILLING CODE 3510-22-M

# DEPARTMENT OF COMMERCE

## 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 hold a public meeting of the Inter-Council Swordfish Committee on June 7–8, 1989. The meeting will begin at 8:30 a.m., on June 7 at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC. The Committee will review the status of the swordfish stock and develop preferred management options for Amendment #1 to the Swordfish Fishery Management Plan. A detailed agenda will be available to the public on or about May 26, 1989.

For more information contact Carrie R.F. Knight, Public Information Specialist, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571–4366.

Date: May 17, 1989.

**Joe P. Clem,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service*

[FR Doc. 89–12232 Filed 5–22–89; 8:45 am]

BILLING CODE 3510-22-M

## Western Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Pelagic Species Plan Monitoring Team (PMT) will hold a public meeting on May 31, 1989, at the National Marine Fisheries Service, Honolulu Laboratory, conference room, 2570 Dole Street, Honolulu, HI.

The PMT will meet at 1 p.m., to introduce new team members, to conduct a final review of a draft of the First Annual Report, including edits provided by the Hawaii Division of Aquatic Resources, and by individual members of the Scientific and Statistical Committee. The Team also will review the Annual Report modules prepared by individual Team members for the Second Annual Report, and will integrate the modules into a draft of the second report, with emphasis mostly on 1988 data. Other Team business also will be discussed.

For more information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (803) 523–1368.

Date: May 17, 1989.

**Joe P. Clem,**

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

[FR Doc. 89–12234 Filed 5–22–89; 8 45 am]

BILLING CODE 3510-22-M

## Patent and Trademark Office

[Docket No. 90525-9125]

## Interim Protection for Mask Works of Nationals, Domiciliaries, and Sovereign Authorities of Austria

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Issuance of interim order.

**SUMMARY:** The Secretary of Commerce has delegated to the Assistant Secretary and Commissioner of Patents and Trademarks, by Amendment 2 to Department Organization Order 10-14, the authority under section 914 of Title 17 of the United States Code, the Semiconductor Chip Protection Act of 1984 (SCPA), to make findings and to issue orders for the interim protection of mask works.

On March 7, 1989, the Patent and Trademark Office received a petition for the issuance of an interim order from the Austrian Patent Office. On April 4, 1989, a Notice of Initiation of Proceedings was published at 54 FR 13549, whereby the Commissioner requested comments on the Austrian Federal Law of June 23, 1988, on the Protection of Microelectric Semiconductor Products. Comments supporting the grant of an interim order were received from the U.S. Semiconductor Industry Association. The Commissioner has determined that the Austrian legislation meets the statutory requirements of section 914 of the SCPA, and has determined that an interim protection order shall issue for the protection of mask works of nationals, domiciliaries, and sovereign authorities of Austria. The order will remain in effect until October 31, 1989, the date on which all other orders issued under section 914 will expire.

**DATES:** The effective date of this order shall be March 7, 1989, the date of receipt of the petition. This order shall terminate on October 31, 1989.

**FOR FURTHER INFORMATION CONTACT:** Michael K. Kirk, Assistant Commissioner for External Affairs, by telephone at (703) 557-3065, or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

**SUPPLEMENTARY INFORMATION:** Chapter 9 of Title 17 of the United States Code establishes an entirely new form of intellectual property protection for mask works that are fixed in semiconductor chip products. Mask works are defined in 17 U.S.C. 901(a)(2) as:

> A series of related images, however, fixed or encoded
>
> (A) having or representing the predetermined, three-dimensional pattern of metallic, insulating or semiconductor material present or removed from the layers of a semiconductor chip product; and
>
> (B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product.

Chapter 9 further provides for a 10-year term of protection for original mask works measured from their date of registration in the U.S. Copyright Office, or their first commercial exploitation anywhere in the world. Mask works must be registered within 2 years of their first commercial exploitation to maintain this protection.

Foreign mask works are eligible for protection under this chapter under basic criteria set out in section 902; first, that the owner of the mask works is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a treaty providing for the protection of the mask works to which the United States is also a party, or a stateless person wherever domiciled; second, that the mask work is first commercially exploited in the United States; or that the mask work comes within the scope of a Presidential proclamation. Section 902(a)(2) provides that the President may issue such a proclamation upon a finding that:

> A foreign nation extends to mask works of owners who are nationals or domiciliaries of the United States protection (A) on substantially the same basis as that on which the foreign nation extends protection to mask works of its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (B) on substantially the same basis as provided under this chapter to mask works (i) of owners who are, on the date on which the mask works are registered under section 908, or the date on which mask works are first commercially exploited anywhere in the world, whichever occurs first, nationals, domiciliaries, or sovereign authorities of that nation, or (ii) which are first commercially exploited in that nation.

Although this chapter generally does not provide protection to foreign owners of mask works unless the works are first commercially exploited in the United States, it is contemplated that foreign nationals, domiciliaries, and sovereign authorities may obtain full protection if their nation enters into an appropriate treaty or enacts mask works protection legislation. To encourage steps toward a regime of international comity in mask works protection, section 914(a) provides that the Secretary of Commerce may extend the privilege of obtaining interim protection under Chapter 9 to nationals, domiciliaries and sovereign authorities of foreign nations if the Secretary finds:

> (1) That the foreign nation is making good faith efforts and reasonable progress toward—
>
> (A) entering into a treaty described in section 902(a)(1)(A), or
>
> (B) enacting legislation that would be in compliance with subparagraphs (A) or (B) of section 902(a)(2); and
>
> (2) that the nationals, domiciliaries and sovereign authorities of the foreign nation, and persons controlled by them, are not engaged in the misappropriation, or unauthorized distribution or commercial exploitation of mask works; and
>
> (3) that issuing the order would promote the purposes of this chapter and international comity with respect to the protection of mask works.

On March 7, 1989, a petition for the issuance of an interim order under 17 U.S.C. section 914 was submitted to the Commissioner by the Austrian Patent Office on behalf of the Austrian Government. The petition was in the form of a letter from Dr. Josef Fichte, President of the Austrian Patent Office, and a copy of the Austrian Federal Law of June 23, 1988 on the Protection of the Topographies of Microelectronic Semiconductor Products (Austrian Law).

In its comments, the U.S. Semiconductor Industry Association (SIA) states that the Austrian Law appears to afford protection to U.S. mask works on substantially the same basis as provided under the SCPA. SIA recommends issuance of an order extending interim protection to Austrian mask works until October 31, 1989, the date until which existing interim orders have been extended. Thorough review of the Austrian statute is appropriate then, in SIA'S view, when the legal regimes for mask work protection in all countries subject to section 914 orders are under consideration.

The record of this proceeding supports a finding that Austria has met the statutory requirements of section 914(a)(2) by establishing a system for the protection of mask works in Austria on substantially the same basis as the SCPA. The Austrian Law provides an exclusive right to the creator of a topography, defined as a three-dimensional structure of microelectronic semiconductor products. The Law provides protection on the basis of non-commonplace originality resulting from an intellectual effort of the creator. Compulsory licenses are not permitted. An exemption for reverse engineering is included, and innocent infringers are protected.

The Austrian Law establishes a registration system, and the term of protection for eligible topographies is ten years from the date of first commercial exploitation or the date of

filing with the Austrian Patent Office, whichever occurs first.

Protection under the Law is available to both nationals and residents of Austria and, on a reciprocal basis, to nationals and residents of (1) States party to an international agreement to which Austria is a party, or (2) States identified in ordinances of the Federal Minister for Economic Affairs. Unlike the SCPA, the Austrian Law does not provide for interim protection. The Austrian Government has declared its intention to extend protection under the Law to mask works of U.S. nationals and domiciliaries, and to mask works first commercialized in the United States.

The record contains no evidence that nationals, domiciliaries or sovereign authorities of Austria are engaged in the misappropriation, unauthorized distribution, or unauthorized commercial exploitation of mask works. Accordingly, the Commissioner finds that issuance of an interim order will promote the purposes of the SCPA and international comity with respect to the protection of mask works. The order shall be effective as of March 7, 1989, the date on which the petition was received. The order shall terminate on October 31, 1989, the expiration date of all other existing interim orders issued under section 914. *See* 54 FR 13931 (April 6, 1989).

**Order Extending Interim Protection Under Chapter 9, Title 17, United States Code, to Nationals, Domiciliaries and Sovereign Authorities of Austria**

In accordance with the authority vested in me by Amendment 2 to Department Organization Order 10-14 regarding 17 U.S.C. 914, and based upon the record of this proceeding commenced on March 7, 1989, I find that: Austria is making and has been making, since March 7, 1989, good faith efforts toward providing effective protection for mask works in compliance with 17 U.S.C. 902(a)(2); that nationals, domiciliaries, and sovereign authorities of Austria and persons controlled by them are not engaged in the misappropriation or unauthorized distribution or commercial exploitation of mask works; and that the issuance of this order will promote international comity with respect to the protection of mask works.

Accordingly, nationals, domiciliaries, and sovereign authorities of Austria are entitled to protection under Chapter 9 of Title 17, United States Code, subject to compliance with all formalities specified therein. The effective date of this order is March 7, 1989, and this order shall terminate on October 31, 1989.

Date: May 10, 1989.

**Donald J. Quigg,**

*Assistant Secretary and Commissioner of Patents and Trademarks.*

[FR Doc. 89-12291 Filed 5-22-89; 8:45 am]

BILLING CODE 3510-16-M

## COMMISSION OF FINE ARTS

### Meeting

The Commission of Fine Arts' next scheduled meeting is Thursday, 25 May 1989 at 10:00 a.m. at the Commission's offices at 708 Jackson Place NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566-1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC, 15 May 1989.

**Charles H. Atherton,**

*Secretary.*

[FR Doc. 89-12350 Filed 5-22-89; 8:45 am]

BILLING CODE 6330-01-M

## DEPARTMENT OF DEFENSE

### Public Information Collection Requirement Submitted to OMB for Review

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title, Applicable Form, and Applicable OMB Control Number* Request for Army Reserve Retirement Pay; DA Form 4240; OMB Control Number 0702-0076.

*Type of Request:* Reinstatement.

*Average Burden Hours/Minutes per Response:* 20 minutes.

*Frequency of Response:* On occasion.

*Number of Respondents:* 5,200.

*Annual Burden Hours:* 1,560.

*Annual Responses:* 5,200.

*Needs and Uses:* Prospective retirees use DA Form 4240 to request reserve retirement pay. It provides the correspondence address, designation of beneficiaries, statement of other government payments received, and other information required to establish a retired pay account for reservist. These payments are authorized under 10 U.S.C. 1331.

*Affected Public:* Retired Army personnel.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* Dr. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

May 16, 1989.

[FR Doc. 89-12262 Filed 5-22-89; 8:45 am]

BILLING CODE 3810-01-M

### Office of the Secretary

### Defense Information School Board of Visitors Meeting

**AGENCY:** Defense Information School Board of Visitors, Office of the Secretary, DOD.

**ACTION:** Notice of meeting.

**SUMMARY:** A meeting will be held to review the Defense Information School's accreditation procedures and the administration and content of the school's public affairs programs of instruction. The meeting is open to the public and will be conducted in Room 270A, Building #400, the Defense Information School, Ft. Benjamin Harrison, IN 46216-6200.

**DATES:**

June 22, 1989—8:00 a.m. to 4:00 p.m., and

June 23, 1989—8:00 a.m. to 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas W. Green, Internal Information Plans, American Forces Information Service, 601 N. Fairfax

Street, Suite 311, Alexandria, VA 22314-2007.

**L.M. Bynum,**

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

May 16, 1989.

[FR Doc. 89-12264 Filed 5-22-89; 8:45 am]

BILLING CODE 3810-01-M

## Defense Communications Agency

**[Requisition Number 238A]**

## Scientific Advisory Group; Closed Meeting

The DCA Scientific Advisory Group will hold a closed meeting on June 12 and 13, 1989, at the MITRE Corporation, Hayes Building, 7225 Colshire Rd, McLean, Virginia.

The purpose of the meeting is to address 21st century technology and management planning issues relating to DoD's information systems and DCA's roles and missions.

Any persons desiring information about the Advisory Group may telephone, 202-746-3643, or write Associate Director for Engineering and Technology, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Virginia 22204.

This is a closed meeting due to the discussion of classified material which requires protection in the interest of National Defense. (5 U.S.C. 552(c)(1)).

**John G. Grimes,**

*Executive Secretary, Scientific Advisory Group.*

[FR Doc. 89-12352 Filed 5-22-89; 8:45 am]

BILLING CODE 3610-05-M

## Corps of Engineers, Department of Army

## Environmental Statements; Availability; Dade County, Florida

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** The proposal consists of filling about 4 acres of wetlands for construction of a 140 MGD wellfield in the Bird Drive basin area of West Dade County, Florida.

**FOR FURTHER INFORMATION CONTACT:** Questions about the proposed action and DEIS can be addressed to: U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232-0019; Attn: Dr. Jonathan D. Moulding, 904/791-2286.

**SUPPLEMENTARY INFORMATION:**

1. The following alternatives will be considered:

a. Permit issued for propoed project.

b. Permit issued for a project of alternative size and/or location.

c. Permit denied.

2. a. Comments on alternatives and environmental concerns are invited from any affected Federal, State and local agencies, affected Indian tribes, and other private organizations and parties.

b. Significant issues to be analyzed in depth in the EIS that have been tentatively identified to date are the extent of the effects on wetlands from wellfield drawdown, and the means to mitigate for those effects.

c. Coordination with appropriate Federal and State agencies is required under provisions of the Endangered Species Act and the National Historic Preservation Act.

3. A Scoping meeting is being planned for the 2nd quarter CY 1889 in Miami, Florida.

4. The DEIS is expected to be available for review in the 4th quarter CY 1989.

Dated: May 8, 1989.

**A.J. Salem,**

*Chief, Planning Division.*

[FR Doc. 89-12347 Filed 5-22-89; 8:45 am]

BILLING CODE 3710-AJ-M

## Defense Mapping Agency

## Environmental Assessment and Negative Declaration Regarding the Closure of the DMA Field Office, Kansas City, MO

**AGENCY:** Defense Mapping Agency, DOD.

**ACTION:** Notice of the availability of the environmental assessment and negative declaration regarding the closure of the Defense Mapping Agency (DMA) field office in Kansas City, Missouri.

**SUMMARY:** On 13 March 1989, Major General Robert F. Durkin, U.S. Air Force, the Director, Defense Mapping Agency, 8613 Lee Highway, Fairfax, Virginia 22031-2137, directed the Director, Defense Mapping Agency Aerospace Center (DMAAC), St. Louis, Missouri, to study the feasibility and desirability of closing the Kansas City Field Office of the Defense Mapping Agency located in Kansas City, Missouri. On 16 May 1989, the Director, DMA, issued his determination, based upon the Feasibility Study, that in view of the new and changing technology being incorporated in Agency operations, and in view of potential savings in the use of resources that would result from the new technology, the Kansas City Field Office is to be closed by 30 September 1989, and its mission, functions, and personnel transferred to the DMA Aerospace Center, St. Louis, Missouri.

Notice is hereby given, 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 Department of Defense Regulation "Environmental Considerations in Department of Defense Actions" (32 CFR Part 214) that an Environmental Impact Statement is not being prepared for the proposed closure of the Kansas City Field Office. The Environmental Assessment of this action indicates that this closure will not create any significant adverse impact on the physical environment and that no significant controversy related to the natural environment in associated with this action. As a result of these findings, the Director, DMA, has determined that the preparation of an Environmental Impact Statement is not required in this case.

This relocation of the mission and functions performed by the Kansas City Field Office to the DMA Aerospace Center will affect approximately 99 personnel of the Kansas City Field Office. All employees will be offered jobs at the DMA Aerospace Center. All who accept these jobs will be given permanent change of station and relocation services benefits, including a home-purchase option.

The Environmental Assessment, the Finding of No Significant Impact, and the Feasibility Study are on file and may be reviewed by interested parties at DMAAC Kansas City Field Office, ATTN: KC (Clinton Walker), 609 Hardesty Avenue, Bldg. 11, Kansas City, Missouri 64124-3093 and at the Office of the Director, DMAAC, ATTN: James Mahan, 3200 South Second Street, Bldg. 25, St. Louis, Missouri 63118-3399.

**DATE:** Administrative action on implementation of the decision will be deferred from June 22, 1989, at which time implementation will begin unless comments are received which result in a contrary determination.

**FOR FURTHER INFORMATION CONTACT:** Mr. John R. Vaughn, Comptroller, Defense Mapping Agency, 8613 Lee

Highway, Fairfax, Virginia 22031-2137, phone number (703) 756-9206.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

May 16, 1989.

[FR Doc. 89-12263 Filed 5-22-89; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 9885-003 Idaho]**

### Environmental Energy Co.; Availability of Environmental Assessment

May 18, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a major license for the proposed Falls River Hydroelectric Project located on the Falls River in Fremont County, near the city of Ashton, Idaho, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-12303 Filed 5-22-89; 8:45 am]

BILLING CODE 6717-01-M

**[Project No. 10521]**

### Mahoning Hydro Associates; Availability of Environmental Assessment

May 18, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a minor license for the proposed Mahoning Creek Dam Hydroelectric and has prepared a draft Environmental Assessment (EA) for the proposed project.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Acting Secretary Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Please affix Project No. 10521 to all comments. For further information please contact R. Feller, Environmental Assessment Coordinator, at (202) 376-9816.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-12304 Filed 5-22-89; 8:45 am]

BILLING CODE 6717-01-M

**[Project No. 9988-000, Georgia]**

### Spartan Mills; Availability of Environmental Assessment

May 18, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a major license (5 megawatts or less) for the proposed John P. King Hydroelectric Power Project located on the Augusta Canal/Savannah River in the City of Augusta, Richmond County, Georgia, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-12305 Filed 5-22-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket Nos. CP89-1324-000 et al.]**

### Transcontinental Gas Pipe Line Corp. et al.; Natural Gas Certificate Filings

May 17, 1989.

Take notice that the following filings have been made with the Commission:

**1. Transcontinental Gas Pipe Line Corp.**

[Docket No. CP89-1324-000]

Take notice that on May 5, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP89-1324-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide a transportation service for Enron Gas Marketing (Enron), under Transco's blanket certificate issued in Docket No. CP88-328-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco states that pursuant to a service agreement dated February 22, 1989, it proposes to transport up to 1,020,895 dt equivalent of natural gas per day on an interruptible basis. Transco indicates that it would receive that gas at various existing receipt points in onshore and offshore Louisiana and in Texas, Mississippi, and Pennsylvania, and redeliver the gas at specified points in Onshore Louisiana, Texas and Georgia.

Transco also states that no construction of facilities woud be required to provide this service. Transco further states that the peak day, average day, and annual volumes would be 1,020,895 dt equivalent of natural gas, 100,000 dt equivalent of natural gas, and 36,500,000 dt equivalent of natural gas, respectively. Transco indicates that it would charge the rates and abide by the terms and conditions set forth in its Rate Schedule IT.

Transco states that it would provide the service for a primary term expiring on March 24, 1989, and continue the service thereafter until terminated by either Transco or Enron upon thirty days' written notice. Transco advises that service under Section 384.223(a) of the Commission's Regulations commenced on April 15, 1989, as reported in Docket No. ST89-3134-000.

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**2. Panhandle Eastern Pipe Line Co**

[Docket N. CP89-1330-000]

Take notice that on May 8, 1989, Panhandle Eastern Pipe Line Company (Panhandle), 5400 Westheimer Court, Houston, Texas 77251, filed in Docket No. CP89-1330-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a new delivery point to Kansas Power and Light Company (KP & L), construct and operate appurtenant facilities, and to reduce the certificated maximum daily delivery obligation at the Wilkins delivery point, all under the certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states the KP & L, an existing jurisdictional sales customer under Rate Schedule G-2 has requested Panhandle to add a delivery point, Fieldview, to its GS-2 sales agreement. Panhandle states that it proposes to construct a tap into the Windsor Lateral in Johnson County, Missouri. It is stated that KP & L will then construct facilities to connect the line to the Fieldview Addition subdivision. It is further stated that the estimated daily peak deliveries for the proposed sales tap is 35 Mcf per day for the first and second years, 125 Mcf per day for the third and fourth years and 200 Mcf per day for the fifth year and thereafter.

In addition, Panhandle states that it proposes to reduce the certificated maximum daily delivery obligation at the Wilkins delivery point from 8,000 Mcf to 7,800 Mcf. It is stated that these changes will not affect the certificated entitlement of KP & L's G-2 contract since the aggregate volumes delivered on a single day will not exceed 10,000 Mcf.

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**Great Lakes Gas Transmission Co.**

[Docket No. CP89-1331-000]

Take notice that on May 8, 1989, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP89-1333-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convienience and necessity authorizing Great Lakes to transport natural gas, on an interruptible basis, for the account of Wisconsin Public Service Corporation (WPSC), until November 1, 1994, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Lakes states that WPSC has requested that Great Lakes transport up to 10,000 Mcf per day for the account of WPSC, from a point on the International Border between the United States and Canada, at Emerson, Manitoba (Emerson), where the facilities of Great Lakes interconnect with the facilities of TransCanada Pipe Lines Limited, to an existing point of interconnection between the facilities of Great Lakes and ANR Pipeline Company located at Fortune Lake, Michigan (Fortune Lake Delivery Point). Great Lakes indicates that WPSC and Great Lakes entered into a transportation service agreement (Agreement) dated April 14, 1989, which implements these arrangements. Great Lakes further indicates that the term of the Agreement expires on November 1, 1994.

Great Lakes states that the Agreement provides for a rate for the transportation service to the Fortune Lake Delivery Point which is equal to the 100 percent load factor rate as determined from the demand and commodity components utilized in the transportation component of existing Rate Schedule CQ-2 of Great Lakes' FERC Gas Tariff, under which volumes of natural gas are also transported from Emerson to Great Lakes' Central zone. Great Lakes further states that no new facilities would be required to provide the proposed transportation service.

*Comment date:* June 7, 1989 in accordance with Standard Paragraph F at the end of the notice.

**4. Northwest Pipeline Corp.**

[Docket No. CP89-1334-000]

Take notice that on May 8, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1334-000 a request pursuant to § 157.205 (18 CFR 157.205) of the Commission's Regulations for authorization to transport natural gas on behalf of Conoco, Inc. (Conoco), a producer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport on an interruptible basis up to 20,000 MMBtu equivalent of natural gas on a peak day for Conoco, 3,500 MMBtu equivalent on an average day and 1,300,000 MMBtu equivalent on an annual basis. It is stated that Northwest would receive the gas for Conoco's account at existing points on Northwest's system in San Juan and Rio Arriba Counties, New Mexico, and La Plata County, Colorado, and that Northwest would deliver equivalent volumes at existing points in San Juan and Rio Arriba Counties, New Mexico, and La Plata County, Colorado. It is explained that the service commenced March 9, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-3016.

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**5. Northwest Pipeline Corp.**

[Docket No. CP89-1336-000]

Take notice that on May 8, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1336-000 a request pursuant to § 157.205 (18 CFR 157.205) of the Commission's Regulations for authorization to transport natural gas on behalf of BP Gas Marketing Company (BP), a marketer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport on an interruptible basis up to 150,000 MMBtu equivalent of natural gas on a peak day for BP, 100 MMBtu equivalent on an average day and 36,500 MMBtu equivalent on an annual basis. It is stated that Northwest would receive the gas for PB's account at various existing points on Northwest's system, as designated in the transportation agreement, and that Northwest would deliver equivalent volumes at various existing points on Northwest's system. It is explained that the service commenced March 23, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-3078.

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**6. Northern Natural Gas Co.**

[Docket No. CP89-1338-000]

Take notice that on May 9, 1989, Northern Natural Gas Company, Division of Enron Corporation (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-1338-000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon 20,690 feet of 16-

inch diameter pipeline in Andrews County, Texas, by sale to Regal Gas Corporation (Regal), an intrastate pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the segment of pipeline that it proposes to abandon is immediately downstream of the Andrews compressor station that was sold by Northern to Regal pursuant to Commission authority granted in Docket No. CP88-304-000 by order issued June 15, 1988. Northern further states that since the sale of the Andrews compressor station, Northern has not used the 20,960 feet of 16-inch diameter pipeline that it proposes to abandon. Northern indicates that the proposed abandonment would not result in abandonment of service to any of Northern's existing customers.

*Comment date:* June 7, 1989, in accordance with Standard Paragraph F at the end of this notice.

**7. Transcontinental Gas Pipe Line Corp.**

[Docket No. CP89-1341-000]

Take notice that on May 9, 1989, Transcontinental Gas Pipe Line Corporation (Transco) Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP89-1341-000, a request pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Enron Gas Marketing, Inc. (Enron) under its blanket certificate issued in Docket No. CP88-328-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco states that the total volume of natural gas to be transported for Enron on a peak day would be 1,843,600 dt; on an average day would be 492,000 dt; and on an annual basis would be 663,696,000 dt.

Transco states that it would receive the natural gas at various existing receipt points in onshore and offshore Louisiana, onshore and offshore Texas, Mississippi, Pennsylvania and New Jersey. Transco further states that it would deliver the natural gas at various existing delivery points in onshore and offshore Louisiana, Georgia, Mississippi, Delaware, Pennsylvania, Maryland, New Jersey, North Carolina, Virginia, New York and South Carolina.

Transco indicates that it commenced the transportation of natural gas for Enron on March 24, 1989, as reported in Docket No. ST89-3003-000, for a 120-day period pursuant to Section 284.223(a) of the Regulations (18 CFR 284.223(a)).

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**8. Northwest Pipeline Corp.**

[Docket No. CP89-1343-000]

Take notice that May 9, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1343-000, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new meter station near Longview, Washington; all as more fully set forth in the application which is on file with the Commission and open to inspection.

Northwest states that the Weyerhaeuser Company (Weyerhaeuser) owns a pulp and paper products mill near Longview, Washington and North Pacific Paper Corporation (Norpac) also owns a paper products mill in the same area. Northwest explains that historically, the natural gas requirements of Weyerhaeuser and Norpac have been served by Cascade Natural Gas Corporation (Cascade), a local distribution company customer of Northwest. However, it is explained, Weyerhaeuser and Norpac notified Northwest that they intend to extend their plant facilities near Longview by constructing a jointly-owned pipeline approximately nine miles to Northwest's transmission system and requested Northwest to apply for Commission authority to construct and operate a new tap and meter at an interconnection with that facility.

Northwest requests certificate authorization to construct and operate a new meter station in Cowlitz County, Washington at a point of interconnection between Northwest's 26-inch mainline and the contemplated Weyerhaeuser/Norpac pipeline. Northwest states that the meter station would consist of a six-inch tap, meter and appurtenant facilities designed to deliver up to 24,000 MMBtu's per day. The estimated cost of the meter station, including filing fees, is $167,350.00.

Northwest states that once the new meter station is authorized and constructed, the flexible delivery point authority (18 CFR 284.221(h)) under Northwest's blanket transportation certificate would be used to commence deliveries to Weyerhaeuser and Norpac at the new point under transportation agreements with Weyerhaeuser and Norpac.

*Comment date:* June 7, 1989, in accordance with Standard Paragraph F at the end of this notice.

**9. United Gas Pipe Line Co.**

[Docket No. CP89-1344-000]

Take notice that on May 10, 1989, United Gas Pipe Line Company (United), P.O. Box 1478 Houston, Texas 77251-1478, filed in Docket No. CP89-1344-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Phoenix Gas Pipeline Company (Phoenix), an intrastate pipeline, under its blanket authorization issued in Docket No. CP88-6-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for Phoenix, pursuant to an interruptible transportation service agreement dated December 6, 1988, as amended on March 17, 22 and 27, 1989 (Contract No. TI-21-2010). The transportation agreement is effective for a primary term of one month from the date of first delivery thereunder or such date that the parties mutually agree to terminate the agreement. The agreement shall continue for successive one month terms unless terminated by thirty days written notice by either party. United proposes to transport up to a maximum of 103,000 MMBtu of natural gas on an average and peak day; and on an annual basis 37,595,000 MMBtu of natural gas for Phoenix. United proposes to receive the subject gas at existing points of interconnection located in the states of Louisiana, Mississippi and Texas. It is stated that the points of delivery are located in the states of Alabama, Florida, Louisiana, Mississippi and Texas. United avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. United commenced such self-implementing service on March 28, 1989, as reported in Docket No. ST89-3211-000.

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**10. Natural Gas Pipeline Co. of America**

[Docket No. CP89-1346-000]

Take notice that on May 10, 1989, Natural Gas Pipeline Company of

America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-1346-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport, on an interruptible basis, up to a maximum of 200,000 MMBtu equivalent of natural gas per day (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) for American Central Gas Marketing Company (American Central), a marketer of natural gas, under Natural's blanket certificate issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural proposes to transport 30,000 MMBtu equivalent of natural gas on an average day and 10,950,000 MMBtu equivalent of natural gas as an annual quantity. Natural states that the receipt points are located in Texas, offshore Texas, New Mexico, Oklahoma, Louisiana, offshore Louisiana, Illinois, Arkansas, Kansas, Iowa, Nebraska and Wyoming and the delivery point is located in Illinois. Natural further states that transportation service for American Central commenced on March 9, 1989, under the 120-day automatic provisions of Section 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-3460.

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**11. Texas Gas Transmission Corp.**

[Docket No. CP89-1349-000]

Take notice that on May 10, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-1349-000 a request pursuant to § 157.205 (18 CFR 157.205) of the Commission's Regulations for authorization to transport natural gas on behalf of PPG Industries, Inc.—Harmarville (PPG), under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport, on an interruptible basis, up to 3,000 MMBtu equivalent of natural gas on a peak day, 200 MMBtu equivalent on an average day and 73,000 MMBtu equivalent on an annual basis for PPG. It is stated that Texas Gas would receive the gas for PPG's account at various points on Texas Gas' system and would deliver equivalent volumes at an interconnection with Consolidated Gas Transmission Corporation in Warren County, Ohio. It is asserted that the transportation would be effected using existing facilities and no construction of facilities would be required. It is explained that the transportation service commenced April 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-3010.

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**12. Texas Gas Transmission Corp.**

[Docket No. CP89-1350-000]

Take notice that on May 10, 1989, Texas Gas Transmission Corporation, (Texas Gas) 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-1350-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Nestle Foods Corporation (Nestle), under its blanket authorization issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas would perform the proposed interruptible transportation service for Nestle, an end-user, pursuant to a gas transportation agreement dated November 23, 1988. The term of the transportation agreement is from the date of execution by Nestle and shall continue in effect month-to-month thereafter, unless terminated upon 30 days written notice by either party. Texas Gas proposes to transport on a peak day up to 2,750 MMBtu; on an average day up to 1,233 MMBtu; and on an annual basis 450,000 MMBtu for Nestle. Texas Gas proposes to receive the subject gas from an existing point of receipt on its system for transportation and redelivery to Nestle at an existing point of delivery in Warren County, Ohio. The proposed rate to be charged is contained in Texas Gas' currently effective IT rate schedule.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. Texas Gas commenced such self-implementing service on April 1, 1989, as reported in Docket No. ST89-2979-000.

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**13. Texas Gas Transmission Corp.**

[Docket No. CP89-1351-000

Take notice that on May 10, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-1351-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for PPG Industries, Inc.-Tipton (PPG-Tipton), under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport on an interruptible basis up to 3,000 MMBtu of natural gas on a peak day, 325 MMBtu on an average day and 118,625 MMBtu on an annual basis for PPG-Tipton. Texas Gas states that it would perform the transportation service for PPG-Tipton under Texas Gas' Rate Schedule IT. Texas Gas indicates that it would transport the gas from various receipt points to a delivery point located in Warren County, Ohio.

It is explained that the service commenced April 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-3014. Texas Gas indicates that no new facilities would be necessary to provide the subject service.

*Comment date:* July 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

**Standard Paragraphs**

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 358.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to

intervene in accordance with the Commision's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commision's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 day after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-12307 Filed 5-22-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. TA89-1-21-001 and TM89-2-21-001**

## Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 17, 1989.

Take notice that Columbia Gas Transmission Corporation (Columbia) on May 11, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to become effective on May 1, 1989:

Substitute One hundred and thirty-fourth Revised Sheet No. 16

Substitute Thirty-ninth Revised Sheet No. 64A

Columbia states the foregoing tariff sheets are being filed in compliance with the Commission's order issued April 27, 1989 in Docket No. TA89-1-21-000. Such order directed Columbia to refile its PGA tariff sheets to be effective May 1, 1989 to reflect revised pipeline supplier rates in effect on May 1, 1989.

Columbia indicates that when compared to the rates contained in Columbia's PGA filing of February 28, 1989, the revised rates set forth on Substitute One hundred and thirty-fourth Revised Sheet No. 16 reflect a decrease of $.023 per Dth in the Demand-1 sales rate and a decrease of .54¢ per Dth in the Demand-2 sales rate.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before May 24, 1989. 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 proceedings. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-12300 Filed 5-22-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. SA89-7-000]**

## McKelvy Operating Corp.; Petition for Adjustment

May 18, 1989.

Take notice that on April 10, 1989, McKelvy Operating Corporation (McKelvy) filed a petition under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) requesting the Commission to grant adjustment relief from the requirements of § 271.805 of the Commission's regulations and payment of refunds plus applicable interest due its purchaser.

McKelvy states that it is the owner and operator of the Spikes No. 29 well located in Finney County, Kansas. McKelvy further states that the instant gas is subject to a November 22, 1960 gas purchase contract with Cities Service Gas Company (Cities Service), now Williams Natural Gas Company. McKelvy submits that from December 1978 to May 1979, the subject well was shut in due to its inability to produce gas through water blocking the formation and perforations and that on September 7, 1978, an amendment to the subject gas purchase contract was executed providing that in consideration for McKelvy's agreement to install, maintain, and operate water removal equipment, Cities Service agreed to pay an increased price for gas sold under the contract. McKelvy further submits that on or about May 22, 1979, it applied acid treatment and installed rods, tubing, and surface pumping equipment in the subject well and that it spent a large amount of money to perform this enhanced recovery technique which was necessary to avoid abandonment of the well and the loss of substantial reserves of gas.

McKelvy asserts that on September 14, 1979, it filed an application with the Kansas State Corporation Commission for a determination that the subject well qualified as a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA), which application was granted on April 24, 1980. McKelvy further asserts that by letter dated March 18, 1981, Cities Service first notified it that the subject well produced gas at a rate exceeding an average of 60 Mcf per day for the 90-day production period beginning May 20, 1980, and was disqualified as a stripper well. McKelvy submits that on or about May 7, 1981, it filed a notice of disqualification, as amended May 12, 1981, stating that the subject well disqualified as a stripper well beginning with the 90-day period ending August 31, 1979, and also filed an application under § 271.805 requesting a determination that the increased production from the subject well was the result of enhanced recovery techniques and that the well continued to qualify for the section 108 price.

McKelvy states that by letter dated June 15, 1987, the Commission ordered it to refund the difference between the section 108 price collected for the period from September 1, 1979 to May 11, 1981, and the otherwise applicable maximum lawful price plus interest. McKelvy contends that the refund is inequitable and will cause it special hardship and an undue distribution of burdens since the purchaser did not begin paying the section 108 price until July 1980. McKelvy, further contends that the refund is inequitable and results in undue hardship and financial burdens because at the NGPA section 104 price,

adjusted for Btu content, its out-of-pocket expenses exceed the revenues from the subject sale.

The procedure applicable to the conduct of this adjustment proceeding is found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**. The petition is on file with the Commission and is available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-12306 Filed 5-22-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP88-259-013]**

## Northern Natural Gas Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

May 17, 1989.

Take notice that Northern Natural Gas Company, Division of Enron Corp., (Northern) on May 11, 1989, tendered for filing revised changes in its FERC Gas Tariff to correct pagination errors in the filing made April 28, 1989 in this proceeding.

The Company states that copies of the filing have been mailed to each of its customers purchasing gas and receiving transportation and gathering services under its FERC Gas Tariff and to interested State Commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests must be filed on or before May 24, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-12302 Filed 5-22-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP88-47-021]**

## Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

May 17, 1989.

Take notice that on May 12, 1989, Northwest Pipeline Corporation ("Northwest"), in compliance with the order of the Federal Energy Regulatory Commission ("Commission") issued on February 24, 1989 in the above docket number, submitted the following tariff sheets, to be a part of its FERC Gas Tariff:

**First Revised Volume No. 1**

Second Revised Sheet No. 120
Third Revised Sheet No. 121
Substitute First Revised Sheet No. 121-A

**Original Volume No. 1-A**

Second Revised Sheet No. 317
First Amended First Revised Sheet No. 318

Northwest states that these tariff sheets reflect new provisions setting forth a 100% load factor authorized overrun rate, and an unauthorized overrun rate at a level higher than the authorized rate for annual volumes purchased or transported in excess of a customer's annual D-2 nomination. These provisions are reflected in section 15 of the General Terms and Conditions of Northwest's First Revised Volume No. 1 Tariff and Section 14 of Rate Schedule TF-1 of Northwest's Original Volume No. 1-A. Northwest requested a July 1, 1989 effective date for the tendered sheets.

Any person desiring to be heard or 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 §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 24, 1989. 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 in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-12301 Filed 5-22-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. ER89-392-000]**

## Montana Power Co.; Filing

May 11, 1989

Take notice that on May 1, 1989, the Montana Power Company (Montana Power) tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Regulations under the Federal Power Act its proposed Rate Schedule REC-89A, applicable for sales of electricity by Montana Power for resale to Central Montana Electric Power Cooperative, Inc., (Central Montana) (Rate Schedule FPC No. 39) and Bighorn County Electric Cooperative, Inc., (Bighorn) (Rate Schedule FPC No. 40). This filing has been served upon Bighorn and Central Montana.

Montana states that Rate Schedule REC-89-A will provide it with a decrease in revenues from sales to these customers of $626,494 (3.76%) during the year ending June 30, 1990, and implements the fourth annual rate adjustment pursuant to a Settlement Agreement approved in Docket No. ER84-359-000, 31 FERC ¶ 61,060 (1985).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW. Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 26, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-12274 Filed 5-22-89; 8:45 am]

BILLING CODE 6717-01-M

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# ENVIRONMENTAL PROTECTION AGENCY

**[FRL 3574-8]**

## Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for an Equivalent Method Determination

Notice is hereby given that on April 12, 1989, the Environmental Protection Agency received an application from Tecan ENVIA, Inc., P.O. Box 8101,

Hillsborough, North Carolina 27278, to determine if their Model AF 21M UV Fluorescence Sulfur Dioxide Analyzer (manufactured by Environnment, S.A., 111 Bd. Robespierre, F-78300 Poissy, France) should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53. If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register.**

**Erich W. Bretthauer,**

*Acting Assistant Administrator for Research and Development.*

[FR Doc. 89-12319 Filed 5-22-89; 8:45 am]

BILLING CODE 6560-50-M

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[FRL-3574-7]

## Science Advisory Board, Sediment Criteria Subcommittee; Open Meeting

*Summary:* Under the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that a two-day meeting of the Sediment Criteria Subcommiteee of the Environmental Effects, Transport and Fate Committee of the Science Advisory Board (SAB) will be held on June 1-2, 1989. The meeting will begin at 9:00 a.m. and will be held in the Grand Ballroom I of the Ramada Renaissance Hotel, Washington-Dulles International Airport, 13869-71 Park Center Road, Herndon, Virginia 22071. Telephone (702) 834-1989. The meeting will adjourn no later than 12:00 p.m. on June 2, 1989.

The Subcommittee has been charged with evaluating the scientific and technical foundations of methodologies available to the Agency for estimating sediment toxicity and the biological impact of inplace contaminated sediments. In addition, the Subcommittee has agreed to comment on the feasibility of utilizing each methodology to determine the extent of contamination and risk posed to the environment and human health. Research directions will also be identified for strengthening each methodology reviewed.

*Purpose:* The specific purpose of this meeting is to receive information on seven methods that have potential utility for setting sediment critieria. The technical aspects of these methodologies will be presented by Agency staff for future consideration and evaluation.

*For Further Information:* This meeting will be open to the public. Any member of the public who wishes to present information, or receive further details should contact Ms. Janis C. Kurtz, Executive Secretary or Mrs. Dorothy Clark, Staff Secretary, Science Advisory Board (A-101-F), U.S. EPA, 401 M Street, SW., Washington, DC 20460. Telephone (202) 382-2552 or (FTS) 382-2552. Written comments will be accepted until 5:00 p.m. May 30, 1989. Fifteen copies of such comments should be sent to Ms. Kurtz at the above address. Persons interested in making brief oral statements before the Subcommittee must contact Ms. Kurtz no later than May 26, 1989 to be assured of space on the agenda. Oral presentations should be supplemented by a written statement for the record, which may be submitted (15 copies) to Ms. Kurtz at the time of the meeting for distribution to members of the Subcommittee. Seating at the meeting will be on a first come basis.

**Donald G. Barnes,**

*Director, Science Advisory Board.*

May 8, 1989.

[FR Doc. 89-12320 Filed 5-22-89; 8:45 am]

BILLING CODE 6560-50-M

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# FEDERAL DEPOSIT INSURANCE CORPORATION

## Proposed Statement of Policy on Minimum Recommended External Auditing Procedures for State Nonmember Banks

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Request for comments.

**SUMMARY:** The FDIC hereby requests comments on a proposed Statement of Policy which identifies the minimum auditing procedures that the FDIC recommends that an independent external auditor perform annually at each state nonmember bank. The procedures cover the followng areas: securities; loans; allowance for loan losses; insider transactions; and internal controls. The policy statement also describes the extent of testing that is appropriate when carrying out these procedures and the audit reports banks should file with the FDIC.

**DATE:** Comments on the proposal must be received by July 24, 1989.

**ADDRESS:** All comments should be submitted to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, telephone (202) 898-6903.

**FOR FURTHER INFORMATION CONTACT:** Doris L. Marsh, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, telephone (202) 898-8914.

**SUPPLEMENTARY INFORMATION:** On November 16, 1988, the Board of Directors of the FDIC adopted a Statement of Policy Regarding Independent External Auditing Programs of State Nonmember Banks which became effective on December 28, 1988. That statement of policy strongly encourages each state nonmember bank to have an annual external auditing program performed by an independent auditor. It defines an external auditing program as a set of procedures designed to test and evaluate high risk areas of a bank's business which may be performed by an independent auditor who may or may not be a public accountant. The policy encourages each bank to have an annual audit of its financial statements performed by an independent public accountant and states that such an audit would generally be considered to be a satisfactory external auditing program.

Nevertheless, the policy statement also explains acceptable alternatives for those banks that find the external auditing program that will best meet their individual needs will be other than an audit. These alternatives may include directors' examinations, "engagement audits," specified auditing procedures, balance sheet audits, and "operational audits." However, no widely accepted national standards exist for the specific procedures that must be performed in many of these alternatives.

Thus, when notified by a bank that one of these alternative reviews has been performed, the FDIC has no assurance as to the actual procedures which have been performed. For that reason, the FDIC staff in conjunction with the accounting profession has identified a set of minimum auditing procedures that represents an alternative external auditing program for banks, The FDIC staff believes that these procedures will be less costly than an audit and will generally cover the high risk areas of a bank. This, the FDIC proposes that, at a minimum, the auditing procedures specified in this proposed statement of policy be performed annually at all state nonmember banks that do not undergo an audit of their financial statements.

The text of the proposed statement of policy follows:

### Statement of Policy on Minimum Recommended External Auditing Procedures for State Nonmember Banks

In the statement of Policy Regarding Independent Extenal Auditing Programs of State Nonmember Banks, the FDIC strongly encourages each state nonmember bank to have an annual

audit[1] of its financial statements performed in accordance with generally accepted auditing standards by an independent pubic accountant. Nevertheless, the FDIC realizes that the audit committee or board of directors of certain state nonmember banks may determine not to engage an independent public accountant to perform an audit for various reasons. In those instances, the FDIC recommends that each state nonmember bank, at a minimum, have the following specified auditing procedures performed annually by an independent external auditor (who need not be an independent public accountant) as part of its external auditing program.

The recommended auditing procedures are intended to address the high risk areas common to all banks. However, each bank must also review the risks inherent in its particular business and determine if additional procedures may be needed to cover other high risk areas in which it has activities. For example, if a bank or its subsidiaries has significant real estate investments, securities broker-dealer or similar activities (including those described in § 337.4 of the FDIC Rules and Regulations), or trust department operations, among others, the FDIC urges the bank to consider expanding the scope of its external auditing program so that it includes auditing procedures in these other high risk areas. If a bank chooses to have an audit performed by an independent public accountant, such audit of the bank's financial statements will satisfy these minimum external auditing guidelines.

The independent auditor (or the public accountant) should be informed of and permitted access to all examination reports, administrative orders, and any additional written communication between the bank and the FDIC or state banking authorities. The auditor should obtain bank management's written representation that he has been informed of and granted access to all such documents prior to the completion of his field work.

*Extent of Testing*

Where the procedures require testing or determinations to be made, sampling may be used. Both judgmental and statistical sampling may be acceptable methods of selecting samples to test. However, the use of statistical sampling is encourages because it provides an objective way to measure and control the risk of sampling error. The reliability required in sample results may be specified in advance by the auditor and he may compute a sample size that provides that degree of reliability. Using the concepts of probability, each item or dollar has an equal probability of being examined under statistical sampling and the auditor controls the risk in relying on sample results. Either numerical sampling or proportional (monetary) sampling may be used, but proportional sampling gives items with larger dollar amounts a greater chance of being selected. If proportional (monetary) sampling is utilized, sample sizes should be based on a Monetary Precision of no less than one (1) percent of total assets and a confidence level of at least 90 percent.

Unless specified otherwise, minimum recommended judgmental sample sizes are 25 items or ten (10) percent of the items involved, whichever is greater.

*Reports To Be Filed With the FDIC*

Each state nonmember bank that undergoes any external auditing work, regardless of the scope of the work, is requested to furnish a copy of the reports by the independent public accountant or other external auditor, including any management letters, to the appropriate FDIC regional office within 15 days after their receipt by the bank. In addition, each bank is requested to promptly notify the appropriate FDIC regional office when any independent public accountant or other external auditor is initially engaged to perform external auditing procedures and when a change in its accountant or auditor occurs.

Securities

1. Review the investment policies and procedures established by the bank's board of directors (BOD) and the BOD (or Investment Committee) minutes to verify that these policies and procedures are periodically reviewed and approved. The policies and procedures should include, but not be limited to:

a. Investment objectives;

b. Permissible types of investments;

c. Diversification guidelines to prevent undue concentration;

d. Maturity schedules;

e. Limitation on quality ratings;

f. Hedging activities; other uses of futures, forwards, options, and other financial instruments; and trading activities.

g. Handling exceptions to standard policies;

h. Valuation procedures and frequency;

i. Limitations on the investment authority of officers; and

j. Frequency of periodic reports to the BOD on securities holdings.

2. Test compliance with the BOD's investment policies and procedures and determine whether information reported to the BOD (or Investment Committee) for securities transactions is accurate by comparing the following to the trade tickets for selected items (including futures, forwards, and options):

a. Descriptions

b. Intertest rate

c. Maturity

d. Par value, or number of shares

e. Cost

f. Market value on date of transaction.

3. Using the same selected items, analyze the securities register for accuracy and confirm the existence of the selected items by examining securities physically held in the bank and verifying the safekeeping of those securities held by others.

4. Review policies and procedures regarding controls which ensure that unauthorized transactions do not occur. Test selected control points. Determine that investment officers and/or appropriate committee members have been properly authorized to purchase/sell investments and determine if there are any limitations or restrictions on delegated responsibilities.

5. Confirm totals in the investment sub-ledger(s) at the audit date. Review the reconciliation of investment sub-ledger(s) to the general ledger. Trace the general ledger total(s) to the most recent Call Report.

6. Obtain a schedule of book and par values as well as market values and rating classifications of securities. Test the market values and ratings for selected securities, including subinvestment quality and out-of-area securities. Discuss any subinvestment quality or out-of-area securities with the appropriate officer as to their suitability and/or performance. If any permanent declines in value have occurred, examine the allowance account for proper presentation and adequacy.

7. Test securities income and accrued interest by:

a. Determining the bank's method of calculating and recording interest accruals;

b. Obtaining trial balances of accrued interest if maintained separately from trial balances of investment and money market holdings;

c. Testing the addition of the trial balances and the reconciliation of the trial balances to the general ledger;

d. Determining that interest accruals are not made on defaulted issues;

[1] Reference is made to Appendix A to the Statement of Policy Regarding Independent External Auditing Programs of State Nonmember Banks for the definition of terms used in this statement of policy.

e. Selecting items from each type of investment and money market holdings and:

i. Determining the stated interest rate and most recent interest payment date of coupon instruments by reference to sources of such information that are independent of the bank,

ii. Testing timely receipt of interest payments and correctness of entries to applicable general ledger accounts,

iii. Calculating accrued interest and comparing it to the trial balance,

iv. Reviewing recorded book value for appropriate accretion of discount and amortization of premium;

f. Review yields on each type of investment and money market holdings for reasonableness.

8. Review investment accounts for volume of purchases, sales activity and length of time securities have been held. Inquire as to the bank's intent and ability to hold securities until maturity. Review high volume activity with any one broker for propriety of the transactions and competitiveness of any fees. (If there is frequent trading in an investment account, it may constitute a trading account.) Test gains and losses on disposal of investment securities by sampling investment sales records and:

a. Determining sales prices by examining invoices or brokers' advices;

b. Checking computation of book value on settlement date;

c. Determining that the general ledger has been properly relieved of the investment, accrued interest, premium, discount and other related accounts;

d. Recomputing the gain or loss and comparing to the amount recorded in the general ledger; and

e. Determining that the sales were approved by the BOD or a designated committee or were in accordance with policies approved by the BOD.

Loans

1. Determine that the bank has policies that address the lending and collection functions. Read the bank's loan policies to determine whether they address the following items:

a. General fields of lending in which the bank will engage and the types of loans within each field;

b. Descriptions of the bank's normal trade area and circumstances under which the bank may extend credit to borrowers outside of such area;

c. Limitations on the maximum volume of each type of loan product in relation to total assets;

d. Responsibility of the Board of Directors in reviewing, ratifying or approving loans;

e. Lending authority of the loan or executive committee (if such a committee exists);

f. Adherence to legal lending limits;

g. Types of secured and unsecured loans which will be granted;

h. Guidelines for rates of interest and terms of repayment for secured and unsecured loans;

i. Documentation required by the bank for each type of secured and unsecured loan;

j. Limitations on the amount advanced in relation to the value of various types of collateral;

k. Limitations on the extension of credit through overdrafts;

l. Level or amount of loans granted in specific industries or specific geographic locations;

m. Guidelines for participations purchased and/or sold;

n. Guidelines for documentation of new loans prior to approval and updating loan files throughout the life of the loan;

o. Maintenance and review of complete and current credit files on each borrower;

p. Collection procedures, including, but not limited to, actions to be taken against borrowers who fail to make timely payments;

q. Guidelines for nonaccrual loans (i.e., when an asset should be placed on nonaccrual, individuals responsible for identifying non-performing assets and placing them on nonaccrual, and circumstances under which an asset will be placed back on accrual.);

r. Guidelines for loan charge-offs.

2. Review the Board of Directors' minutes to determine that the loan policies have been reviewed and approved. Through review of the Board of Directors' minutes and through inquiry of executive officers, determine whether the Board of Directors revises the policies and procedures periodically as needed.

3. Obtain Loan Committee (or, if applicable, Board of Directors' minutes) and, through a comparison of loans made throughout the period with lending policies, determine whether loans are being made within the loan authorization policy.

4. Select a sample of borrowers (including loans from each major category) and determine through examination of loan files and other bank reports whether lending and collection policies are being followed (e.g., type of loan is in accordance with loan policy, funds were not advanced until after loan approval was received from proper loan authorization level, loan is within collateral policies, insurance coverage is adequate, and bank is named as loss payee).

5. Select a sample of borrowers from each major category of secured loans and determine through examination of files and other bank reports whether collateral policies are being followed (e.g., loan is adequately collateralized, documentation is present and properly prepared, assignments are perfected, and collateral is properly valued, marketable, and has not become susceptible to deterioration in realizable value).

6. Review policies for checking floor plan merchandise, warehouse inventory and accounts receivable by responsible bank personnel and test for compliance.

7. Determine whether participations purchased and participations sold transactions have been reported to and authorized by the Board of Directors or Loan Committee, if applicable, through review of appropriate minutes.

8. On a test basis, review participations purchased to confirm that the bank does its own independent credit analysis. Also review participation documents and determine that terms and conditions between the lead bank and participants are specified, including:

a. Which party is paid first;

b. What happens in the event of default;

c. How set-offs received by either bank are to be treated;

d. How collection expenses are to be divided; and

e. Who is responsible to collect the note in the event of default.

9. Confirm participations purchased and participations sold with participating banks to verify that they are legitimate transactions and that they are properly reflected as being with or without recourse in the bank's records.

10. Balance detail ledgers or reconcile computer generated trial balances with the general ledger control accounts for each major category of loans, including loans carried as past due or in a nonaccrual status.

11. Confirm a minimum of ten (10) percent of the total number and ten (10) percent of the total dollar amount of all loans within each major category. (Statistical sampling may be used instead of the percentage requirement.) Include past due and nonaccrual loans in the verification process.

12. Review multiple loans to the same borrower or with the same person as guarantor to determine if they were made on consecutive days to circumvent the loan authorization policy and to determine whether policies and procedures are designed to assure that

all related credits are considered in loan granting and administration. Review these loans for relationships to bank insiders or their related interests.

Allowance for Loan Losses

1. Test charge-offs and recoveries for proper authorization and/or reporting by reference to the Board of Directors' minutes. Review charged-off loans for any relationship with bank insiders or their related interests.

2. Review the most recent quarter's determination of the allowance for loan losses through a review of the bank's computation. Documentation should include consideration of the following matters:

a. General, local, national and international (if applicable) economic conditions;

b. Trends in loan growth and depth of lending staff with expertise in these areas;

c. Concentrations of loans (e.g. by type, borrower, geographic area, and sector of the economy);

d. Trends in the level of delinquent and classified loans;

e. Results of regulatory examinations;

f. The extent of renewals and extensions to keep loans current; and

g. Review of specific loans on the "watch list" taking into account borrower financial status, classification, collateral type and value, payment history, and potential permanent impairment.

Insider Transactions

1. Review the bank's policies and procedures to ensure that extensions of credit to and other transactions with insiders[2] are addressed. Ascertain that these policies include specific guidelines defining fair and reasonable transactions between the bank and insiders and test insider transactions for compliance with these guidelines and statutory and regulatory requirements. Ascertain that the policies and procedures on extensions of credit comply with the requirements of Federal Reserve Regulation O.

2. Obtain a bank-prepared list of insiders, including any other business relationships they may have other than as a nominal customer. Also obtain a list of extensions of credit to and other transactions that the bank, its affiliates, and its subsidiaries have had with insiders. Compare these lists to those prepared for the prior year's external auditing program to test for completeness.

3. Review the Board of Directors' minutes, loan trial balances, supporting loan documentation, and other appropriate bank records in conjunction with the list of insiders obtained from the bank to verify that all extensions of credit to and transactions with insiders were:

a. In compliance with bank policy for similar transactions and were at prevailing rates at that time;

b. Involved no more than a normal degree of risk or presented no other unfavorable features;

c. Approved by the Board of Directors in advance with the interested party abstaining from voting; and

d. Within the aggregate lending limits imposed by Regulation O or other legal limits.

4. Review overdraft reports, suspense items, account statements, and deposit ledgers to verify that there were no overdrafts on accounts of executive officers and directors except in accordance with those exemptions permitted under section 215.4 of Regulation O.

5. Reconcile total extensions of credit to executive officers, principal shareholders, and their related interests as recorded on the bank records to the latest Call Report (Schedule RC-M, item 1).

6. Review the bank's policies and procedures to ensure that expense accounts of individuals who are executive officers, directors, and principal shareholders are addressed and test the actual expense account records for compliance with these policies and procedures.

7. Determine through inquiry whether or not securities purchases and sales are being made through related parties (as defined in Financial Accounting Standards Board Statement No. 57, "Related Party Disclosures"). If so, determine and test through inquiry and observation the Board of Directors' procedures to ensure that appropriate prices and commissions are being paid.

8. Determine through inquiry whether or not the bank has leased, purchased, or otherwise acquired property and/or equipment from, has purchased other goods or services from, or has had other transactions with related parties. If so, review and verify through inquiry and observation that the procedures listed in items 3 a, b, and c above were followed by the Board of Directors and ensure that appropriate levels of payment are being made.

9. Determine through inquiry whether or not bank employees serving as financial offers (treasurer, financial manager, etc.) of civic or charitable organizations. Ascertain, through inquiry, whether or not the banking duties and civic or charitable duties present any potential confilct of interest or are otherwise incompatible.

Internal Controls

1. Review the Board of Directors' minutes to verify that account reconciliation policies have been approved and are reviewed periodically by the BOD and determine that management has established appropriate procedures to ensure the timely completion of reconciliations of accounting records and the timely resolution of reconciling items.

2. Determine whether the bank's policies regarding segregation of duties and required vacations for employees (including those involved in the EDP function) have been approved by the BOD, and verify that these policies and the implementing procedures established by management are periodically reviewed, are adequate, and are followed.

3. Verify selected deposits in the various types of deposit accounts maintained by the bank. Test that reconciliations are prepared for all major accounts significant to the bank and their related accrued interest accounts, if any, such as "due from" accounts; commercial loans; installment loans; demand deposits; NOW accounts; money market deposit accounts; other savings deposits; certificates of deposit; and other time deposits. Test controls over dormant deposit accounts.

4. Review reconciliations for:

a. Timeliness and frequency;

b. Accuracy and completeness; and

c. Review by appropriate personnel with no conflicting duties. Verify that the preparer and reviewer initial reconciliations to insure responsibility and lack of conflict.

5. Examine detail and aging of reconciling items and items in suspense, clearing, and work-in-process accounts by:

a. Testing aging;

b. Determining whether items are followed up on and appropriately resolved on a timely basis;

c. Reviewing any charged-off items for proper authorization; and

d. Discussing items remaining on reconciliations and in the suspense account with appropriate personnel to ascertain whether any should be written off.

[2] For purposes of this section of the auditing procedures, insiders include all affiliates of the bank (including its parent holding company) and all subsidiaries of the bank, as those terms are defined in Section 23A of the Federal Reserve Act, as well as the bank's executive officers, directors, principal shareholders, and their related interests, as those terms are defined in Section 215.2 of Federal Reserve Regulation O.

6. Verify balances per reconciliations to the general ledger and supporting trial balance. Trace general ledger balances to the Call Report.

7. Verify that the bank maintains adequate records of its off-balance sheet activities, including, but not limited to, its outstanding letters of credit and its loan commitments, and trace the totals to the most recent Call Report.

8. Review the BOD's minutes to determine whether the BOD has reviewed and approved the bank's EDP policies (including those regarding outside servicers, if any, and the in-house use of individual personal computers and personalized programs for official bank records) at least annually, confirm that management has established appropriate implementing procedures, and verify the bank's compliance with these policies and procedures.

a. The policies and procedures for either in-house-processing or use of an outside service center should address:

i. A contingency plan (including a review of any outside servicer's plans) for continuance of operations and recovery when threats such as power outages or natural disaster could cause disruption and/or major damage to the institution's data processing support;

ii. Requirements for EDP-related insurance coverage (or verification of adequate coverage by any service bureau) which include the following provisions:

(1) Extended blanket bond fidelity coverage to employees of the servicer;

(2) Insurance on documents in transit, including cash letters; and

(3) Verification of the insurance coverage of the service bureau and the courier service;

iii. Review of exception reports and adjusting entries by supervisors and/or officers;

iv. Controls for input preparation and control and output verification and distribution;

v. "Back-up" of all systems;

vi. Security to ensure integrity of data and system modifications; and

vii. necessary detail to ensure an audit trail.

b. When an outside service center is employed, the policies and procedures should address the following additional items:

i. Each automated application should be covered by a written contract detailing ownership and confidentiality of files and programs, fee structure, termination agreement, and liability for documents in transit.

ii. Each contract should be reviewed by legal counsel.

iii. The financial statement of the outside servicer should be reviewed at least annually to detect deteriorating financial trends that may jeopardize data processing support.

iv. Each third party review of the service bureau should be reviewed.

9. Test EDP controls by using one of the following methods:

a. Identify and review edit or error lists produced by the control procedures so as to become satisfied that the edit routines were in use during the period; or

b. Process deliberately erroneous transactions through an application to determine whether the errors will be detected.

By order of the Board of Directors. Dated at Washington, DC, this 16th day of May, 1988.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Deputy Executive Secretary.*

[FR Doc. 89-12318 Filed 5-22-89; 8:45 am]

BILLING CODE 6714-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA-824-DR]**

### Minnesota; Amendment to a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Minnesota (FEMA-824-DR), dated May 8, 1989, and related determinations.

**DATED:** May 16, 1989.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3614.

**Notice:** Notice is hereby given that the incident period for this disaster is closed effective May 8, 1989.

**Grant C. Peterson,**

*Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

[FR Doc. 89-12294 Filed 5-22-89; 8:45 am]

BILLING CODE 6718-02-M

**[FEMA-824-DR]**

### Minnesota; Amendment to a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Minnesota (FEMA-824-DR), dated May 8, 1989, and related determinations.

**DATED:** May 12, 1989.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

**Notice:** The notice of a major disaster for the State of Minnesota, dated May 8, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 8, 1989: Kittson County for Individual Assistance and Public Assistance.

**Grant C. Peterson,**

*Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

[FR Doc. 89-12295 Filed 5-22-89; 8:45 am]

BILLING CODE 6718-02-M

**[FEMA-825-DR]**

### North Dakota; Amendment to a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of North Dakota (FEMA-825-DR), dated May 8, 1989, and related determinations.

**DATED:** May 16, 1989.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

**Notice:** Notice is hereby given that the incident period for this disaster is closed effective May 8, 1989.

**Grant C. Peterson,**

*Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

[FR Doc. 89-12296 Filed 5-22-89; 8:45 am]

BILLING CODE 6718-02-M

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the

following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.:* 224–200248.

*Title:* Galveston Wharves Terminal Agreement.

*Parties:*

The Board of Trustees of the Galveston Wharves

Deppe Lines (Deppe)

*Synopsis:* The Agreement provides space at the East End Container Terminal to accommodate Deppe's cargo and the berthing of its vessels. The Agreement provides that Galveston Wharves will provide Deppe certain incentive rates for cargo moved through the terminal to or from Deppe vessels. The Agreement's term is for one year.

By Order of the Federal Maritime Commission.

Dated: May 17, 1989.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 89–12243 Filed 5–22–89; 8:45 am]

BILLING CODE 6730–01–M

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 6, 1989.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *W.S. Atherton,* Tulsa, Oklahoma, and David R. Frieze, Inola, Oklahoma; to each acquire an additional 5.0 percent of the voting shares of Northeastern Oklahoma Banshares, Inc., Inola, Oklahoma, for a respective total of 25.0 percent, and thereby indirectly acquire Bank of Inola, Inola, Oklahoma.

2. *Michael W. Cahoone* and Sharon L. Cahoone, Cottonwood Falls, Kansas; to acquire an additional 38.38 percent of the voting shares of Elmdale Bankshares, Inc., Elmdale, Kansas, for a total of 45.10 percent, and thereby indirectly acquire The Peoples Exchange Bank, Elmdale, Kansas.

3. *Dean Ransom,* Fairview, Oklahoma; to acquire an additional 2.9 percent of the voting shares of Fairview Bancshares, Inc., Fairview, Oklahoma, for a total of 20.5 percent, and thereby indirectly acquire Farmers and Merchants National Bank, Fairview, Oklahoma.

4. *Nicholas L. and Barbara S. Shelby,* Bethany, Missouri; to acquire an additional 10.1 percent of the voting shares of Harrison County Bancshares, Inc., Bethany, Missouri, for a total of 20.1 percent, and thereby indirectly acquire First National Bank of Bethany, Bethany, Missouri.

5. *Jack W. Williams,* Ardmore, Oklahoma; to acquire an additional 10.38 percent of the voting shares of Citizens Commerce Corporation, Ardmore, Oklahoma, for a total of 10.49 percent, and thereby indirectly acquire Citizens National Bank of Ardmore, Ardmore, Oklahoma.

Board of Governors of the Federal Reserve System, May 17, 1989.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 89–12282 Filed 5–22–89; 8:45 am]

BILLING CODE 6210–01–M

### Barnett Banks, Inc., Jacksonville, FL; Proposal to Provide a Package of Credit Information and Verification Services to Financial Institutions and Merchants

Barnett Banks, Inc., Jacksonville, Florida ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (the "BHC Act") (12 U.S.C. 1843(c)(8)) and 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), for its subsidiary Barnett Merchant Services Inc., Jacksonville, Florida ("Merchant Services"), to offer a package of new account and credit verification services to subscribing merchants and financial institution customers. These services would include:

A. Check Verification Without Warranty—Merchant Services would respond to inquiries concerning the past credit history of a person tendering a check.

B. New Account Screening—Subscribers to Merchant Services could screen new account applicants for unpaid checks and bank accounts closed for cause.

C. Credit Card and Loan Application Verification—Subscribers would inquire as to the credit history of individuals applying for credit cards, debit cards, check guaranty cards or loans. Subscribers would be notified of any negative information.

D. Skip Tracing—Subscribers would submit information concerning delinquent accounts. Merchant Services would maintain this information and inform other subscribers of this information. New information concerning the individual would be forwarded to the institution which reported the initial problem credit.

E. Fraud Protection—Merchant Services would encourage subscribers, particularly financial institutions, to submit information on lost or stolen checks, opening of multiple accounts, checks written on closed accounts, and other such information. This information would become part of the negative credit file. Applicant maintains that such information could be useful to detect possible check kiting activity.

Applicant maintains that providing these services is permissible for a bank holding company pursuant to § 225.25(b)(24) of the Board's Regulation Y (12 CFR 225.25 (b)(24)), which authorizes bank holding companies to operate a credit bureau, including maintaining files on the past credit history of consumers and providing that information to a credit grantor who is considering a borrower's application for credit. Applicant would, however, provide credit reporting services to financial institutions in certain situations in which no credit application would be filed. Applicant maintains that a financial institution should also be considered to be a credit grantor in its new deposit and other accounts activities, since a bank that opens an account for a customer with cashier's checks or other next day items to deposit must make an instant credit decision about that customer. In addition, Applicant maintains that

issuing a debit card to a customer places the bank in a position of a creditor, since debit cards allow access to automated teller machines and the limited ability to withdraw cash in excess of account balances.

In addition, Applicant proposes Merchant Services offer check guaranty services to financial institutions. Merchant Services currently offers subscribing merchants check guaranty services, pursuant to § 225.25(b)(22) of the Board's Regulation Y (12 CFR 225.25(b)(22)). Applicant proposes to expand its customer base to include financial institutions.

Merchant Services is currently authorized to engage in check guaranty services and operate a collection agency, pursuant to § 225.25(b) (22) and (23) of the Board's Regulation Y (12 CFR 225.25(b) (22) and (23)). Merchant Services is also authorized to offer a voice authorization service for bank card transactions to merchants and provide a lost credit card registry to credit card holders. Barnett Banks of Florida, Inc., 71 Federal Reserve Bulletin 648 (1985).

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in an activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking as to be a proper incident thereto." Applicant maintains the proposed activities either are encompassed within check guaranty and credit bureau activities authorized pursuant to sections 225.25 (b)(22) and (b)(24) of Regulation Y or are substantially similar to such permissible services. With regard to public benefits, Applicant maintains that the proposed services, offered *de novo*, would increase competition, provide increased services, and help customers reduce losses associated with problem credits and dishonored checks.

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than June 26, 1989.

Board of Governors of the Federal Reserve System, May 17, 1989.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 89-12281 Filed 5-22-89; 8:45 am]

BILLING CODE 6210-01-M

## First American Corp. Proposal To Engage In Community Development Advisory Services

First American Corporation, Nashville, Tennessee, has applied under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)) for prior approval to engage *de novo* through its subsidiary, First American Community Development Corporation, Nashville, Tennessee, in providing advisory and related services, including acting as a conduit for funding, to community groups or organizations involved in low-income housing, small business development, and other community development issues.

The Board previously has determined that bank holding companies and their subsidiaries may invest in corporations and programs designed to promote the community welfare. *See* § 225.25(b)(6) of Regulations Y (12 CFR 225.25(b)(6)). The Board has also determined by order that advisory and related services to community development corporations, local governments, foundations and others on community economic development issues are permissible nonbanking activities. *Shorebank Corporation*, 74 Federal Reserve Bulletin 140 (1988).

Section 4(c)(8) of the Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined [by order or regulation] to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 Federal Register 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse affects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any views or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than June 7, 1989. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by 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, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, May 16, 1989.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 12283 Filed 5-22-89; 8:45 am]

BILLING CODE 6210-01-M

## Midlantic Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considerd 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 woule 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 June 8, 1989.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

*1. Midlantic Corporation,* Edison, New Jersey; to acquire 100 percent of the voting shares of Central Trust Company, Rochester, New York; Endicott Trust Company, Endicott, New York; The First National Bank of Moravia, Moravia, New York; The Merchants National Bank & Trust Company of Syracuse, Syracuse, New York; and Union National Bank, Albany, New York.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

*1. Franklin Financial Corporation,* Franklin, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Franklin National Bank, Franklin, Tennesse, a *de novo* bank.

*2. SunTrust Banks, Inc.,* Atlanta, Georgia; to acquire up to additional 11.06 percent of the voting shares of Peoples Bank of Lakeland, Florida, for a total of up to 24.99 percent of the voting shares of Bank.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. Cascade Bancorporation, Inc.,* Altoona, Iowa; to acquire 89.95 percent of the voting shares of Wabeno Bancorporation, Inc., Altoona, Iowa, and thereby indirectly acquire State Bank of Wabeno, Wabeno, Wisconsin.

D. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

*1. Edwards Bros. Holding Company,* Denton, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank, Denton, Montana.

*2. Madison Agency, Inc.,* Madison Minnesota; to acquire 100 percent of the voting shares of State Bank of Hendricks, Hendricks, Minnesota.

*3. Pioneer Acquisition Corp.,* Ladysmith, Wisconsin; to become a holding company by acquiring 100 percent of the voting shares of Pioneer National Bank of Ladysmith, Ladysmith, Wisconsin.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

*1. Mountain West Banking Corporation,* Denver, Colorado; to acquire 100 percent of International Bancorp, Denver, Colorado, and thereby indirectly acquire International Bank, Denver, Colorado; International Bank-Englewood, Englewood, Colorado; International Bank-North, Federal Heights, Colorado; and International Bank of Wheat Ridge, Wheat Ridge, Colorado.

F. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

*1. Lordsburg Financial Corporation,* Lordsburg, New Mexico; to become a bank holding company by acquiring 80 percent of the voting shares of Western Bank, Lordsburg, New Mexico.

Board of Governors of the Federal Reserve System, May 17, 1989.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 12284 Filed 5-22-89; 8:45 am]

BILLING CODE 6210-01-M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Request for Nominations for Members on Public Advisory Committees

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is requesting nominations for members to serve on certain public advisory committees in the Center for Biologics Evaluation and Research. Nominations will be accepted for current vacancies and vacancies that will or may occur on the committees during the next 12 months and beyond.

FDA has a special interest in ensuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates. Final selection from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

**DATE:** Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for receipt of nominations.

**ADDRESSES:** All nominations for membership, except for consumer-nominated members, should be sent to Jack Gertzog (address below). All nominations for consumer-nominated members should be sent to Catherine Beck (address below).

**FOR FURTHER INFORMATION CONTACT:**

Jack Gertzog, Advisors and Consultants Staff (HFD-9), Center for Biologics Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

or

Catherine P. Beck, Office of Consumer Affairs (HFE-40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

**SUPPLEMENTARY INFORMATION:** FDA is requesting nominations of members for the following three advisory committees for vacancies listed below. Individuals should have expertise in the activity of the committee.

1. Allergenic Products Advisory Committee: Three vacancies occurring August 31, 1989.

2. Blood Products Advisory Committee: Four vacancies occurring September 30, 1989.

3. Vaccines and Related Biological Products Advisory Committee: Two vacancies occurring January 31, 1990.

The function of the three committees listed above are to review and evaluate available scientific, technical, and medical data concerning the safety, effectiveness, and appropriate use of allergenic products, blood and products derived from blood and serum, vaccines, immunological products, and other biological products intended for use in the diagnosis, prevention, or treatment of human diseases, and to make appropriate recommendations to the Commissioner. These three committees also review and evaluate intramural research programs.

#### Criteria for Members

Persons nominated for membership on the committees described above must have adequately diversified research and/or clinical experience appropriate to the work of the committee in such fields as allergenic products, infectious diseases, internal medicine, epidemiology, statistics, hematology, immunology, blood banking, virology, bacteriology, pediatrics, microbiology,

nuclear biology, and biochemistry, or other appropriate areas of expertise.

The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, research, and/or public service relevant to the field of activity of the committee. The term of office is 4 years.

**Criteria for Consumer-Nominated Members**

FDA currently attempts to place on each of the committees described above one voting member who is nominated by consumer organizations. These members are recommended by a consortium of 12 consumer organizations which has the responsibility for screening, interviewing, and recommending consumer-nominated candidates with appropriate scientific credentials. Candidates are sought who are aware of the consumer impact of committee issues, but who also possess enough technical background to understand and contribute to the committee's work. This would involve, for example, an understanding of research design, benefit/risk, and the legal requirements for safety and efficacy of the products under review, and considerations regarding individual products. The agency notes, however, that for some advisory committees, it may require such nominees to meet the same technical qualifications and specialized training required of other expert members of the committee. The term of office for these members is 4 years. Nominations for all committees listed above are invited for consideration for membership as openings become available.

**Nomination Procedure**

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: May 17, 1989.

**John M. Taylor,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 89-12287 Filed 5-22-89; 8:45 am]

BILLING CODE 4160-01-M

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## National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; National Arthritis Advisory Board Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Arthritis Advisory Board on July 18 and 19, 1989. The subcommittees will meet July 18, 7:30 p.m. to approximately 10 p.m., and the full board will meet July 19, 8:30 a.m. to approximately 5 p.m., at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22202. The meetings, which will be open to the public, are being held to discuss the Board's activities and to continue evaluation of the National effort to combat arthritis and musculoskeletal and skin diseases. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

Mr. John R. Abbott, Executive Secretary, National Arthritis Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496-0801, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: May 15, 1989.

**Betty J. Beveridge,**

*NIH Committee Management Officer.*

[FR Doc. 89-12228 Filed 5-22-89; 8:45 am]

BILLING CODE 4140-01-M

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### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Special Grants Review Committee; Meeting

Pursuant of Pub. L. 92-463, notice is hereby given of the meeting of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee (AMS) of the National Institute of Arthritis and Musculoskeletal and Skin Diseases on June 30, 1989, Ramada Inn Hotel, 8400 Wisconsin Avenue, Bethesda, Maryland. The meeting will be open to the public from 8:30 a.m. to 9 a.m. to discuss administrative details or other issues relating to the committee activities. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

The meeting will be closed to the public from 9 a.m. to adjournment 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 research 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.

Further information concerning this meeting may be obtained from Dr. Melvin H. Gottlieb, Executive Secretary, Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee, NIAMS, Westwood Building, Room 5A07, Bethesda, Maryland 20892, (301) 496-0754.

Mrs. Carole Frank, Committee Management Officer, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, Building 31, Room 4C27, Bethesda, Maryland 20892, 301-496-0803, will provide summaries of the meeting and roster of the committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.846, project grants in arthritis, musculoskeletal and skin diseases research, National Institutes of Health)

Dated: May 16, 1989.

**Betty J. Beveridge,**

*NIH Committee Management Officer.*

[FR Doc. 89-12357 Filed 5-22-89; 8:45 am]

BILLING CODE 4140-01-M

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### Meeting of an Ad Hoc Panel; Bibliometric Databases and Analyses

Notice is heregy given of a meeting of an ad hoc panel on June 8-9, 1989. the meeting will take place from 7:30 p.m. to 10:000 p.m. on June 8 at the days Inn-Congressional Park, 1775 Rockville Pike, Rockville, Maryland and from 8:30 a.m. to 4:00 p.m. on June 9, in Building 31, Conference Room 4 on the NIH campus. The meeting will be open to the public.

The purpose of the meeting is to exchange information about the format and uses of the NIH bibliometric databases as well as the more general uses of bibliometric analyses in assessing scientific productivity.

Dr. Norman S. Braveman, Chief, Planning and Policy Research Branch, DPE, OSPL, OD, National Institutes of

Health, Building 31, Room 4B-25, Bethesda, Maryland 20892, (301) 496-4418, will furnish the meeting agenda, rosters of the panel members and consultants, and substantive program information upon request. Individuals planning to attend the meeting should inform Dr. Braveman by June 1, 1989.

Dated: May 16, 1989.

**James B. Wyngaarden,**

*Director, NIH.*

[FR Doc. 89-12360 Filed 5-22-89; 8:45 am]

BILLING CODE 4140-01-M

## National Cancer Institute; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, National Institutes of Health, June 29-30, 1989, at the Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

This meeting will be open to the public on June 29 to 8:30 a.m. to approximately 9 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 29 from 9 a.m. to recess and on June 30 from 8:30 a.m. to 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. Winifred Lumsden. Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of Committee members, upon request.

Ms. Cynthia Sewell, Executive Secretary, Cancer Research Manpower Review Committee, National Cancer Institute, Westwood Building, Room 838, National Institutes of Health, Bethesda, Maryland 20892 (301/496-7721) will furnish substantive program information upon request.

Dated: May 16, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89-12358 Filed 5-22-89; 8:45 am]

BILLING CODE 4140-01-M

## National Cancer Institute; Cancellation of Meeting

Notice of the meeting of the Clinical Trials Committee, National Cancer Institute, National Institutes of Health, scheduled for June 1-2, 1989, published in the **Federal Register** (54 FR 19461) on May 5 is hereby cancelled due to conflicts of interest with some members of the committee.

For further information, please contact Dr. Wilna A. Woods, Executive Secretary (acting), Clinical Trials Committee, National Cancer Institute, Westwood Building, Room 807, National Institutes of Health, Bethesda, Maryland 20892 (301/496-7153).

Dated: May 16, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89-12226 Filed 5-22-89; 8:45 am]

BILLING CODE 4140-01-M

## Division of Research Resources; General Clinical Research Centers Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, Division of Research Resources (DRR), June 13-15, 1989, at the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

The meeting will be open to the public on June 13 from 8:30 a.m. to 9:30 a.m. during which time there will be comments by the Acting Director, DRR; and an update on the General Clinical Research Centers Program by Dr. Judith L. Vaitukaitis, Director, GCRC Program, DRR. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 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 June 13 from 9:30 a.m. to 6:00 p.m., on June 14 from 8:00 a.m. to 6:00 p.m., and on June 15 from 8:00 a.m. to approximately 4:00 p.m., 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.

Mr. Michael Fluharty, Public Affairs Specialist, DRR, NIH, Westwood Building, Room 857, 5333 Westbard Avenue, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Bela J. Gulyas, Executive Secretary, General Clinical Research Centers Committee, (301) 496-9971, will furnish program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clinical Research, National Institutes of Health).

Dated: May 16, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89-12359 Filed 5-22-89; 8:45 am]

BILLING CODE 4140-01-M

## National Eye Institute; Meeting of the Vision Research Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Review Committee, June 22-23, 1989, Conference Room 7, Building 31C, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public on June 22 from 8:30 to 9:30 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:30 a.m. on June 22 until recess and on June 23 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.

Ms. Lois DeNinno, Committee Management Officer, National Eye Institute, Building 31, Room 6A/08, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-9110, will provide a summaries of the meeting, rosters of the committee members, and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.867, Retinal and Choroidal Diseases Research; 13.868, Anterior Segment Diseases Research; and 13.871 Strabismus,

Amblyopia and Visual Processing; National Institutes of Health.)

Dated: May 16, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89-12363 Filed 5-22-89; 8:45 am]

BILLING CODE 4140-01-M

## National Eye Institute; Meeting of the National Advisory Eye Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, June 14, 1989, Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. until approximately 11:00 a.m. on Wednesday, June 14. Following opening remarks by the Director, National Eye Institute, there will be presentations by the staff of the Institute concerning Institute programs and various research assistance mechanisms. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 11:00 a.m. until closing on June 14 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Vision Research Program Planning Subcommittee will meet on June 13, 1989, at 1:00 p.m. in the National Eye Institute Conference Room 6A35 (Building 31A)—Claude Denson Pepper Building, National Institutes of Health, Bethesda, Maryland. Attendance by the public will be limited to space available.

Ms. Lois DeNinno, Committee Management Officer, National Eye Institute, Building 31, Room 6A08, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-9110, will provide summaries of meetings, rosters of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.867, Retinal and Choroidal Diseases Research; 13.868, Anterior Segment Diseases Research; and 13.871, Strabismus, Amblyopia and Visual Processing; National Institutes of Health.)

Dated: May 16, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89-12364 Filed 5-22-89; 8:45 am]

BILLING CODE 4140-01-M

## National Eye Institute; Meeting of the Board of Scientific Counselors

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, June 5-6, 1989, Building 31, NEI Conference Room 6A35, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 5 from 8:30 a.m. until approximately 4 p.m. for general remarks by the Institute's Scientific Director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 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 June 5 from approximately 4 p.m. until recess and on June 6 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual projects conducted by the Laboratory of Mechanisms of Ocular Diseases. These evaluations and discussions could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Ms. Lois DeNinno, Acting Committee Management Officer, National Eye Institute, Building 31, Room 6A08, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-9110 will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: May 16, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89-12227 Filed 5-22-89; 8:45 am]

BILLING CODE 4140-01-M

## National Institute of General Medical Sciences; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for June 1989.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately two hours 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 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 research training grant and research center 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.

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 committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

*Name of Committee:* Pharmacological Sciences Review Committee.
*Executive Secretary:* Dr. Rodney Ulane, Room 952 Westwood Building Telephone: 301-496-4772.
*Date of Meeting:* June 5-6, 1989.
*Place of Meeting:* Building 31C, Conference Room 9 National Institute of Health, Bethesda, Maryland.
*Open:* June 5, 1989, 8:30 a.m.-10:30 a.m.
*Closed:* June 5, 1989, 10:30 a.m.-6:00 p.m. June 6, 1989, 8:30 a.m.—adjournment.

*Name of Committee:* Genetic Basis of Disease Review Committee.
*Executive Secretary:* Ms. Linda Engel, Room 950 Westwood Bldg. Telephone: 301-496-7125.
*Date of Meeting:* June 7, 1989.
*Place of Meeting:* Building 31C, Conference Room 6 National Institutes of Health, Bethesda, Maryland.
*Open:* June 7, 1989, 8:30 a.m.-10:30 a.m.
*Closed:* June 7, 1989, 10:30 a.m.—adjournment.

*Name of Committee:* Minority Access to Research Careers Review Committee.
*Executive Secretary:* Dr. Jean Flagg-Newton, Rm. 949 Westwood Building Telephone: 301-496-7585.
*Date of Meeting:* June 8-9, 1989.

*Place of Meeting:* Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.
*Open:* June 8, 1989, 8:30 a.m.–10:30 a.m.
*Closed:* June 8, 1989, 10:30 a.m.–5:00 p.m., June 9, 1989, 8:30 a.m.—adjournment
*Name of Committee:* Cellular and Molecular Basis of Disease Review Committee.
*Executive Secretary:* Dr. Carole Latker, Room 950, Westwood Bldg. Telephone: 301–496–7125.
*Dates of Meetings:* June 13–14, 1989.
*Place of Meeting:* Building 31A, Conference Room 4, National Institutes of Health, Bethesda, Maryland.
*Open:* June 13, 1989, 8:30 a.m.–10:30 a.m.
*Closed:* June 13, 1989, 10:30 a.m.–6:00 p.m. June 14, 1989, 8:30 a.m.—adjournment.

(Catalog of Federal Domestic Assistance Program No. 13–859, 13–862, 13–863, 13–880, National Institute of General Medical Sciences, National Institutes of Health)

Date: May 16, 1989.

**Betty J. Beveridge,**
*Committee Management Officer, NIH.*

[FR Doc. 89–12365 Filed 5–22–89; 8:45 am]

BILLING CODE 4140–01–M

## National Heart, Lung, and Blood Institute; Meeting of Heart, Lung, and Blood Research Review Committee A

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 29–30, 1989, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 29 from 8 a.m. to approximately 10 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(c)(4) and 552(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 June 29 from approximately 10 a.m. until adjournment on June 30 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.

Ms. 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, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health.)

Dated: May 16, 1989.

**Betty J. Beveridge,**
*Committee Management Officer, NIH.*

[FR Doc. 89–12361 Filed 5–22–89; 8:45 am]

BILLING CODE 4140–01–M

## Recombinant DNA Advisory Committee, Definitions Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee—Definitions Subcommittee at the National Institutes of Health, Building 31A, Conference Room 2, Bethesda, Maryland 20892, on July 12, 1989, from approximately 9:00 a.m. to adjournment at approximately 5:00 to discuss the definition of recombinant DNA for the purposes of shipment. This meeting will be open to the public. Attendance by the public will be limited to space available.

Background information has been published in the **Federal Register** (53 FR 53264) on December 30, 1988, in Section IV, "Proposal to Amend Appendix H of the NIH Guidelines."

Further information may be obtained from Ms. Rachel E. Levinson, Executive Secretary of the Definitions Subcommittee, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892, telephone (301) 496–9838, FAX number (301) 496–9839.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individua. programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: May 17, 1989.

**Betty J. Beveridge,**
*Committee Management Officer, NIH.*

[FR Doc. 89–12362 Filed 5–22–89; 8:45 am]

BILLING CODE 4140–01–M

# DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

[OR–943–09–4214–10; GP9–218; OR–44954]

## Public Meeting; Pringle Falls Experimental Forest Proposed Withdrawal; Oregon

**AGENCY:** Bureau of Land Management.

**ACTION:** Notice.

**SUMMARY:** This notice announces the schedule and agenda for a forthcoming public meeting that will provide an opportunity for public involvement regarding the Forest Service's application for protective withdrawal of the Pringle Falls Experimental Forest.

**EFFECTIVE DATE:** July 12, 1989.

**FOR FURTHER INFORMATION CONTACT:** Champ Vaughan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–231–6905.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that a public meeting will be held to provide an opportunity for public involvement regarding the application by the Forest Service, U.S. Department of Agriculture, for a 20-year protective withdrawal as to 11,675.51 acres of national forest lands within the Pringle Falls Experimental Forest. The lands involved are in the Deschutes National Forest in Deschutes County, Oregon, and are located in two large tracts approximately 20 miles southwest

of Bend. The tracts include research plots and the Pringle Falls Research Natural Area.

The meeting will begin at 7 p.m., Wednesday, July 12, 1989, in the Deschutes National Forest Supervisor's Office. The agenda will include (1) an information briefing by the Bureau of Land Management; (2) an information briefing by the Forest Service; (3) oral statements by interested parties; and (4) question and answer period.

The meeting is open to the public. Interested parties may make oral statements at the meeting and/or may file written statements with the Bureau of Land Management, Oregon State Office. Oral statements should be limited to five minutes per party. All statements received will be considered by the Bureau of Land Management and the Forest Service before any recommendation concerning the proposed land withdrawal is submitted to the Secretary of Interior for final action under the authority of section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

**B. Lavelle Black,**

*Chief, Branch of Lands and Minerals Operations.*

Dated: May 12, 1989.

[FR Doc. 89-12346 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-33-M

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[CA-050-4410-04]

## Ukiah District California Advisory Council Meeting

**AGENCY:** Bureau of Land Management.

**ACTION:** Notice of meeting, Ukiah, California, district advisory council.

**SUMMARY:** Pursuant to Pub. L. 94-579 and 43 CFR 1780, the Ukiah District Advisory Council will meet in Arcata, California, June 29-30, 1989, for orientation of new members, election of officers, and status reports on the Arcata and Redding resource management plans.

**DATES:** The Council will meet from 8:30 a.m. to 4:30 p.m. June 29 and from 8:30 a.m. to 12:00 noon June 30. Opportunity for public comment will be provided at 1:00 p.m. June 29.

**ADDRESS:** On June 29, the Council will meet at the Eureka Inn, 7th & F Streets, in Eureka. On June 30, the Council will meet at the BLM Office at 1125 16th Street in Arcata.

**FOR FURTHER INFORMATION CONTACT:** Barbara Taglio, Ukiah District Office, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482, (707) 462-3873.

**SUPPLEMENTARY INFORMATION:** All meetings of the Ukiah District Advisory Council are open to the public. Individuals may submit oral or written comments for the Council's consideration. Opportunity for oral comments will be provided at 1:00 p.m. June 29. Summary minutes of the meeting will be maintained by the Ukiah District Office and will be available for inspection and reproduction within 30 days of the meeting.

Date: May 15, 1989.

**Alfred W. Wright,**

*District Manager.*

[FR Doc. 89-12345 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-40-M

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[WY-920-09-4111-15; WYW81987]

## Proposed Reinstatement of Terminated Oil and Gas Lease; Natrona County, Wyoming

May 15, 1989.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW81987 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW81987 effective January 1, 1989, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

**Andrew L. Tarshis,**

*Chief, Leasing Section.*

[FR Doc. 89-12349 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-22-M

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[NM-030-09-4212-11, NM NM 77570]

## Recreation and Public Purposes (R&PP) Act Classification in Sierra County, New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action.

**SUMMARY:** The following public land in the community of Caballo, Sierra County, New Mexico has been examined and found suitable for lease or conveyance for recreational or public purpose under the provisions of the R&PP Act, as amended (43 USC 869 *et seq.*):

T. 15 S., R. 5 W., NMPM,
Portion of Sec. 25, N½SW¼NW¼NE¼ containing 3.347 acres.

This action is a motion by the Bureau to make available lands identified in the White Sands Resource Management Plan not needed for Federal purposes. Lease or conveyance of the land for recreational or public purpose use would be in the public interest.

**DATES:** Comments must be submitted on or before July 6, 1989.

**ADDRESSES:** Comments should be sent to Bureau of Land Management, Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico, 88005.

**FOR FURTHER INFORMATION CONTACT:** Ernie Salazar or Bernie Creager at the address above or at (505) 525-8228 (FTS 571-8350).

**SUPPLEMENTARY INFORMATION:** Lease or conveyance of the land will be subject to the following terms, conditions, and reservations:

1. Provisions of the R&PP Act and all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

3. All minerals shall be reserved to the United States together with right to prospect for mine and remove the minerals.

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal land and interests there in.

Upon publication of this notice in the **Federal Register**, the land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Upon the effective date of classification, the land will be open to the filing of an application under the R&PP Act by an interested, qualified applicant. If, after 18 months following

the effective date of classification, an application has not been filed, the segregative effect of the classification shall automatically expire and the lands classified shall return to their former status without further action by the authorized officer.

H. James Fox,
*District Manager.*
May 15, 1989.

[FR Doc. 89-12317 Filed 5-22-89; 8:45 am]
BILLING CODE 4310-FB-M

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[UT-060-09-4212-14; UTU-64620]

## Realty Action; San Juan County, UT

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action, UTU-64620, noncompetitive (direct) sale of public land in San Juan County, Utah.

**SUMMARY:** The following described parcel of public land has been examined, and through the development of local land-use planning decisions based upon public input, resource considerations, regulations and Bureau policies, has been found suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2750; 43 U.S.C. 1713) using noncompetitive (direct sale) procedures (43 CFR 2711.3-3(a)(3)(4)):

**Salt Lake Meridian, Utah**

T. 36 S., R. 16 E., Section 28, N½NW¼NW¼NE¼.

The described land aggregates 5.00 acres.

The land is being offered as a direct sale to Mr. Oren D. Story, Fry Canyon, Utah, in accordance with 43 CFR 2711.3-3(a)(3)(4). The purpose of the sale is to recognize and protect an existing business and facilities built by Mr. Story known as the Fry Canyon Store and Motel. The above described parcel is currently authorized under a section 302 FLPMA Small Business Occupancy Lease. This action will allow for the continued use and operation of the facilities on the subject parcel, while eliminating the United States' interest in the site. The land will not be offered for sale until at least sixty (60) days after publication of this notice. Sale will be at no less than the Appraised Fair Market Value of $750.

The grazing lessee has waived his rights to the two-year notification prescribed in section 402(g) of FLPMA.

Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a patent, or two hundred seventy (270) days from the date of the publication, whichever occurs first.

The terms and conditions applicable to the sale are:

1. All minerals, including oil and gas, shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

2. A right-of-way will be reserved 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).

3. The sale of the lands will be subject to all valid existing rights and reservations of record. Existing rights and reservations of record include, but are not limited to, Federal oil and gas lease UTU-62896, Federal Highway Right-of-Way Appropriation UTU-6953, and County Road 258 under R.S. 2477 (UTU-53767).

*Sale Procedures:* Mr. Oren D. Story will be given a thirty (30) day time period to submit the Appraised Fair Market Value of $750 as full payment for the land described above. If the funds are not received by the required dates, the bid will be rejected, the deposit forfeited and the lands reoffered over the counter to the general public until sold or withdrawn from the market. Sealed bids would be accepted at the San Juan Resource Area Office during regular business hours, 7:45 a.m. to 4:30 p.m.

*Bidder Qualifications:* Bidders must be U.S. citizens, 18 years of age or more; a State or State instrumentality authorized to hold property; a corporation authorized to hold property; or a corporation authorized to own real estate in the State of Utah.

*Bid Standards:* The Bureau of Land Management (BLM) reserves the right to accept or reject any and all offers, or withdraw the land from sale if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with Section 203(g) of FLPMA or other applicable laws.

**DATES:** For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532. Objections will be reviewed by the Utah State Director who may sustain, vacate, or modify this realty action. In the absence of any objection, this realty action will become the final determination of the Department of the Interior.

**SUPPLEMENTARY INFORMATION:** Additional information concerning the land and the terms and conditions of the sale may be obtained from David L. Krouskop, Area Realty Specialist, San Juan Resource Area Office, 435 North Main, P.O. Box 7, Monticello, Utah 84535, (801) 587-2141, or from Brad Groesbeck, District Realty Specialist, Moab District Office, 82 East Dogwood, P.O. Box 970, Moab, Utah 84532, (801) 259-6111.

May 12, 1989.
Gene Nodine,
*District Manager.*

[FR Doc. 89-12341 Filed 5-22-89; 8:45 am]
BILLING CODE 4310-DQ-M

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[MT-930-09-4214-11; MTM 072057]

## Proposed Modification of Public Land Order 4484; Montana

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of the Army, Corps of Engineers proposes that 601.84 acres of land withdrawn for the Libby Dam be continued for an additional 100 years. The lands would remain closed to surface entry and mining.

**FOR FURTHER INFORMATION CONTACT:** James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2935.

**SUPPLEMENTARY INFORMATION:** The Department of the Army, Corps of Engineers, purposes that the existing land withdrawal made by Public Land Order No. 4484 be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714.

The lands are described as follows:

**Montana Principal Meridian**

T. 30 N., R. 29 W.,
Sec. 4, lots 4, 5, 6, SE¼NW¼, and SW¼.
T. 31 N., R. 29 W.,
Sec. 27, NE¼SW¼ and W½SW¼;
Sec. 28, lots 6, 7, 8, and the N½SW¼, SW¼SW¼ lying south and east of the easterly line of road 92.7;
Sec. 32, SE¼SE¼SE¼ lying south and east of the easterly line of road 92.7;
Sec. 34, N½NW¼.

The areas described aggregate 601.84 acres in Lincoln County.

The purpose of the withdrawal is to protect the Libby Dam and Koocanusa Project. The withdrawal segregates the lands from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C., Ch. 2), but not from leasing under mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resources at the address listed above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

John A. Kwiatkowski,

*Deputy State Director, Division of Lands and Renewable Resources.*

May 12, 1989.

[FR Doc. 89-12344 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-DN-M

## Fish and Wildlife Service

### Endangered Species Convention: Foreign Law Notification, Pakistan

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of Information No. 19.

SUBJECT: Pakistan—Ban on wildlife imports.

**This is a Schedule II Notice**

*Source of Foreign Law Information*

On September 28, 1987 the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) Secretariat issued Convention Notification No. 446. It stated that the ban on the export of all wild mammals, reptiles, and protected indigenous birds, including the export of all specimens, parts, products, and derivatives, was scheduled to expire shortly, but had now been extended by the government of Pakistan. An exception to the export ban was made for a small number of hunting trophies authorized by the Management Authority of Pakistan.

On September 26, 1988 and December 3, 1988 letters were sent to the United States Fish and Wildlife Service (Service) Division of Law Enforcement by Abdul Latif Rao of the Management Authority of Pakistan. Mr. Rao reaffirmed that the hunting and export of all wild mammals including wild sheep has been banned in the country. The only exception is the trophy hunting and export of a limited number of markhor and ibex which require a Convention permit issued by the Management Authority of Pakistan and an export permit issued by the Chief Controller of Imports and Exports, Ministry of Commerce.

Mr. Rao also requested that the Service assist the Management Authority of Pakistan in their efforts to curb the illegal export of wild sheep trophies.

Subsequent communication between the Service and the Management Authority of Pakistan has confirmed that the government of Pakistan does not recognize any export permit issued by any tribal or provincial authorities of Pakistan.

*Action by the Fish and Wildlife Service*

This notification has been issued to alert all potential importers of wildlife shipments originating in Pakistan that due care must be exercised to ensure that such shipments fully comply with the laws of Pakistan. That is, all wildlife import into the United States from Pakistan must have appropriate export permits issued by the Management Authority of Pakistan and the Ministry of Commerce. Permits issued by tribal or provincial authorities will not be accepted as proper export documentation. Failure to submit proper export document will result in refused clearance or detention by the Service with the potential of seizure and forfeiture of the goods.

**EFFECTIVE DATE:** This action is effective immediately upon publication.

**EXPIRATION DATE:** Until revoked.

**FOR FURTHER INFORMATION CONTACT:** Carl Mainen, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, VA 22203, Telephone: 703-358-1949.

Dated: May 12, 1989.

Susan R. Lamson,

*Deputy Assistant, Secretary for Fish & Wildlife, and Parks.*

[FR Doc. 89-12314 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-55-M

## Minerals Management Service

### Outer Continental Shelf (OCS) Advisory Board Scientific Committee; Agenda of Plenary Session Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C., Appendix I, and the Office of Management and Budget Circular A-63, Revised.

The OCS Advisory Board Scientific Committee will meet in plenary session at the Centennial Hall Conference Center, 101 Egan Drive, Juneau, Alaska 99801 (907 586-5283), from 8 a.m. to 5 p.m. on June 26, 1989 and from 8 a.m. to 5 p.m. on June 27, 1989.

The meeting will include discussions of the following topics:

- Current status of the MMS Environmental Studies Program;
- Proposed Alaskan Environmental Studies for fiscal year 1991;
- Research proposed under the MMS, Southern California and Gulf of Mexico University Initiative Program; and
- The *Exxon Valdez* oil spill in Prince William Sound.

A detailed agenda is not yet available but may be requested from the Minerals Management Service.

The meeting is open to the public. Approximately 75 visitors can be accommodated on a first-come-first-served basis. All inquiries concerning the meeting should be addressed to: Dr. Don Aurand, Chief, Branch of Environmental Studies Offshore Environmental Assessment Division, Minerals Management Service, U.S. Department of the Interior, 381 Elden Street, MS-644, Herndon, Virginia 22070-4817; (703) 787-1726.

Dated: May 16, 1989.

William D. Bettenberg,

*Associate Director for Offshore Minerals Management.*

[FR Doc. 89-12292 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-MR-M

## National Park Service

### Upper Delaware Scenic and Recreational River; Citizens Advisory Council Meeting

**AGENCY:** National Park Service; Upper Delaware Citizens Advisory Council.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

**DATE:** June 2, 1989, 7:00 PM. [1]

*Inclement Weather Reschedule Date:* June 15, 1989.

**ADDRESS:** Town of Tusten Hall, Narrowsburg, New York.

[1] Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

**FOR FURTHER INFORMATION CONTACT:** John T. Hutzky, Superintendent; Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, NY 12765-0159; 717-729-8251.

**SUPPLEMENTARY INFORMATION:** The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 USC 1724, note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will surround administrative business, including bylaws revisions, charter review, and membership.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

**Katherine Stevenson,**

*Acting Regional Director, Mid-Atlantic Region.*

[FR Doc. 89-12298 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-70-M

## Farmington Wild and Scenic River Study, Massachusetts and Connecticut, Farmington River Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1 s 10), that a meeting of the Farmington River Study Committee will be held Thursday, June 8, 1989.

The Committee was established pursuant to Pub. L. 99-590. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of two segments of the Farmington River.

The meeting will convene at 7:30 p.m. at the Sandisfield Town Hall, Sandisfield, Massachusetts, for the following reasons:

1. Approval of minutes of April 13, 1989, meeting
2. Report from Budget Working Group
3. Update on Resource Assessment
4. Report from Water Resources Subcommittee
5. Report from River Conservation Planning Subcommittee including an update on the Public Information and Issue Identification Workshops held in May.
6. Opportunity for Public Comment
7. Other business.

It is anticipated that about 100 people will be able to attend the session in addition to the Committee members.

Interested persons may make oral/written presentations to the Committee or file written statements. Such requests should be made to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from the Public Affairs Officer, National Park Service, North Atlantic Region, 15 State Street, Boston, Massachusetts, 02109 at (617) 565-8387.

**Sam Reck,**

*Acting Regional Director.*

Date: May 16, 1989.

[FR Doc. 89-12299 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-70-M

## National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 13, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by June 7, 1989.

**Carol D. Shull,**

*Chief of Registration, National Register.*

FLORIDA

**Duval County**

Avondale Historic District Roughly bounded by Roosevelt Blvd., Belvedere Ave., Seminole Rd., St. Johns River, and Talbot St., Jacksonville, 89000494

MARYLAND

**Caroline County**

Athol Melville Rd., near Trunk Line Rd., Henderson vicinity, 89000485

MICHIGAN

**Oakland County**

Modern Housing Corporation Addition Historic District Roughly bounded by Montcalm St., Perry St., Joslyn Ave., Gage St., Glenwood, and Nelson St., Pontiac, 89000490

Oak Hill Cemetery 216 University Dr., Pontiac, 89000493

Pontiac Commercial Historic District (Boundary Increase) Roughly E. Huron St. and S. Saginaw St. within loop of Wide Track Dr., Pontiac, 89000491

St. Vincent DePaul Catholic Church, Convent, and School 150 E. Wide Track Dr., Pontiac, 89000492

**Wayne County**

St. Boniface Roman Catholic Church 2356 Vermont Ave., Detroit, 89000487

St. Charles Borromeo Roman Catholic Parish Complex Baldwin Ave. at St. Paul Ave., Detroit, 89000488

NORTH CAROLINA

**Alamance County**

Snow Camp Mutual Telephone Exchange Building, NC 1004, 2 Mi S of NC 1005, Snow Camp, 89000497

**Anson County**

Horne, Billy, Farm, NC 1246, 5 Mi. W of jct. NC 1240, Polkton vicinity, 89000496

**Guilford County**

Kirkman, O. Arthur, House and Outbuildings (Boundary Increase), 106 Oak St., High Point, 89000495

VIRGINIA

**Charles City County**

Evelynton VA 5 E of VA 609, Charles City vicinity, 89000486

WISCONSIN

**Sauk County**

Honey Creek Swiss Rural Historic District, SE of Prairie du Sac, Prairie du Sac vicinity, 89000484

The following property is also being considered for listing in the National Register but was excluded from a previous list:

MONTANA

**Flathead County**

Polebridge Ranger Station Historic District (Boundary Decrease), Near NE end of Henshaw Bridge on Rt. 7 Polebridge vicinity 86003906.

[FR Doc. 89-12297 Filed 5-22-89; 8:45 am]

BILLING CODE 4310-70-M

# INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

## Agency for International Development

## Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on

Tuesday and Wednesday June 13–14, 1989. The topic to be discussed is "The Changing Relationship Between the United States and Developing Countries."

*Date:* June 13–14, 1989.

*Time:* Tuesday, June 13, 2:00 p.m.–5:30 p.m.; Wednesday, June 14, 9:00 a.m.–3:30 p.m.

*Place:* The National Press Club, 14th and F Streets NW., Washington, DC 20045.

The meeting is free and open to the public. However, notification by June 8, 1989 through the advisory committee headquarters is required.

Persons wishing to attend the meeting must call Melissa Nuwaysir, (703) 875–4407, or write, not later than June 8, to: The Advisory Committee on Voluntary Foreign Air, Room 305, SA–8, Agency for International Development, Washington, DC 20523.

Date: May 10, 1989.

**Karen M. Poe,**

*Acting Director for Private and Voluntary Cooperation, Bureau for Food for Peace and Voluntary Assistance.*

[FR Doc. 89–12250 Filed 5–22–89; 8:45 am]

BILLING CODE 6116–01–M

## INTERSTATE COMMERCE COMMISSION

**[Finance Docket No. 31444]**

### Austin & Northwestern Railroad Co., Inc.—Acquisition and Operation Exemption—Missouri Pacific Railroad Co.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Interstate Commerce Commission exempts under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 11343–11345, the acquisition and operation by Austin & Northwestern Railroad Company, Inc., of approximately 107 miles of rail line owned and operated by the Missouri Pacific Railroad Company, between Monahans, TX, and Lovington, NM, in Lea County, NM, and Winkler and Ward Counties, TX, subject to standard labor protective conditions and a historic preservation condition.

**DATES:** The exemption will be effective on June 12, 1989. Petitions for stay must be filed by June 2, 1989, and petitions for reconsideration must be filed by June 19, 1989.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 31444 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representatives: Joseph D. Anthofer, Missouri Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179

Kelvin J. Dowd (AUNW), 1224 Seventeenth Street, NW., Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 257–7245. (TDD for hearing impaired: (202) 275–1721).

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

Decided: May 16, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

**Noreta R. McGee,**

*Secretary.*

[FR Doc. 12325 Filed 5–22–89; 8:45 am]

BILLING CODE 7035–01–M

## DEPARTMENT OF JUSTICE

### Information Collections Under Review

May 16, 1989.

The Office of Management and Budget (OMB) has been sent the following proposals for the collection of information for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The title of the form or collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether Section 3504(h) of Pub. L. 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633–4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

**New Collections**

(1) *Application for Employment Authorization.*

(2) I–765, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This information will be used by the INS to determine eligibility for employment authorization under 8 CFR 274a.12(a) and is the basis for the issuance of employment authorization documentation.

(5) 1,000,000 respondents at 1 hour per response.

(6) 1,000,000 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) *Grant Applicant Survey.*

(2) No form number. National Institute of Justice, Office of Justice Programs.

(3) One-time.

(4) Individuals or households, state or local governments, non-profit institutions. This survey will assess the efficiency and effectiveness of the National Institute of Justice's grant application review process.

(5) 400 estimated annual respondents.

(6) 132 estimated annual public burden hours.

(7) Not applicable under 3504(h).

**Larry E. Miesse,**

*Departmental Clearance Officer, Department of Justice.*

[FR Doc. 89–12252 Filed 5–22–89; 8:45 am]

BILLING CODE 4410–10–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

**Background**

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

**List of Recordkeeping/Reporting Requirements Under Review**

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

**Comments and Questions**

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

**New**

Occupational Safety and Health Administration
Occupational Exposure to Bloodborne Pathogens
1218-0000
On Occasion
Businesses or other for profit and Small businesses or organizations
18,751,910 respones; 6,384,949 total hours; 36 minutes per response; 0 forms

| Information collection activity | Burden hours |
|---|---|
| Infection Control Plan | 2,680,744 |
| Post Exposure/Follow-up Monitoring | 99,812 |
| Information to the Physician | 88,910 |
| Physicians Written Opinion | 88,910 |
| Labeling/Signs | 21,322 |
| Training | 2,113,510 |
| Recordkeeping | 1,291,741 |

This regulation requires employers to develop a written infection control plan designed to minimize or eliminate employee exposure to bloodborne pathogens. In addition, employers must establish and maintain employee medical records, as well as training records for employees.

**Revision**

Employment Standards Administration
Survivor's Notification of Beneficiary's Death
1215-0087; CM-1089
On occasion
2651 respondents; 353 total hours; 8 min. per response; 1 form

The CM-1089 is used to gather information from a beneficiary's survivor to ensure that benefits due the survivor on behalf of a deceased miner are accurate so that payment of benefits will continue.

**Extension**

Employment Standards Administration
Certification by School Official
1215-0061; CM-981
Annually
State or local governments; non-profit institutions 1500 respondents; 250 total hours; 10 min. per response; 1 form CM-981 is completed by a school official to verify that a beneficiary's dependent, aged 18 to 23, qualifies as a full-time dependent student.

Signed at Washington, DC this 17th day of May 1989.

**Paul E. Larson,**
*Departmental Clearance Officer.*

[FR Doc. 89-12336 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-27-M

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### Employment and Training Administration

**[TA-W-22,218 Farmington, NM; TA-W-22,218A Williston, ND]**

### Dresser Atlas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 13, 1989 applicable to all workers of Dresser Atlas, Farmington, New Mexico.

Based on new information from the company, additional workers were separated from Dresser Atlas in Williston, North Dakota during the period applicable to the petition. The notice, therefore is amended by including the Williston, North Dakota location.

The amended notice applicable to TA-W22,218 is hereby issued as follows:

All workers of Dresser Atlas, Farmington, New Mexico and Williston, North Dakota who became totally or partially separated from employment on or after October 1, 1985 and before November 1, 1986 are eligible to apply for adjustment assistance under section 233 of the Trade Act of 1974.

Signed at Washington, DC, this 12th day of May 1989.

**Barbara Ann Farmer,**
*Director, Office of Program Management, UIS.*

[FR Doc. 12230 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

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**[TA-W-20,995 and TA-W-20-996]**

### Eastman Whipstock Manufacturing, Abilene, TX; Dismissal of Applications for Reconsideration

Pursuant to 29 CFR 90.18 applications for administrative reconsideration were filed with the Director of the Office of Trade Adjustment Assistance for workers at the Eastman Whipstock Manufacturing, 41st Street Plant, Abilene, Texas and the Oil Belt Line Plant, Abilene, Texas. The reviews indicated that the applications

contained no new substantial information which would bear importantly on the Department's determinations. Therefore dismissal of the applications were issued.

TA-W-20,995; Eastman Whipstock Manufacturing, 41st Street Plant, Abilene, Texas (May 17, 1989).

TA-W-20,996; Eastman Whipstock Manufacturing, Oil Belt Line Plant, Abilene, TX (May 17, 1989).

Signed at Washington, DC this 17th day of May 1989.

Marvin M. Fooks,

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 89-12326 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

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[TA-W-22,033]

## Excel Energy Corp., Denver, CO; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Excel Energy Corporation, Denver, Colorado. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-22,033; Excel Energy Corporation, Denver, Colorado (May 10, 1989).

Signed at Washington, DC this 17th day of May 1989.

Marvin M. Fooks,

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 89-12327 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

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[TA-W-21,622 etc.]

## Exeter Drilling Co.; Amendment Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Exeter Drilling Co.; Headquartered in Denver, CO., and Operating in Various Locations in the following States:

TA-W-21, 622A Alabama
TA-W-21, 622B Arkansas
TA-W-21, 622C Colorado (excluding Denver)
TA-W-21, 622D Florida
TA-W-21, 622E Louisiana
TA-W-21, 622F Mississippi
TA-W-21, 622G Montana
TA-W-21, 622H Nebraska
TA-W-21, 622J Nevada
TA-W-21, 622K New Mexico
TA-W-21, 622L Oklahoma
TA-W-21, 622M Texas
TA-W-21, 622N Utah
TA-W-21, 622P West Virginia
TA-W-21, 622Q Wyoming

In accordance with section 223 of the Trade Act of 1974, the Department of labor issued a Certification of Eligibility to Apply for Worker Adjustment assistance on December 14, 1988 applicable to all workers of Exeter Drilling Company, Denver, Colorado. It was revised on April 10, 1989.

On April 3, 1989, the Department, on its own motion, reopened its investigation for workers of Exeter Drilling Company. The initial investigation resulted in the certification of workers at the Denver, Colorado headquarters of Exeter Drilling Company but did not extend coverage to other workers of the firm.

The Department, in its revision, inadvertantly included language involving workers in Florida and Nevada twice and altering the impact date. This amendment is to correct that language.

The certification applicable to TA-W-21,622 is hereby issued as follows:

All workers of Exeter Drilling Company, operating in the states of Florida and Nevada who become totally or partially separated from employment on or after January 1, 1986 and before September 1, 1986 and all workers of Exeter Drilling Company, headquartered in Denver, Colorado and operating in Alabama, Arkansas, Colorado (excluding Denver), Louisiana, Mississippi, Montana, Nebraska, New Mexico, Oklahoma, Texas, Utah, West Virginia, and Wyoming who become totally or partially sparated from employment on or after January 1, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC. this 11th day of May 1989.

Marvin M. Fooks,

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 89-12331 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

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[TA-W-22,286]

## Intec Medical, Blue Springs, MO; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Intec Medical, Blue Springs, Missouri. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-22,286; Intec Medical, Blue Springs, Missouri (May 17, 1989).

Signed at Washington, DC, this 17th day of May 1989.

Marvin M. Fooks,

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 89-12328 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

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[TA-W-22,383 and TA-W-20,822]

## Newton Exploration Co., Sidney, MT; Abtex, Inc., dba/Brinkerhoff Oil Co., Houston TX; Dismissal of Applications for Reconsideration

Pursuant to 29 CFR 90.18 applications for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Newton Exploration Company, Sidney, Montana and ABTEX, Incorporated dba Brinkerhoff Oil Company, Houston, Texas. The reviews indicated that the applications contained no new substantial information which would bear importantly on the Department's determinations. Therefore, dismissal of the applications were issued.

TA-W-22,383; Newton Exploration Company, Sidney, Montana (May 4, 1989).

TA-W-20,822; ABTEX, Incorporated, dba/Brinkerhoff Oil Company, Houston, TX (May 4, 1989).

Signed at Washington, DC, this 17th day of May 1989.

Marvin M. Fooks,

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 89-12329 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

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## Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period April 1, 1989-April 30, 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate

subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

**Negative Determinations**

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*TA-W-22,533; J-M Manufacturing Co., Inc., Denison, TX*

*TA-W-22,483; General Electric Co., Government Communication System Dept., Camden, NJ*

*TA-W-22,493; Maverick Tube Corp., Union, MO*

*TA-W-22,467; American Biltrite, Garfield, NJ*

*TA-W-22,423; A-Bet-A Industries, Little Falls, NJ*

*TA-W-22,832; Enrol Oil & Gas Co., Houston, TX*

*TA-W-22,832A; Enron Oil & Gas Co., Midland, TX*

*TA-W-21,833; Enron Oil & Gas Co., Denver, CO*

*TA-W-22,556; Valex Petroleum, Inc., Denver, CO*

*TA-W-22,609; TGX Corp., Westfield, NY*

*TA-W-22,475; Ericsson, Inc., Harrisonville, MO*

*TA-W-22,585; Lehigh Structural Steel Co., Allentown, PA*

*TA-W-22,303; Robert Shaw Controls Co., Milford, CT*

*TA-W-22,519; Chanin Clothing Corp., New York, New York*

*TA-W-22,215; Continental Can Corp, Milwaukee, WI*

*TA-W-22,557; W.B. Bow Tie Corp., New York, New York*

*TA-W-22,482; GTE Products Corp., Winchester, KY*

*TA-W-22,555; Magnetek Universal Manufacturing, Paterson, NJ*

*TA-W-22,599; Paris Knitting Mills, Maspeth, NY*

*TA-W-22,407; Ohio Filter Co., Cleveland, OH*

*TA-W-22,520; D' Altruie Industries, Elizabeth, NJ*

*TA-W-22,525; Eagle Sportogs, Inc., Union, NJ*

*TA-W-22,524; Eagle Electric Manufacturing Co., Inc., Long Island City, NY*

*TA-W-22,532; Hocking Oil Co., Inc., Mt. Carmel, IL*

*TA-W-22,474; Dana Corp., Aftermarket Products Div., Hamtramck, MI*

In the following cases, the investigation revealed that criterion (3) has not been met for the reasons specified.

*TA-W-22,494; Metal Removal Tooling Co., Chicago, IL*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,390; Dale Electronics, Inc., El Paso, TX*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,603; Reynolds Metals Co., Grand Rapids, MI*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,384; General Motors Corp., CPC Pontiac Assembly, Plant #8, Pontiac, MI*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,510; Uniroyal Goodrich Tire Co., Eau Claire, WI*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,466; Alco Power, Inc., Auburn, NY*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,321; General Motors Corp., CPC Lakewood, Atlanta, GA*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,479; Forest Oil Corp., Corpus Christi, TX*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,509; Uniflite, Inc., dba Murray Chris Craft Cruisers Bellingham, WA*

U.S. imports of pleasure boats, inboard powered over 26 foot long declined absolutely in 1987 compared to 1986 and in 1988 compared to 1987.

*TA-W-22,497; Pacific Enterprises Oil Co., Southwest Region, Midland, TX*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,501; Polychrome Chemical Corp., Bloomfield, NJ*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,649; Seatide International, Inc., Gretna, LA*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,495; Nielsen Clearinghouse, El Paso, TX*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,632; Jones Drilling & Producing Co, Fairfield, IL*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,522; E.F. Hutton & Co., Inc., New York, NY*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,530; HEFCO, Eatontown, NJ*

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,606; Sheboygan Footwear, Inc., Sheboygan, WI*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,515; Accusonic Systems Corp., New Hyde Park, NY*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,610; The Timkin Co., Plant #4, Columbus, OH*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,521; Dollinger Corp., Rochester, NY*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,640; North American Underwear, New York, NY*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,531; G. Heileman Brewing Co., Inc., Belleville, IL*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,643; GNB, Inc., Salem, OR*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,115; Cenix Refinery Petroleum Transportation Dept., Laurel, MT*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,623; Forest Oil Corp., Denver, CO*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,624; Forest Oil Corp., Corpus Christi, TX*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,625; Forest Oil Corp., Midland, TX*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,549; Spectrum Foods, New Stanton, PA*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,607; Smith Pierce Associates, Inc., Blasdell, NY*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,490; Kollsman Avionics Group, Englewood, NJ*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,553; Tenneco Gas (Formerly Tenneco Gas Pipeline Group), Houston, TX*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,553A; Louisiana Intrastate Gas Corp., Alexandira, VA*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,617; Boise Cascade Corp., Goldendale, WA*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,701; Leamco Services, Inc., Midland, TX*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,659; Animal Toys, Inc., Farmingdale, NY*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,593; Maxus Energy Corp., Maxus Exploration Co., Houston, TX*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,704; New York Rail Car Corp., Brooklyn, NY*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,446; Cooper Industries, Flow Control Div., Missouri City, TX*

U.S. imports of oilfield machinery are negligible.

*TA-W-22,651; Shenango Co., Dover, OH*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,517; Boilermakers Contractor Association, Buffalo, NY*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,539; Goebel United States, Pennington, NJ*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,471; Brown & Root U.S.A., Inc., Longview, TX*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,544; Great Northern Paper Co., Pinkham Lumber Co., Ashland, ME*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,545; Great Northern Paper Co., Portage Chip Plant, Portage, ME*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,650; Seville Construction, Inc., Brooklyn, NY*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,558; Western Kansas Drilling, Hays, KS*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,462; Rockland Leather, Inc., Rockland, ME*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,591; Mattel Toys Retail Merchandising Div., Hawthorne, CA*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,404; Microdyne Corp., Cumberland, MD*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,465; U.S. Tire Co., Omaha, NB*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,688; Baker Mine Service, Waynesburg, PA*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,601; R& H Realty Management Co., Inc., New York, NY*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA-W-22,568; Cimarron Resources, Inc., Aurora, CO*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,563; Brevel Motors Corp., Carlstadt, NJ*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-22,538; Mobay Corp., Haledon, NJ*

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

*TA-W-22,765; Land & Marine Rental Company, San Antonio, TX*

Increased imports did not contribute importantly to workers separations at the firm.

*Affirmative Determination*

*TA-W-22,527; Farah U.S.A., Inc., El Paso, TX*

A certification was issued covering all workers separated on or after January 1, 1989.

*TA-W-22,537; Maxam, Inc., Humboldt, KS*

A certification was issued covering all workers separated on or after January 13, 1988.

*TA-W-22,541; Ormed Manufacturing, Inc., Buffalo, NY*

A certification was issued covering all workers separated on or after June 1, 1988.

*TA-W-22,508; U.S. Auto Radiator Manufacturing Corp., Highland Park, MI*

A certification was issued covering all workers separated on or after January 24, 1988.

*TA-W-22,506; Spielberg Manufacturing, Antonia, MO*

A certification was issued covering all workers separated on or after January 4, 1988 before August 23, 1988.

*TA-W-22,590; Matic, Inc., Abilene, TX*

A certification was issued covering all workers separated on or after February 22, 1988 and before January 31, 1989.

*TA-W-22,574; Danny Boy Manufacturing Co., Elizabeth, NJ*

A certification was issued covering all workers separated on or after February 23, 1988.

*TA-W-22,627; Freeman Shoe Co., Inc., Hanover, PA*

A certification was issued covering all workers separated on or after January 29, 1989.

*TA-W-22,480; Freeman Shoe Co., Inc., Beloit, WI*

A certification was issued covering all workers separated on or after February 6, 1989.

*TA-W-22,499; Pathfinder Mines Corp., Riverton, WY*

A certification was issued covering all workers separated on or after January 27, 1988.

*TA-W-22,500; Pathfinder Mines Corp., St. George, UT*

A certification was issued covering all workers separated on or after January 27, 1988.

*TA-W-22,389; Cyclops Corp., Detroit Strip Div., New Haven Plant, Hamden, CT*

A certification was issued covering all workers separated on or after January 11, 1988.

*TA-W-22,235; Jaguar Manufacturing, Inc., Smethport, PA*

A certification was issued covering all workers separated on or after November 25, 1987 and before November 7, 1988.

*TA-W-22,424; American Shizuke Corp., Ogallala, ME*

A certification was issued covering all workers separated on or after October 1, 1988 and before January 31, 1989.

*TA-W-22,458; Nish-Nan-Bee Industries, Wire Harness Plant #2, Traverse City, MI*

A certification was issued covering all workers separated on or after January 18, 1988.

*TA-W-22,382; Johnson & Johnson Dental Care, East Windsor, NJ*

A certification was issued covering all workers separated on or after December 12, 1987 and before February 3, 1989.

*TA-W-22,374; Tubular Corp., of America, Muskogee, OK*

A certification was issued covering all workers separated on or after November 1, 1988.

*TA-W-22,416; T & M Casing Service, Grand Junction, CO*

A certification was issued covering all workers separated on or after December 20, 1987.

*TA-W-22,416A; T & M Casing Service, Corty, CO*

A certification was issued covering all workers separated on or after December 20, 1987.

*TA-W-22,416B; T & M Casing Service, Greely, CO*

A certification was issued covering all workers separated on or after December 20, 1987.

*TA-W-22,416C; T & M Casing Service, Vernal, UT*

A certification was issued covering all workers separated on or after December 20, 1987.

*TA-W-22,452; Jen-Dee, Inc., Mahanoy City, PA*

A certification was issued covering all workers separated on or after January 6, 1988 and before December 30, 1989.

*TA-W-22,559; Zanetis Oil Properties, Inc., Olney, IL*

A certification was issued covering all workers engaged in the production of crude oil separated on or after January 19, 1988.

*TA-W-21,604; Rusk & Williams, Inc., Olney, IL*

A certification was issued covering all workers separated on or after February 23, 1988.

*TA-W-21,472; Cal Bohannan Drilling Co., Tulsa, OK*

A certification was issued covering all workers separated on or after February 1, 1988.

*TA-W-22,341; Beckman's Consulting Service, Williston, ND*

A certification was issued covering all workers separated on or after January 1, 1988.

*TA-W-22,608; Sojourner Drilling Corp., Abilene, TX*

A certification was issued covering all workers separated on or after January 1, 1989.

*TA-W-22,579; Ferroxcube A.C.T. Div., Saugerties, NY*

A certification was issued covering all workers separated on or after February 10, 1988.

*TA-W-22,398; Hunt Oil Co., Southwestern Div., Midland, TX*

A certification was issued covering all workers separated on or after January 9, 1989.

*TA-W-22,550; Stratophysics, Inc., Midland, TX*

A certification was issued covering all workers separated on or after February 7, 1988.

*TA-W-22,612; Van Baalen Pacific, Rockland, ME*

A certification was issued covering all workers separated on or after February 21, 1988.

*TA-W-22,535; Levi Straus & Co., Inc., McCarthur Rd., Maryville, TN*

A certification was issued covering all workers separated on or after February 2, 1988 and before November 30, 1988.

*TA-W-22,536; Levi Straus & Co., Inc., Jackson Avenue, Maryville, TN*

A certification was issued covering all workers separated on or after February 2, 1988 and before November 30, 1988.

*TA-W-22,504; RBS Service, Inc., Bay City, TX*

A certification was issued covering all workers separated on or after January 27, 1988.

*TA-W-22,505; Richard Drilling Co., Bay City, TX*

A certification was issued covering all workers separated on or after January 27, 1988.

*TA-W-22,496; Mighty-Mac Industries, Gloucester, MA*

A certification was issued covering all workers separated on or after January 24, 1988.

*TA-W-22,529; George W. Moore, Inc., Now Doing Business as K & S Manufacturing, Inc., Waltham, MA*

A certification was issued covering all workers separated on or after February 3, 1988.

*TA-W-22,578; The Florsheim Shoe Co., Paducah, KY*

A certification was issued covering all workers separated on or after January 17, 1989.

*TA-W-22,576; Eberhard Manufacturing Co., Strongsville, OH*

A certification was issued covering all workers separated on or after February 23, 1988.

*TA-W-22,460; Quinoco Petroleum, Inc., Denver, CO*

A certification was issued covering all workers separated on or after January 5, 1988.

*TA-W-22,476; Everco Industries, Inc. Ottumwa, IA*

A certification was issued covering all workers of Departments #24, #25, #27, #28 and #29 separated on or after January 24, 1988.

*TA-W-22,469; Athens Manufacturing Corp., Athens, TN*

A certification was issued covering all workers separated on or after February 6, 1988 and before January 31, 1989.

*TA-W-22,489; Kennedy Valve, A Division of McWayne, Inc., Elmira, NY*

A certification was issued covering all workers of Herman Mold Line at Kennedy Valve, a division of McWayne, Inc., Elmira, NY separated on or after February 1, 1988.

*TA-W-22,498; Pantcraft, Inc., New York, New York*

A certification was issued covering all workers separated on or after February 6, 1988 and before March 31, 1989.

*TA-W-22,503; Pretty Please, Glen Cove, NY*

A certification was issued covering all workers separated on or after February 6, 1988.

*TA-W-22,575; Darling Drilling Co., Lamont, OK*

A certification was issued covering all workers separated on or after January 1, 1989.

*TA-W-22,313; Coastal Oil and Gas Crop., Midland, TX*

A certification was issued covering all workers separated on or after December 23, 1988 and before February 1, 1989.

*TA-W-22,488; Jumping Jack Shoes, Ponce, PR*

A certification was issued covering all workers separated on or after January 31, 1989.

*TA-W-22,602; Reliable Attachment, New York, NY*

A certification was issued covering all workers separated on or after February 14, 1988.

*TA-W-22,629; H & W Drilling Fluid, Littleton, CO*

A certification was issued covering all workers separated on or after February 17, 1988.

*TA-W-22,629A; H & W Drilling Fluid, Casper, WY*

A certification was issued covering all workers separated on or after February 17, 1988.

*TA-22,551; Tenneco Management, Houston, TX*

A certification was issued covering all workers separated on or after February 2, 1988.

*TA-W-22,551A; Tenneco Management, Milwaukee, WI*

A certification was issued covering all workers separated on or after February 2, 1988.

*TA-W-22,551B; Tenneco Management, Washington, D.C.*

A certification was issued covering all workers separated on or after February 2, 1988.

*TA-W-22,552; Tenneco Oil Processing & Marketing, Houston, TX*

A certification was issued covering all workers separated on or after February 2, 1988.

*TA-W-22,552A; Tenneco Oil Processing & Marketing, The Woodland, TX*

A certification was issued covering all workers separated on or after February 2, 1988.

*TA-W-22,552B; Tenneco Oil Processing & Marketing, Brentwood, TX*

A certification was issued covering all workers separated on or after February 2, 1988.

*TA-W-22,552C; Tenneco Oil Processing & Marketing, Atlanta, GA*

A certification was issued covering all workers separated on or after February 2, 1988.

*TA-W-22,552D; Tenneco Oil Processing & Marketing, Chalmette, LA*

A certification was issued covering all workers separated on or after February 2, 1988.

*TA-W-22,554; Tenneco Realty, Houston, TX*

A certification was issued covering all workers separated on or after February 2, 1988.

*TA-W-22,444; Comdial Corp., Shenandoah Plant, Shenandoah, VA*

A certification was issued covering all workers separated on or after January 20, 1988.

*TA-W-22,399; Irving Industries, Plant #1, Richmond, KY*

A certification was issued covering all workers separated on or after December 1, 1988 and before February 28, 1989.

*TA-W-22,320; General Motors Corp., BOC Leeds, Kansas City, MO*

A certification was issued covering all workers separated on or after December 9, 1987.

*TA-W-22,112; Bayou State Oil Corp., Shreveport, LA*

A certification was issued covering all workers separated on or after November 10, 1987.

*TA-W-22,112A; Bayou State Oil Corp., Bellview, Princeton, LA*

A certification was issued covering all workers separated on or after November 10, 1987.

*TA-W-22,112B; Bayou State Oil Corp., Caddo Pine Island, Hosston, LA*

A certification was issued covering all workers separated on or after November 10, 1987.

*TA-W-21,765; Tesoro Drilling Co., Laurel, MS*

A certification was issued covering all workers separated on or after October 1, 1985.

*TA-W-21,765A; Tesoro Petroleum Corp., San Antonio, TX*

A certification was issued covering all workers separated on or after October 17, 1987.

*TA-W-21,765B; Tesoro Crude Oil Co., San Antonio, TX*

A certification was issued covering all workers separated on or after October 17, 1987.

*TA-W-21,765C; Tesoro Pipeline Co., San Antonio, TX*

A certification was issued covering all workers separated on or after October 17, 1987.

*TA-W-22,179A; Santa Fe Drilling Co., Alhambra, CA*

A certification was issued covering all workers separated on or after October 1, 1985.

*TA-W-22,179B; Santa Fe Drilling Co., Houson, TX*

A certification was issued covering all workers separated on or after October 1, 1985.

*TA-W-22,179C; Santa Fe Drilling Co., Lafayette, LA*

A certification was issued covering all workers separated on or after October 1, 1985.

I hereby certify that the aforementioned determinations were issued during the month of April 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213 during normal business hours or will be mailed to persons to write to the above address.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

Dated: May 16, 1989.

[FR Doc. 89-12335 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

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**[TA-W-22,597]**

## P.R.Z. Jewelry Manufacturing Corp., New York, NY; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 13, 1989 in response to a worker petition received on March 13, 1989 which as filed on behalf of workers at P.R.Z. Jewelry manufacturing Corporation, New York, New York.

The investigation revealed that the petition is not valid for the group of workers at P.R.Z. Jewelry Manufacturing Corporation, New York, New York because one of the signatures that appears in the petition was not signed by the petitioner. The investigation also revealed that another petitioner who signed was never employed at P.R.Z. Jewelry. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC., this 5th day of May, 1989.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 89-12332 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

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## Tenneco, Inc., et al.; Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

On May 8, 1989, the Department, on its own motion, reopened its investigation for workers of Tenneco Gas, formrly Tenneco Gas Pipeline Group, Houston, Texas and Alexandria, Virginia. The initial investigation resulted in a negative determination on April 24, 1989 because a significant number or proportion of the workers at Tenneco Gas had not become totally or partially separated, or were threatened to become totally or partially separated.

The company furnished information about additional layoffs which indicates that a significant number of workers have been, in fact, released from the firm. In addition, the Department has corrected the location of Louisiana Intrastate Corporation from Alexandria, Virginia to Alexandria, Louisiana.

Tenneco Gas is a transporter of natural gas products produced by Tenneco Oil Exploration and Production and marketed by Tenneco Oil Processing and Marketing, affiliates of Tenneco Gas. Beginning in 1988, Tenneco Gas experienced reductions in operations and employment levels directly attributed to Tenneco Incorporated's decision to sell Tenneco Oil Exploration and Production.

Since the workers of Tenneco Gas are engaged in transporting natural gas products, they may be certified if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Tenneco Gas by ownership, or a firm related by control. In any case the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and the reduction must directly relate to the product impacted by imports. These conditions have been met for workers of Tenneco Gas in this case.

Workers of Tenneco Oil Exploration and Production and Tenneco Oil Processing and Marketing independently meet the criteria for certification and are eligible to apply for adjustment assistance benefits (TA-W-22,187-96 and TA-W-22,552; A-E, respectively). Therefore, the separations of workers at Tenneco Gas can be directly related to facilities whose workers independently meet the criteria for certification.

Accordingly, the Department is revising the subject certification to include workers of Tenneco Gas. The determination applicable to TA-W-22,551 through TA-W-22,554 is hereby issued as follows:

All workers of Tenneco Management, Tenneco Oil Processing and Marketing, Tenneco Gas and Tenneco Realty in the locations listed below who became totally or partially separated from employment on or after February 2, 1988 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Tenneco Management

TA-W-22,551-A—Houston, Texas
TA-W-22,551-B—Milwaukee, Wisconsin
TA-W-22,551-C—Washington, DC

Tenneco Oil Processing and Marketing

TA-W-22,552-A—Houston, Texas
TA-W-22,552-B—The Woodlands, Texas
TA-W-22,552-C—Brentwood, Tennessee
TA-W-22,552-D—Atlanta, Georgia
TA-W-22,552-E—Chalmette, Louisiana

Tenneco Gas (formerly Tenneco Gas Pipeline Group)

TA-W-22,553-A—Houston, Texas
TA-W-22,553-B—Louisiana Intrastate Gas Corporation, Alexandria, Louisiana

Tenneco Realty

TA-W-22,554—Houston, Texas.

Signed at Washington, DC, this 11th day of May 1989.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 89-12333 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

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## Zapata Offshore Co.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the Matter of TA-W-21,502—Houston, Texas, etc.; TA-W-21,502A—All other locations in Texas; TA-W-21,502B—All locations in Alabama; TA-W-21,502C—All locations in California; TA-W-21,502D—All locations in Florida; TA-W-21,502E—All locations in Louisiana; TA-W-21,502F—All locations in Massachusetts; TA-W-21,502G—All locations in Mississippi; TA-W-21,502H—All locations in Rhode Island.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the

Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 19, 1988 applicable to all workers of Zapata Offshore Company, Houston, Texas.

Based on new information from the company, additional workers were separated from the Zapata Offshore Company in other locations in Texas and in all locations in Alabama, California, Florida, Louisiana, Massachusetts, Mississippi and Rhode Island during the period applicable to the petition. The notice, therefore is amended by including all locations in the above mentioned States.

The amended notice applicable to TA-W-21,502 is hereby issued as follows:

All workers of Zapata Offshore Company in Houston, Texas and in other locations of Texas and in all locations in Alabama, California, Florida, Louisiana, Massachusetts, Mississippi, and Rhode Island who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 16th day of May 1989.

**Barbara Ann Farmer,**

*Director, Office of Program Management, UIS.*

[FR Doc. 89-12334 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

## Federal-State Unemployment Compensation Program: Certifications Under the Federal Unemployment Tax Act for 1988

On October 31, 1988, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. (See 53 FR 44964, November 7, 1988.) The State of Minnesota was omitted from these certifications. The Secretary has since determined that Minnesota and its law are certifiable effective October 31, 1988. The Secretary's letter to the Secretary of the Treasury certifying Minnesota and its law is printed below.

Dated: May 15, 1989.

**Roberts T. Jones,**

*Assistant Secretary of Labor.*

The Honorable Nicholas F. Brady
Secretary of the Treasury
Washington, D.C. 20220

May 15, 1989.

Dear Nick:

On October 31, 1988, former Secretary McLaughlin forwarded to you the 1988 certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, listing the States that were certified under section 3304(c) of the Act and the States whose unemployment compensation laws were certified under section 3303(b)(1) of the Act.

The State of Minnesota was omitted from both certifications. I have determined that the State of Minnesota is now certifiable for 1988 under section 3304(c) of the Federal Unemployment Tax Act, and the State unemployment compensation law is now certifiable under section 3303(b)(1) of the Act, and I hereby so certify to you, effective October 31, 1988.

With my warmest regards,

Sincerely,
Elizabeth Dole.

[FR Doc. 89-12339 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

## Job Training Partnership Act; Announcement of Proposed Noncompetitive Grant Awards

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of intent to award noncompetitive grants.

**SUMMARY:** The Employment and Training Administration (ETA) announces its intent to award grants on a noncompetitive basis to organizations listed in this notice for the provision of specialized job training and placement services under the authority of the Job Training Partnership Act (JTPA).

**DATES:** Grant agreements will be executed by July 1, 1989, and will be funded for the 12-month period of program year 1989. Submit comments by 4:45 p.m. (Eastern Time), on June 7, 1989.

**ADDRESS:** Submit comments regarding the proposed assistance awards to: U.S. Department of Labor, Employment and Training Administration, Room C-4305, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Janice E. Perry; Reference FR-DAA-001.

**SUPPLEMENTARY INFORMATION:** The Employment and Training Administration (ETA) announces its intent to award noncompetitive grants to various organizations for delivery of Federal assistance services to special client groups, practitioners and policy makers within the employment and training system.

Funding for these activities is authorized by the Job Training Partnership Act (JTPA), a amended, Title IV—Federally Administered Programs, Part D—National Activities. The total funding level for these 12-month grant agreements is $18.5 million.

The proposed grant recipients are nonprofit organizations that have been providers of employment and training services over a period of years. They have developed unique experience and specialized expertise in their respective areas of service capability. As such, they have established an ongoing relationship with the ETA in providing effective and responsive services to meet the specialized needs of various client groups within the employment and training system.

The proposed grant recipients and their respective funding levels are as follows:

| | Funding level |
|---|---|
| **Handicapped Programs** | |
| Mainstream, Inc | 360,082 |
| National Association of Rehabilitation Facilities | 309,000 |
| Electronic Industries Foundation | 297,000 |
| Goodwill Industries | 527,279 |
| Association for Retarded Citizens | 1,194,800 |
| Epilepsy Foundation of America | 715,850 |
| National Federation of the Blind | 251,320 |
| **Training Demonstration Activities** | |
| National Association of Home Builders | 540,495 |
| PREP, Inc | 669,500 |
| National Tooling & Machining Association | 1,029,130 |
| International Union of Operating Engineers | 154,500 |
| National Puerto Rican Forum | 567,676 |
| **Partnership Programs** | |
| National Alliance of Business | 5,800,000 |
| SER/Jobs for Progress | 927,000 |
| National Urban League | 515,000 |
| OIC of America | 1,393,143 |
| Human Resource Development Institute | 1,897,108 |
| 70001 Ltd | 1,388,440 |

Signed at Washington, DC, on May 15, 1989.

**Robert D. Parker,**

*ETA Grant Officer.*

[FR Doc. 89-12337 Filed 5-22-89; 8:45 am]

BILLING CODE 4510-30-M

# NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

## Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration, Office of Records Administration.

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records

schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

**DATE:** Requests for copies must be received in writing on or before July 7, 1989. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

**ADDRESS:** Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

**SUPPLEMENTARY INFORMATION:** Each year U.S. Government agencies create billions or records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

**Schedules Pending**

1. Army and Air Force Exchange Service (N1-334-89-2). Central Promotion Board files.
2. Department of Agriculture, Watershed Management (N1-95-87-16) and Recreation Management (N1-95-88-1). General correspondence and other administrative records relating to watershed and recreation management (exclusive of case files and other substantive records designated for permanent retention).
3. Federal Emergency Management Agency, State and Local Programs and Support Division (N1-311-89-5). Public assistance financial records.
4. Department of Justice, Office of Legal Policy (N1-60-89-7). Litigation cases filed under the Freedom of Information and Privacy Acts.
5. Department of Justice, Executive Office for U.S. Attorneys (N1-118-89-3). Debt collection records.
6. Nuclear Regulatory Commission, Division of Security (N1-431-88-4). Drug testing program records.
7. United States Information Agency, Bureau of Educational and Cultural Affairs, Office of Private Sector Programs (N1-306-89-9). Routine facilitative records.

Dated: May 16, 1989.

**Claudine J. Weiher,**

*Acting Archivist of the United States.*

[FR Doc. 89-12351 Filed 5-22-89; 8:45 am]

BILLING CODE 7515-01-M

## NATIONAL SCIENCE FOUNDATION

### Equal Opportunities in Science and Engineering; Meeting

*Name:* Committee on Equal Opportunities in Science and Engineering.

*Place:*

National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Department of the Interior, 18th & C Streets NW., Washington, DC 20240.

*Dates:* June 7, 8, 9, 1989.

*Times/Rooms:*

June 7: Subcommittee on Minorities, 9:00 a.m.-12:00 p.m., Room 540 at NSF.

Full Committee Meeting, 1:30 p.m.-4:30 p.m., Room 543 at NSF.

June 8: Full Committee Meeting, 9:00 a.m.-12:00 p.m., Room 5160 at Department of Interior.

Subcommittee on Women, 1:30 p.m.-4:30 p.m., Room 540 at NSF.

June 9: Subcommittee on Persons with Disabilities, 9:00 a.m.-12:00 p.m., Room 540 at NSF.

*Type of Meeting:* Open.

*Contact:* May M. Kohlerman, Executive Secretary of the CEOSE, National Science Foundation, Room 635. Telephone Number: 202-357-7066.

*Purpose of Meeting:* To provide advice to the Foundation on policies and activities to encourage full participation of groups currently underrepresented in scientific, engineering, professional and technical fields.

To share and discuss similar concerns with members of the Federal task force, the Committee on Equal Opportunities in Science and Technology.

*Summary Minutes:* May be obtained from the Executive Secretary at the above address.

*Agenda:* To review progress by the subcommittees, become familiar with successful intervention programs, and to meet with the Director and other NSF staff.

**M. Rebecca Winkler,**

*Committee Management Officer.*

May 17, 1989.

[FR Doc. 89-12269 Filed 5-22-89; 8:45 am]

BILLING CODE 7555-01-M

### Task Force on Women, Minorities and the Handicapped in Science and Technology; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Task Force on June 8, 1989.

**Meeting**

*Name:* Task Force on Women, Minorities and the Handicapped in Science and Technology.

*Date:* June 8, 1989.

*Time:* 9:00 a.m. to 4:00 p.m.

*Place:* U.S. Department of Interior 18th & C Street NW., Room 5160, Washington, DC 20240.

*Type of Meeting:* Open.

*Purpose:* Discussion (1) Dissemination of the task force interim report; (2) progress on data collection by agencies; and (3) status of each agency's plans for implementation of the task force interim report.

*Summary Minutes:* May be obtained from Mrs. Kemnitzer, Task Force on Women, Minorities, and the Handicapped in S&T 330 C Street NW.,

Washington, DC 20201, phone: 202-245-7477.

May 17, 1989.

**Sue Kemnitzer,**

*Executive Director, (202) 245-7477.*

[FR Doc. 89-12270 Filed 5-22-89; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

**[Docket 50-440]**

### The Cleveland Electric Illuminating Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-58, issued to The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and Toledo Edison Company (the licensees), for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

**Environmental Assessment**

*Identification of Proposed Action*

The proposed amendment would revise Tables 3.6.4.1 and 3.3.7.4-1 of the Technical Specifications (TS) to add two additional automatic containment isolation valves to the Containment Isolation Valve Table and one valve control switch to the Division 1 Remote Shutdown System Control Table.

The valves are being added to separate the suppression Pool Cleanup System from the residual Heat Removal System.

The proposed action is in accordance with the licensees' application for amendment dated January 18, 1989.

*The Need for the Proposed Action*

The proposed change to the TS is required in order to provide the licensees the ability to operate the Suppression Pool Cleanup System without causing a residual heat removal (RHR) subsystem to become inoperable. Presently, the return of the Suppression Pool Cleanup System ties into either loop A or loop B of the RHR system upstream of the suppression pool isolation valve. Opening this valve in the respective RHR loop drops pressure below the low pressure alarm setpoint rendering that loop inoperable.

*Environmental Impacts of the Proposed Action*

The Commission has completed its evaluation of the proposed revision to the TS and concludes that the proposed additional isolation valves and piping provide single failure proof, seismic Category I quality, appropriate valve closure time, remote control shutdown capability and leak tight barrier by a water seal for at least 30 days during an accident. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

The Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on March 20, 1989 (54 FR 11463). No request for hearing or petition for leave to intervene was filed following this notice.

With regard to potential nonradiological impacts, the proposed change to the TS involves the addition of two containment isolation valves to the Suppression Pool Cleanup System. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

*Alternative to the Proposed Action*

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of the Perry Nuclear Power Plant, Units 1 and 2, dated August 1987.

*Agencies and Persons Consulted*

The NRC staff reviewed the licensees' 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 license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated January 18, 1989 which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Perry Public Library, 3753 Main Street, Perry, Ohio, 44081.

Dated at Rockville, Maryland, this 16th day of May 1989.

For the Nuclear Regulatory Commission.

**John N. Hannon,**

*Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.*

[FR Doc. 89-12311 Filed 5-22-89; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50-344]**

### Portland General Electric Co., the City of Eugene, Oregon Pacific Power and Light Co.; Trojan Nuclear Plant

**Environmental Assessment and Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License NO. NPF-1 issued to Portland General Electric Company, et al., (the licensee), for operation of Trojan Nuclear Plant, located in Columbia County, Oregon.

**Environmental Assessment**

*Identification of Proposed Action*

The proposed amendment is a request to condition the Trojan Technical Specification for use of a new fuel design not previously used in the Trojan reactor.

The proposed action is in accordance with the licensee's application for amendment dated November 20, 1987, supplemented by letters dated May 27, 1988 and August 12, 1988.

*The Need for the Proposed Action*

The proposed Amendment is needed to allow the use of a new upgraded fuel design not previously used in the Trojan reactor. The fuel design, Westinghouse Vantage 5, has reconstitutable assembly top nozzles and axial fuel blankets, features designed to improve fuel operating economy.

*Environmental Impacts of the Proposed Action*

Operation with the new fuel design is within the range of impacts evaluated in the Final Environmental Statement related to operation of Trojan dated August 1973. The proposed action would not involve a significant change in the

probability or consequences of any accident previously evaluated, nor does it involve a new or different kind of accident. Consequently, any radiological releases resulting from an accident would not be significantly greater than previously determined. The proposed amendment does not otherwise affect routine radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendment. The Commission also concludes that the proposed action will not result in a significant increase in individual or cumulative occupational radiation exposure.

With regard to nonradiological impacts, the proposed amendment does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on February 24, 1989 (53 FR 5495). No request for hearing or petition for leave to intervene was filed following this notice.

*Alternatives to the Proposed Action*

Because the Commission has concluded that there are no significant environmental impacts associated with the proposed action, there is no need to examine alternatives to the proposed action.

*Alternative Use of Resources*

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to the operation of Trojan Nuclear Plant, dated August 1973.

*Agencies and Persons Consulted*

The NRC staff reviewed the licensee's request that supports the proposed amendment. The NRC staff did not consult other agencies or persons.

**Finding of No Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, the Commission concludes the proposed action will have no significant adverse effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated November 20, 1987, as supplemented May 27 and August 12, 1988 which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Portland State University Library, 731 SW. Harrison Street, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 16th day of May, 1989.

For the Nuclear Regulatory Commission.

**George W. Knighton,**

*Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.*

[FR Doc. 89-12312 Filed 5-22-89; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-245]**

## Northeast Nuclear Energy Co.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Northeast nuclear Energy Company (licensee) for an amendment to Facility Operating License No. DPR-21 issued to the licensee for operation of the Millstone Nuclear Power Station, Unit No. 1, located in New London County, Connecticut. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on April 4, 1988 (53 FR 10960).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to allow single loop operation at reduced power.

The NRC staff has advised the licensee that the proposed amendment is denied since the licensee has failed to respond to the Commission's request for additional technical information to support the application.

The licensee was notified of the Commission's denial of the proposed change by a letter dated.

By June 22, 1989, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must 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, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and to Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated August 17, 1987, and (2) the Commission's letter to the licensee dated.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this May 15, 1989.

**Michael L. Boyle,**

*Project Manager, Project Directorate I-4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 89-12310 Filed 5-22-89; 8:45 am]

BILLING CODE 7590-01-M

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## OFFICE OF PERSONNEL MANAGEMENT

### Excepted Service

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

**FOR FURTHER INFORMATION CONTACT:** Leesa Martin, (202) 632-0728.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on April 25, 1989 (54 FR 17850) Individual authorities established or revoked under Schedule A, B, or C between April 1, 1989, and April 31,

1989, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

**Schedule A**

The following exception was established:

*U.S. Soldiers' and Airmen's Home*

Positions when filled by member-residents of the Home. Effective April 1, 1989.

The following exception was revoked:

*U.S. Soldiers' and Airmen's Home*

All positions under 213.3136(a). Effective April 1, 1989.

**Schedule B**

The following exceptions were established:

*U.S. Soldiers' and Airmen's Home*

Three GS-11 Medical Officer Positions under a fellowship program on geriatrics. Effective April 1, 1989.

Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs. Effective April 1, 1989.

**Schedule C**

*Agriculture*

One Confidential Assistant to the Special Assistant to the Secretary. Effective April 19, 1989.

*Commerce*

One Special Assistant to the Assistant Secretary for Import Administration. Effective April 10, 1989.

One Congressional Liaison Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective April 18, 1989.

One Confidential Assistant to the Secretary of Commerce. Effective April 18, 1989.

One Deputy, Office of Executive Programs, to the Director. Effective April 20, 1989.

One Deputy Director for Intergovernmental Affairs to the Deputy Assistant Secretary. Effective April 20, 1989.

One Deputy Director for Congressional Affairs to the Deputy Assistant Secretary. Effective April 20, 1989.

One Confidential Assistant to the General Counsel. Effective April 20, 1989.

One Congressional Liaison Assistant to the Deputy Director for Congressional Affairs. Effective April 19, 1989.

*Department of Energy*

One Confidential Assistant to the Director, Office of External Affairs. Effective April 21, 1989.

One Director, Division of Public Affairs, to the Director, Office of External Affairs. Effective April 21, 1989.

*Department of Transportation*

One Staff Assistant to the Secretary of Transportation. Effective April 21, 1989.

One Deputy Director, Intergovernmental Affairs, to the Director, Office of Intergovernmental and Consumer Affairs. Effective April 24, 1989.

*Department of Education*

One Special Assistant to the Director, Intergovernmental and Interagency Affairs. Effective April 14, 1989.

One Special Assistant to the Secretary of Education. Effective April 18, 1989.

*Department of Housing and Urban Development*

One Special Assistant to the Secretary for the Executive Secretariat. Effective April 15, 1989.

*International Trade Commission*

One Staff Assistant to a Commissioner, U.S. International Trade Commission. Effective April 10, 1989.

One Staff Assistant to a Commissioner, U.S. International Trade Commission. Effective April 26, 1989.

*Department of Labor*

One Deputy Legislative Officer to the Assistant Secretary for Congressional Affairs. Effective April 13, 1989.

One Staff Assistant to the Assistant Secretary for Public and Intergovernmental Affairs. Effective April 12, 1989.

One Staff Assistant to the Assistant Secretary for Public and Intergovernmental Affairs. Effective April 12, 1989.

One Special Assistant to the Assistant Secretary for Policy. Effective April 13, 1989.

One Staff Assistant to the Assistant Secretary for Policy. Effective April 24, 1989.

*Department of State*

One Member, Policy Planning Staff, to the Director. Effective April 4, 1989.

One Staff Assistant to the Deputy Secretary of State. Effective April 4, 1989.

One Special Assistant to the Deputy Secretary of State. Effective April 14, 1989.

One Protocol Officer (Visits) to the Deputy Chief of Protocol. Effective April 18, 1989.

One Foreign Affairs Officer to the Chief of Protocol. Effective April 24, 1989.

One Protocol Officer (Visits) to the Deputy Chief of Protocol. Effective April 26, 1989.

*Department of Treasury*

One Confidential Assistant to the Assistant Secretary of Public Affairs and Public Liaison. Effective April 6, 1989.

One Special Assistant to the Deputy Assistant Secretary. Effective April 11, 1989.

One Special Assistant to the Director of the Mint. Effective April 13, 1989.

Two Staff Assistants to the Director of the Mint. Effective April 14, 1989.

One Confidential Assistant to the Assistant Secretary of Public Affairs and Public Liaison. Effective April 6, 1989.

One Review Officer to the Executive Secretary for Policy and Development. Effective April 18, 1989.

One Confidential Assistant to the Executive Secretary for Policy and Development. Effective April 18, 1989.

One Staff Assistant to the Deputy Assistant Secretary for Departmental Finance and Management. Effective April 18, 1989.

One Travel Assistant to the Deputy Assistant Secretary for Administration. Effective April 26, 1989.

One Executive Assistant to the Assistant Secretary (Management). Effective April 26, 1989.

*U.S. Information Agency*

One Equal Employment Manager to the Associate Director for Management. Effective April 6, 1989.

One Executive Assistant to the Director, U.S. Information Agency. Effective April 18, 1989.

*United States Trade Representative*

One Confidential Assistant to the General Counsel. Effective April 13, 1989.

*United States Tax Court*

One Secretary (Confidential Assistant) to the Chief Judge of the United States Tax Court. Effective April 24, 1989.

*Department of Veterans Affairs*

One Special Assistant to the Secretary of Veterans Affairs. Effective April 17, 1989.

U.S. Office of Personnel Management.

**Constance Horner,**

*Director.*

**Authority:** 5 U.S.C. 3301, 3303; E.O 10555, 3 CFR 1954–1958 Comp., P. 218.

[FR Doc. 89–11642 Filed 5–22–89; 8:45 am]

BILLING CODE 6325–01–M

## PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

### Annual Selection Meeting of Commissioners; Closed

**AGENCY:** President's Commission on White House Fellowships.

**ACTION:** Notice of Annual Selection Meeting of the President's Commission on White House Fellowships; Closed to the Public.

**SUMMARY:** Notice is hereby given that the annual Selection Meeting of the President's Commission on White House Fellowships will be held at Mt. Washington Conference Center, Baltimore, Maryland, June 1 through June 4, 1989, beginning at 5:00 p.m.

The Annual Selection Meeting is part of the screening process of the White House Fellowships program. During this three-day meeting, the applicants will be interviewed by members of the Presidential Commission. At the conclusion of this meeting, the Commissioners will recommend to the President those they propose be selected to serve as White House Fellows.

It has been determined by the Director of the Office of Personnel Management that because of the nature of the screening process, wherein personnel records and confidential character references must be used, which, if revealed to the public would constitute a clear invasion of the individual's privacy, the content of this meeting falls within the provisions of Section 552b(c) of Title 5 of the United States Code. Accordingly, this meeting is closed to the public.

**DATE:** The dates of the Annual Selection Meeting of the President's Commission on White House Fellowships, which is closed to the public, are June 1–4, 1989.

**FOR FURTHER INFORMATION CONTACT:** President's Commission on White House Fellowships, 712 Jackson Place, NW., Washington, DC 20503, (202) 395–4522.

Dated: May 11, 1989.

**Marcy L. Head,**

*Director, President's Commission on White House Fellowships.*

[FR Doc. 89–12309 Filed 5–22–89; 8:45 am]

BILLING CODE 6325–01–M

## SECURITIES AND EXCHANGE COMMISSION

[34–26828; MCC–89–4]

### Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Clearing Corporation relating to a Revised Fee Schedule for Legal Deposit Services

May 16, 1989.

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 May 3, 1989, the Midwest Clearing Corporation 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 on the Terms of Substance of the Proposed Rule Change**

Hereinbelow is the revised reduced schedule of charges for Midwest Clearing Corporation's ("MCC") Legal Deposit Services:

| Items/Month | Cost per item |
|---|---|
| 1–1,000 | $5.00. |
| 1,001–4,001 | $3.00 (The first 1,000 at $5.00 and the next 3,000 at $3.00). |
| 4,000 & over | $3.00 (All items at $3.00). |
| Legal Reclamations | No charge. |

**II. Self-Regulatory Organization's Statement on 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 on the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to reduce the fees for providing Legal Deposit Services to Participants. The revised fee schedule offers discounts to Participants based on the volume of activity while allowing MSTC to remain competitive in the marketplace.

The revised fee schedule is consistent with Section 17A of the Securities Exchange Act of 1934 (the "Act") in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's Participants.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

Comments were solicited from Participants, however none were received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

**IV Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed 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.

Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to File Number SR-MCC-89-4 and should be submitted by June 13, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-12324 Filed 5-22-89; 8:45 am]

BILLING CODE 8010-01-M

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[File No. 500-1]

## Omni USA, Inc.; Order of Trading Suspension

May 17, 1989.

In the matter of Omni USA, Inc., American Investor Systems, Inc., Financial Broadcasting Network, Inc. Uni-Vite, Inc., and Moorgate, Ltd.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information relating to the securities of Omni USA, Inc., American Investor Systems. Inc., Financial Broadcasting Network, Inc., Uni-Vite, Inc., and Moorgate, Ltd., and that questions have been raised about the adequacy and accuracy of publicly-disseminated information concerning the beneficial ownership and control of each of these issuers' stock and possible unregistered distributions of these issuers' securities by affiliates of each of these issuers. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of each of these issuers.

*Therefore,* it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that the over-the-counter trading in the securities of Omni USA, Inc., American Investors Systems, Inc., Financial Broadcasting Network, Inc., Uni-Vite, Inc. and Moorgate, Ltd. is suspended, for the period from 9:30 a.m. e.d.t. on May 17, 1989 and ending at 11:59 p.m. e.d.t. on May 26, 1989.

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-12256 Filed 5-22-89; 8:45 am]

BILLING CODE 8010-01-M

# SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2349]

## Minnesota; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on May 8, 1989, I find that Clay, Marshall, Norman, Pennington, Polk, Traverse, and Wilkin Counties, in the State of Minnesota, constitute a disaster loan area due to damages from flooding beginning on March 29, 1989. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on July 10, 1989, and for economic injury until the close of business on February 9, 1990, at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Fl., Atlanta, Georgia 30308.

or other locally announced locations. In addition, applications for economic injury from small businesses located in the contiguous counties of Becker, Beltrami, Big Stone, Clearwater, Grant, Kittson, Mahnomen, Otter Tail, Red Lake, Roseau, and Stevens, in the State of Minnesota, may be filed until the specified date at the above location.

| | Percent |
|---|---|
| The interest rates are: | |
| Homeowners with credit available elsewhere | 8.000 |
| Homeowners without credit available elsewhere | 4.000 |
| Businesses with credit available elsewhere | 8.000 |
| Businesses and non-profit organizations without credit available elsewhere | 4.000 |
| Businesses and non-profit organizations (EIDL) without credit available elsewhere | 4.000 |
| Others (including non-profit organizations) with credit available elsewhere | 9.125 |

The number assigned to this disaster for physical damage is 234906 and for economic injury the number is 675600.

Dated: May 10, 1989.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

**Bernard Kulik,**

*Deputy Associate Administrator for Disaster Assistance.*

[FR Doc. 89-12244 Filed 5-22-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2350]

## North Dakota (And Contiguous Counties in the State of South Dakota); Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on May 8, 1989, I find that Cass, Grand Forks, Richland, Traill, and Walsh Counties, in the State of North Dakota, constitute a disaster loan area due to damages from flooding beginning on March 29, 1989. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on July 10, 1989, and for economic injury until the close of business on February 9, 1990, at the address listed below:

Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, CA 95853-4795.

or other locally announced loactions. In addition, applications for economic injury from small businesses located in the contiguous counties or Barnes, Cavalier, Nelson, Pembina, Ramsey, Ransom, and Sargent, in the State of North Dakota; and Marshall and Roberts Counties, in the State of South Dakota, may be filed until the specified date at the above location.

| | Percent |
|---|---|
| The interest rates are: | |
| Homeowners with credit available elsewhere | 8.000 |
| Homeowners without credit available elsewhere | 4.000 |
| Businesses with credit available elsewhere | 8.000 |
| Businesses and non-profit organizations without credit available elsewhere | 4.000 |
| Businesses and non-profit organizations (EIDL) without credit available elsewhere | 4.000 |
| Others (including non-profit organizations) with credit available elsewhere | 9.125 |

The number assigned to this disaster for physical damage is 235006, and for economic injury the numbers are 675700 for the State of North Dakota, and 675800 for the State of South Dakota.

Dated: May 10, 1989.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

**Bernard Kulik,**

*Deputy Associate Administrator for Disaster Assistance.*

[FR Doc. 89-12246 Filed 5-22-89; 8:45 am]

BILLING CODE 8025-01-M

## National Small Business Development Center Advisory Board; Meeting

The National Small Business Development Center Advisory Board will hold a public meeting on Thursday, June 22nd from 10:15 a.m. to 4:00 p.m. and on Friday, June 23rd 1989, from 10:00 a.m. to 11:30 a.m. in the Paramount Conference Room at the Driskill Hotel, 6th and Brazos, Austin, Texas.

The purpose of the meeting is to discuss such matters as may be presented by Advisory Board Members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Hardy Patten, SBA, Room 317, U.S. Small Business Administration, 1441 L Street NW., Washington, DC 20416, telephone (202) 653-6315.

**Jean M. Nowak,**

*Director, Office of Advisory Councils.*

[FR Doc. 89-12248 Filed 5-22-89; 8:45 am]

BILLING CODE 8025-01-M

## Region IV Advisory Council; Public Meeting

The U.S. Small Business Administration, Region IV Advisory Council, located in the geographical area of Jackson will hold a public meeting from 1:30 p.m. to 4:30 p.m., on Thursday, June 1, 1989, in the Jackson District Office of the U.S. Small Business Administration, Jackson, Mississippi, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Jack Spradling, District Director, U.S. Small Business Administration, 100 W. Capitol St., Suite 322, Jackson, Mississippi, phone (601) 965-4363.

**Jean M. Nowak,**

*Director, Office of Advisory Councils.*

May 15, 1989.

[FR Doc. 89-12247 Filed 5-22-89; 8:45 am]

BILLING CODE 8025-01-M

# DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## Notice of Intent To Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting for Road Reconstruction—Alpine Junction/Hoback Junction Vicinity, Wyoming

May 15, 1989.

**ACTION:** Notice is hereby given that the Federal Highway Administration (FHWA) intends to prepare an Environmental Impact Statement (EIS) for proposed road reconstruction in the Alpine Junction/Hoback Junction vicinity of Western Wyoming. The EIS will be prepared in cooperation with the Wyoming State Highway Department (SHD) and the U.S. Forest Service (USFS).

**SUMMARY:** The proposed highway reconstruction project will consist of three adjacent subprojects or lineal highway segments. The longest segment or subproject (Segment 1) is located on U.S. Highway 26 and 89 between Alpine Junction and Hoback Junction along the Snake River in the Targhee and Bridger-Teton National Forests. This segment begins at Alpine Junction and continues for 23 miles in a northeasterly alignment, ending at the southern end of the bridge over the Snake River at Hoback Junction. The purpose of this proposal is to mitigate existing landslide problems, improve passing opportunities, address traffic safety problems and improve recreational opportunities along the adjacent Snake River. Consideration will be given to an alternative alignment in the vicinity of Hoback Junction.

A second highway segment proposed for reconstruction (Segment 2) commences at the northern end of Segment 1 and continues through Hoback Junction northerly for approximately 1.5 miles, ending at the south end of a second, more northerly bridge across the Snake River. Segment 2 involves reconstruction of the bridge over the Snake River at Hoback Junction. The purpose of Segment 2 reconstruction is to resolve bridge stability concerns, upgrade the existing roadway, and improve intersection traffic flow at Hoback Junction.

Segment 3 reconstruction would involve realignment of approximately 3.1 miles of highway near Hoback Junction, extending eastward towards Pinedale (U.S. Highways 191 and 189). This segment would begin immediately east of the electrical substation at Hoback Junction, cross to the south side of the Hoback River for approximately one-fourth mile and then cross back to the north side of the Hoback River to tie into the existing highway. The purpose of Segment 3 construction is to circumvent the existing landslide area on the present highway alignment, thus eliminating a safety hazard and roadway maintenance problems.

Alternatives to be considered in the EIS will include the no action alternative and various alignment and design alternatives for each of the three segments. The development of these specific alternatives is an ongoing process that will incorporate possibilities and features brought forth during public scoping in addition to those identified by project engineers as preliminary road design activities progress

*Scoping Process:* A public scoping meeting addressing all three segments of the proposed project will be held in Jackson Hole, at the Wort Hotel at 7:30 p.m. on June 22, 1989. Informal public meetings will be held in Alpine Junction and Hoback Junction previous to the scoping meeting at times and locations to be announced in local papers Written Scoping comments are due by July 24, 1989 at the address provided below.

*EIS Schedule:* The draft EIS (DEIS) is expected to be completed by November 30, 1989, at which time its availability will be announced in the **Federal Register** and public comments will again be solicited. A public hearing will be held after the draft EIS has been made available for public and agency review. Public notice will be given of the time and place for this hearing. Final EIS availability will be in early 1990.

**FOR FURTHER INFORMATION CONTACT:** Dean F. Berwick, Field Operations Engineer, P.O. Box 1127, Cheyenne, WY 81003, Telephone (307) 772-2005.

**David Geiger,**

*Acting Division Administrator, Cheyenne, Wyoming.*

[FR Doc. 89-12251 Filed 05-22-89; 8:45 am]

BILLING CODE 4910-22-M

## Environmental Impact Statement; Wake County, NC

**AGENCY:** Federal Highway Administration (FHWA).

**ACTION:** Rescind notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will not be prepared for a proposed highway project in Wake County, North Carolina.

**FOR FURTHER INFORMATION CONTACT:** Mr. R.L. Lee, District Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 790-2856.

**SUPPLEMENTARY INFORMATION:** A Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to improve Duraleigh Road in Wake County, North Carolina, was issued on December 2, 1988 and published in the December 12, 1988 **Federal Register**. The FHWA, in cooperation with the North Carolina Department of Transportation, has since determined that preparation of an EIS is not necessary for this proposed highway

project and hereby rescinds the previous Notice of Intent. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: May 12, 1989.

**Robert L. Lee,**

*District Engineer, Raleigh, North Carolina.*

[FR Doc. 89-12342 Filed 5-22-89; 8:45 am]

BILLING CODE 4910-22-M

## Commercial Driver's License Reciprocity With Canada

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Federal Highway Administrator has determined that commercial drivers' licenses issued by Canadian jurisdictions under the Canadian National Safety Code meet the commercial driver testing and licensing standards contained in 49 CFR Part 383. Accordingly, a commercial driver's license issued by a Canadian jurisdiction in conformity with the Canadian National Safety Code will be considered to be the single commercial driver's license for operation in the United States by Canadian drivers. Also, a Canadian driver holding a commercial driver's license issued under the Canadian National Safety Code will be prohibited from obtaining any driver's license from a State or other licensing jurisdiction of the United States.

**DATE:** The enabling agreement between the Governments of Canada and the United States took effect on December 29, 1988.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jill L. Hochman, Office of Motor Carrier Standards, (202)366-4001, or Mr. Paul L. Brennan, Office of Chief Counsel, (202)366-1350, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

**SUPPLEMENTARY INFORMATION:** The Federal Highway Administrator (Administrator) has authority under 49 CFR Part 383 to determine the compatibility of the commercial driver testing and licensing standards of jurisdictions of foreign countries (foreign jurisdictions) with those of the United States. Specifically, § 383.23(b) requires that a commercial motor vehicle (CMV) operator who is domiciled in a foreign jurisdiction which, as determined by the Administrator, does not test drivers and issue a commercial driver's license (CDL) in accordance with, or similar to, the standards in Subparts F, G, and H of Part 383, obtain a Nonresident CDL from a State which does comply with those standards. Section 383.73(e) likewise allows a State to issue a Nonresident CDL to a person domiciled in a foreign country if the Administrator has determined that the CMV testing and licensing standards in the foreign jurisdiction of domicile do not meet the standards contained in Part 383.

On the basis of an examination of the Canadian classified license system and related implementing regulations, as set forth in the Canadian National Safety Code, the Administrator has determined that Canadian provinces and territories in conformance with the Canadian National Safety Code do, indeed, test drivers and issue a CDL in accordance with, or similar to, the standards contained in Subparts F. G, and H of Part 383. Also. the Administrator has determined that the CMV testing and licensing standards in rhe Canadian jurisdictions in conformance with the Canadian National Safety Code meet the standards contained in Part 383.

Therefore, CDLs issued by Canadian jurisdictions in conformance with the licensing standards established in the Canadian National Safety Code will be honored in the United States. Canadian drivers will not be required to obtain a Nonresident CDL in order to operate commercial vehicles in this country. Moreover, to ensure the single license concept, Canadian drivers holding a commercial driver's license issued by a Canadian jurisdiction will be prohibited from obtaining a driver's license, commercial or noncommercial, from a State or other licensing jurisdiction of the United States. Appendix A contains the text of the Administrator's determination, as made in a letter to the Canadian Government on December 23, 1988.

By letter of December 29, 1988, the Canadian Government has made an analogous determination with respect to 49 CFR 383, and thus, once implementation at the State level is complete, is extending similar reciprocity to CDLs issued by the States in conformity with the United States standards. The complete letter from the Canadian Government appears as Appendix B. Taken together, Appendices A and B constitute an understanding between the United States and Canada relating to the reciprocal recognition of CDLs.

The FHWA is continuing its review of the commercial driver testing and licensing standards of other foreign jurisdictions. Until this review is complete, or until April 1, 1992, whichever is earlier, the foreign license, or other license issued by a State in keeping with State requirements, can continue to be accepted as the single license while the operator drives a CMV in the United States.

The substance of this notice is incorporated as a footnote in the regulatory text of 49 CFR Part 383 by means of a technical amendment published in today's **Federal Register**, entitled "Commercial Driver Testing and Licensing Standards."

Issued on May 16, 1989.

**R.D. Morgan,**

*Executive Director.*

### Appendix A—Letter of December 23, 1988, from the Administrator to the Government of Canada

Mr. Leonard H. Legault,

*Minister (Economic) and Deputy Head of Mission, Embassy of Canada, 1746 Massachusetts Avenue, NW., Washington, DC 20036-1985*

Dear Mr. Legault: I have the honor to refer to discussions among representatives of our Governments relating to the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-570), which requires the United States Department of Transportation to issue minimum testing and licensing standards to ensure the competence of commercial motor vehicle operators. To comply with the Act, the Federal Highway Administration recently completed a rulemaking (49 C.F.R. Part 383) that establishes a classified license system for commercial motor vehicles; details the knowledge, skills, and abilities that drivers of different types of commercial vehicles must possess; and outlines licensing and testing procedures. The states will issue commercial driver's licenses in accordance with the Federal standards.

The commercial driver's license regulations require the Federal Highway Administrator to make a determination as to whether the commercial vehicle operator testing and licensing standards of foreign jurisdictions meet the United States requirements. When the Administrator determines that the standards of a foreign jurisdiction do not meet those of the United States, a foreign driver will be required to obtain a nonresident commercial driver's license in order to operate a commercial vehicle in the United States.

We have completed our examination of the Canadian classified license system and related implementing regulations, as set forth in the Canadian National Safety Code, and have determined that they are equivalent to those of the United States. Accordingly, commercial driver's licenses issued by Canadian jurisdictions in conformance with the licensing standards established in the

Canadian National Safety Code will be honored in the United States. Canadian drivers will not be required to obtain a nonresident commercial driver's license in order to operate commercial vehicles in this country. Moreover, to ensure the single license concept, Canadian drivers holding a commercial driver's license issued by a Canadian jurisdiction will be prohibited from obtaining a driver's license, commercial or noncommercial, from a state or other licensing jurisdiction of the United States.

I propose that, if the foregoing is acceptable to the Government of Canada, this letter and your confirmatory reply constitute an understanding between our Governments. The agreement will be effective upon receipt of your reply. I look forward to a continued cooperative relationship with Canada concerning the compatibility of Canadian and United States commercial driver information systems, as well as all other aspects of commercial motor vehicle safety.

Sincerely yours,
(signed)
Robert E. Farris,
*Federal Highway Administrator.*

### Appendix B—Letter of December 29, 1988, From the Government of Canada to the Administrator

Mr. Robert E. Farris,
*Federal Highway Administrator,*
U.S. Department of Transportation,
Washington, DC 20590

Dear Mr. Farris: I refer to your letter dated December 23, 1988 concerning discussion among representatives of our two Governments relating to the United States' implementation of the licensing provisions of the Commercial Motor Vehicle Safety Act of 1986. After consultation among the appropriate Canadian provincial, territorial and federal authorities, I wish to confirm that the Canadian authorities welcome your extension of reciprocity to Canadian commercial drivers' licences issued by the provinces and territories in accordance with the Canadian National Safety Code.

It is our understanding that implementation by U.S. states of the classified licence system established by the recently completed Federal Highway Administration regulations will be phased in over the next several years, with driver coverage not required until April 1, 1992. During this implementation period, the Canadian jurisdictions will continue to accept drivers' licences issued by the individual states of the United States.

Following examination of the classified licence regulations issued by your agency, the appropriate Canadian authorities have determined that the standards set forth in those regulations are equivalent to those of the Canadian National Safety Code. Accordingly, once implementation at the state level is complete, the Canadian jurisdictions will extend full reciprocity to commercial drivers' licences issued by the states in conformity with U.S. standards. Consistent with the single licence concept, American drivers holding a commercial driver's licence issued by a U.S. state will be prohibited from obtaining a driver's licence, commercial or non-commercial, from a Canadian licencing jurisdiction.

I have the honour to confirm that your letter and this reply constitute an understanding between our two Governments relating to the reciprocal recognition of commercial drivers' licences. This understanding shall be effective as of the date of this reply.

My authorities share your commitment to commercial vehicle safety. The Government of Canada looks forward to further exchanges of information and continued cooperation in working towards greater compatibility in our respective approaches to transportation regulatory matters.

Yours sincerely,
(signed)
L.H. Legault
*Minister (Economic) and Deputy Head of Mission.*

[FR Doc. 89-12258 Filed 5-22-89; 8:45 am]
BILLING CODE 4910-22-M

## DEPARTMENT OF VETERANS AFFAIRS

### Information Collection Under OMB Review

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

**ADDRESSES:** Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before June 22, 1989.

Dated: May 15, 1989.
By direction of the Secretary.
**Frank E. Lalley,**
*Director, Office of Information Management and Statistics.*

**Extension**

1. Veterans Benefits Administration
2. Supplement to VA Forms 21-526, 21-534, and 21-535 (For Philippine Claims).
3. VA Form 21-4169.
4. Disability Compensation, Veterans' Pension, Veterans' Benefits 38 USC 101 and 3504 requires the VA to ascertain from certain applicants service information, place of residence, and evidence held by applicant, to prove service and whether individual was a member of pro-Japanese, pro-German or anti American-Filippino organizations.
5. On occasion.
6. Individuals or households.
7. 1,000 responses.
8. 1 hour.
9. Not applicable.

**Extension**

1. Veterans Benefits Administration
2. Request to Lender for Information RE: Status of Loan—Veteran Applied for Subsequent Loan.
3. VA Form Letter 26-247.
4. Completed by holders of guaranteed home loans. Essential to VA in processing of requests for restoration of entitlement based on payments in full of previous loan or substitution of entitlement.
5. On occasion.
6. Businesses or other for-profit.
7. 66,100 responses.
8. 1/12 hour.
9. Not applicable.

[FR Doc. 89-12223 Filed 5-22-89; 8:45 am]
BILLING CODE 8320-01-M

### Information Collection Under OMB Review

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if

applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

**ADDRESSES:** Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before June 22, 1989.

Dated: May 16, 1989.

By direction of the Secretary:

**Frank E. Lalley,**

*Director, Office of Information Management and Statistics.*

## Extension

1. Veterans Benefits Administration

2. Certificate Showing Residence and Heirs of Deceased Veteran or Beneficiary.

3. VA Form 29-541.

4. This form is used by the Department of Veterans Affairs to solicit information to establish entitlement to Government life insurance proceeds.

5. Recordkeeping.

6. Individuals or households.

7. 2,078 responses.

8. ½ hour.

9. Not applicable.

[FR Doc. 89-12285 Filed 5-22-89; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register
Vol. 54, No. 98
Tuesday, May 23, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FEDERAL ELECTION COMMISSION

**"FEDERAL REGISTER" NUMBER 89-12111.**

**PREVIOUSLY ANNOUNCED DATE & TIME:** Thursday, May 25, 1989 at 10:00 a.m., Open Meeting.

**ADDITION TO MATTERS TO BE CONSIDERED:** Final Audit Report—Babbitt for President.

**FOR FURTHER INFORMATION CONTACT:** Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,
*Secretary of the Commission.*

[FR Doc. 89-12413 Filed 5-19-89; 11:11 am]
BILLING CODE 6715-01-M

## BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 11:00 a.m., Tuesday, May 30, 1989.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: May 19, 1989.

Jennifer J. Johnson,
*Associate Secretary of the Board.*

[FR Doc. 89-12468 Filed 5-19-89; 3:50 pm]
BILLING CODE 6210-01-M

## NATIONAL LABOR RELATIONS BOARD

**TIME AND DATE:** 10:00 a.m., Tuesday, May 16, 1989.

**PLACE:** Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

**STATUS:** Closed to public observation pursuant to 5 U.S.C. section 552b(c)(2) (internal personnel rules and practices).

**MATTERS TO BE CONSIDERED:** Personnel matters.

**CONTACT PERSON FOR MORE INFORMATION:** John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone: (202) 254-9430.

Dated, Washington, DC, May 18, 1989.
By direction of the Board.

John C. Truesdale,
*Executive Secretary, National Labor Relations Board.*

[FR Doc. 89-12448 Filed 5-19-89; 3:50 pm]
BILLING CODE 7545-01-M

## NUCLEAR REGULATORY COMMISSION

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATE:** Weeks of May 22, 29, June 5, and 12, 1989.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Open and Closed.

**MATTERS TO BE CONSIDERED:**

**Week of May 22**

*Thursday, May 25*

3:30 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of May 29 (Tentative)**

*Wednesday, May 31*

10:00 a.m.—Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2)
2:00 p.m.—Briefing on Final Rule and Regulatory Guide for Maintenance of Nuclear Power Plants (Public Meeting)

*Thursday, June 1*

10:00 a.m.—Briefing by Executive Branch (Closed—Ex. 1)
2:00 p.m.—Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)
4:00 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

*Friday, June 2*

9:30 a.m.—Briefing on Status of Technical Specifications Improvement Program (Public Meeting)

**Week of June 5 (Tentative)**

*Thursday, June 8*

11:30 a.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of June 12 (Tentative)**

*Tuesday, June 13*

2:00 p.m.—Briefing on Proposed Rule on Basic Quality Assurance in Radiation Therapy (Public Meeting)

*Thursday, June 15*

3:30 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

**ADDITIONAL INFORMATION:** By a vote of 4-0 (Commissioner Rogers was not present) on May 18, the Commission determined pursuant to 5 U.S.c. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Issuance of a Final Rule on Financial Protection Requirements and Indemnity Agreements" and "Affirmation of Decision on Stay Applications in Seabrook" (PUBLIC MEETING) scheduled for May 18, be held on less than one week's notice to the public.

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is not specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(301) 492-0292.

**CONTACT PERSON FOR MORE INFORMATION:** William Hill (301) 492-1661.

William M. Hill, Jr.,
*Office of the Secretary.*
May 18, 1989.

[FR Doc. 89-12459 Filed 5-19-89; 8:45 am]
BILLING CODE 7590-01-M

federal register

Tuesday
May 23, 1989

# Part II

# Department of Justice

## Office of Juvenile Justice and Delinquency Prevention

## Program Announcement; American Indian and Alaskan Native Youth: Study of Tribal and Alaskan Native Justice Systems; Notice

## DEPARTMENT OF JUSTICE

### Office of Juvenile Justice and Delinquency Prevention

### Program Announcement; American Indian and Alaskan Native Youth: Study of Tribal and Alaskan Native Justice Systems

**SUMMARY:** The Office of Juvenile Justice and Delinquency Prevention (OJJDP) pursuant to Section 248(b) (1) and (2) of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 *et seq.*, as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1988, Subtitle F of Title VII of Pub. L. 100-690, November 18, 1988, announces a new research program entitled "American Indian and Alaskan Native Youth: Study of Tribal and Alaskan Native Justice Systems."

The purpose of this initiative is to determine how American Indian and Alaskan Native youth who are accused of committing offenses on or near Indian reservations or Alaskan villages are handled under Indian and Alaskan Native justice systems; what resources are available for providing services, including community-based alternatives, for those juveniles accused of or adjudicated for status and delinquency offenses, and to assess the extent to which the policies, procedures and practices of Indian tribes and Alaskan Native organizations are consistent with the Federal mandates for deinstitutionalization of status offenders, separation of juvenile criminal, status and nonoffenders from adults, and removal of juveniles from adult jails and lockups. Promising approaches for intervening with Indian and Alaskan Native juvenile offenders will be identified. The recipient will prepare a description of the study and a summary of the results for use by OJJDP in preparing a mandated report to the Congress summarizing the findings on the above topics, and recommending improvements for the juvenile justice practices under the systems of justice administered by Indian tribes and Alaskan Native organizations. This description and summary of the results must be prepared and submitted to OJJDP by September 30, 1991.

This research effort will be conducted in three incremental stages: Stage I—Research Design, which involves the development of a research methodology for the assessment of justice system handling of youth by Indian tribes and Alaskan Native organizations; Stage II—Data Collection and Data Processing, in which data will be collected, processed and prepared for analysis using the methodology developed in the previous stage; and Stage III—Data Analysis and Reporting, which involves the analysis of the data and the preparation of reports that summarize the results of the study and provide recommendations for improving juvenile justice policies and practices of Indian tribes and Alaskan Native organizations.

OJJDP invites public and private agencies, organizations, educational institutions or combinations thereof, to submit competitive applications to conduct the research outlined in this solicitation. Applicants for this study must, to the greatest extent feasible, provide preferences and opportunities to Indians for training and employment in connection with the administration of the cooperative agreement, and provide preference in the award of contracts/grants under the cooperative agreement to Indian organizations and to Indian-owned economic enterprises.

Up to $740,000 has been allocated for the initial award. One cooperative agreement will be awarded competitively, with an initial budget period of fifteen (15) months. The initial award will provide support for the completion of Stage I, and implementation of a major portion of Stage II. Applicants must propose and justify the amount required to complete Stages II and III. One or more noncompeting continuation awards will be considered to complete Stage II and to conduct Stage III during the remaining twelve (12) month budget period.

The deadline for receipt of applications is July 7, 1989.

**FOR FURTHER INFORMATION CONTACT:** Barbara Tatem Kelley, Research and Program Development Division, NIJJDP, OJJDP, 633 Indiana Avenue, NW., Washington, DC 20531; Telephone (202) 724-5929.

**SUPPLEMENTARY INFORMATION:**

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II. Background
III. Research Goals and Objectives
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IX. Submission Requirements
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### I. Introduction

With the passage of the 1988 amendments to the Juvenile Justice and Delinquency Prevention Act, the Congress mandated in section 248(b)(1) that OJJDP conduct a study to determine:

(A) How juveniles who are American Indians and Alaskan Natives and who are accused of committing offenses on and near Indian reservations and Alaskan Native villages, respectively, are treated under the systems of justice administered by Indian tribes and Alaskan Native organizations, respectively, that perform law enforcement functions;

(B) The amount of financial resources (including financial assistance provided by governmental entities) available to Indian tribes and Alaskan Native organizations that perform law enforcement functions, to support community-based alternatives to incarcerating juveniles; and

(C) The extent to which such tribes and organizations comply with the requirements specified in paragraphs 12(A), (13) and (14) of section 223(a), applicable to the detention and confinement of juveniles.

The provisions of section 223(a) as cited in (C) above refer to the mandates of the Juvenile Justice and Delinquency Prevention Act with which a state must comply in order to receive formula grant funds allocated under Part B of the Act. The mandates are:

(12)(A) Provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities. (Future references to this provision will be termed "deinstitutionalization of status offenders" or "DSO.")

(13) Provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges. (Future references to this provision will be termed "separation from adults.")

(14) Provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the OJJDP Administrator shall, through 1993, promulgate regulations which make exceptions with regard to the detention of juveniles accused of nonstatus offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within twenty-four hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which—(A) are outside of the Standard Metropolitan Statistical Area, (B) have no existing acceptable alternative placement

available, and (C) are in compliance with the provisions of paragraph (13) regarding separation from adults. (Future references to this provision will be termed "jail removal.")

The Provisions of section 248(b)(2) (A) and (B) of the Juvenile Justice and Delinquency Prevention Act stipulate that Federal funding to support this study (i.e., the Indian juvenile justice systems research mandated under 248(b)(1)) is deemed to be for the benefit of Indians, and thus, is subject to section 7(b) of the Indian Self-Determination and Education Assistance Act. Therefore, applicants for this study must, to the greatest extent feasible, provide preferences and opportunities to Indians for training and employment in connection with the administration of this cooperative agreement; and provide preference in the award of contracts/grants under the cooperative agreement to Indian organizations and to Indian-owned economic enterprises, as defined in section 1452 of the Indian Self-Determination and Education Assistance Act. References to Indians and Indian organizations shall be deemed to include Alaskan Natives and Alaskan Native organizations, respectively.

This study entitled "American Indian and Alaskan Native Youth: Study of Tribal and Alaskan Native Justice Systems" is designed to respond fully to the Congressional research mandate, and to inform the development of improved program strategies for juvenile justice and delinquency prevention among Indian youth.

## II. Background

Relatively little research has been conducted on juvenile justice and delinquency prevention practices among the Indian nations. Available data sets on Indian arrests frequently do not distinguish between juveniles and adults. Analyses of these data sets suggest that the arrest rates for crimes committed by Indians on or near certain reservations are comparable to those of persons living in high crime, inner city neighborhoods. It should be noted, however, that there is substantial variance in arrest rates across different tribes and reservations.

Local, state, and national level statistics do not provide accurate estimates of Indian youth justice system processing for those offenses committed on or near the reservations. This is due in part to the lack of specification of Indian status of the youth, and the exclusion of cases handled on reservations by the tribal justice systems. In a report entitled, *Children in Federal Custody: Assessment of Federal Policy and Practices*, the researchers noted the inadequacy of recordkeeping on: the processing of juveniles through the tribal justice systems, the volume of various types of juvenile crime on the reservation, the age or background of the child most likely to have involvement with the juvenile justice system, and the length and location of confinement.

Indian reservation youth appear to fall under the purview of more varied combinations of tribal, local, state, and Federal justice jurisdictions than any other category of American youth. The evolution of justice system jurisdictions for tribal youth has been a very lengthy and extremely complex process. Indian criminal law has not historically recognized a distinction between adult and juvenile offenders. Furthermore, tribal courts have been restricted in the handling of major crimes committed on reservations, offenses committed by non-Indians, and offenses involving non-Indian victims.

The Federal Coordinating Council on Juvenile Justice and Delinquency Prevention implemented a mandated three phase study in 1982 to gather information on the placement and detention of Indian youth. One publication produced under this study was *Children in Federal Custody: Native American Youth Study, Phase II.* This report examined tribal handling of juvenile offenders, the fragmentation of resources, the concurrent jurisdictions, and the inadequacy of available facilities and services. A methodological limitation of this study was the fact only 41 percent of the 128 tribes contacted completed a mailed questionnaire. Interviews conducted at 48 courts (14 Code of Federal Regulations courts, 33 tribal courts, and one court under state jurisdiction) resulted in far superior participation rates, however, the field researchers did report difficulty in locating the necessary statistics and information. Based on previous research, it appears that many tribal justice systems are ill-equipped to achieve deinstitutionalization of status offenders, separation of juvenile offenders from adults, removal of juveniles from jails and lock-ups.

One of the major activities of this research program is to identify tribes that perform law enforcement functions or other justice functions for juveniles who are accused of committing crimes on or near Indian reservations or native villages. The Secretary of the Interior has designated approximately 400 tribes as performing various law enforcement functions. Based on a review of information provided by the Department of the Interior, (**Federal Register**, Vol. 53 No. 170 Thursday, September 1, 1988) we believe that a subset of these tribes will be appropriate for inclusion in this study sample. For this study it will be necessary to determine: Which of these tribes perform law enforcement or other justice system functions for juveniles; and under what circumstances juveniles are handled by a tribal justice system.

Non-residential and residential facilities and programs that provide services to juveniles accused or adjudicated for delinquent or status offenses by tribal justice systems must be identified and their funding sources and level determined. It will also be necessary to determine whether placement of juveniles in these facilities and programs is consistent with the Deinstitutionalization, separation and jail removal requirements of the JJDP Act.

In conducting the assessment of programs and facilities for juveniles handled under tribal systems of justice, attention should also be focused on identifying promising approaches for intervening with Indian and Alaskan Native juvenile offenders. The literature on Indian tribal justice policies and practices suggests that certain reservations are implementing innovative practices to prevent delinquency and intervene more effectively with juvenile offenders. Recommendations for dissemination of such program strategies should be developed.

## III. Research Goals and Objectives

### *A. Research Goals*

This research program, "American Indian and Alaskan Native Youth: Study of Tribal and Alaskan Native Justice Systems," has the following five research goals:

1. To determine how American Indian and Alaskan Native youth are handled under Indian and Alaskan Native justice systems;

2. To determine the resources available to Indian and Alaskan Native justice systems for providing services to juveniles accused of or adjudicated for status and delinquency offenses, including community-based alternatives to incarceration;

3. To determine the extent to which Indian tribes and Alaskan Native organizations have policies, procedures and practices that are consistent with the JJDP Act mandates for deinstitutionalization of status offenders, separation from adults, and jail removal;

4. To identify promising approaches for intervening with Indian and Alaskan Native juvenile offenders including

community-based alternatives to incarceration; and

5. To prepare, in consultation with Indians and Alaskan Natives, recommendations for improvements in juvenile justice practices under the system of justice administered by Indian tribes and Alaskan Native organizations.

*B. Objectives*

In order to achieve the above stated goals, the following three objectives must be met:

1. Development of a research design and strategy to identify and assess (among Indian and Alaskan Native organizations) Native justice system policies, procedures and practices for handling juveniles; the resources available to the justice system for juvenile services and programs; consistency of laws, policies and procedures with Federal mandates on confinement of juveniles; and promising interventions.

2. Implementation of the research design and collection of data on Indian and Alaskan Native juvenile justice policies, practices, available resources, consistency with Federal mandates, and promising interventions; and

3. Analysis of collected data, delineation of findings, preparation of reports on the current status of Indian and Alaskan Native juvenile justice, and recommendations for improvements in policies, procedures, practices, and dissemination of promising interventions.

**IV. Research Design and Program Strategy**

OJJDP's planning and program development activities are guided by a framework that specifies four sequential phases of program development: Research, Development, Demonstration, and Dissemination. This framework guides the decision-making process regarding the funding of future stages of the program.

This program is a research initiative. The purpose of a research initiative is to identify and enhance the information available on issues that relate to the administration of juvenile justice and to the prevention of delinquency in the United States. The program will be conducted in three discrete incremental stages:

(I) The research design stage, which involves the development of a research methodology for the assessment of justice system handling of youth by Indian tribes and Alaskan Native organizations;

(II) the implementation stage, in which data will be collected, processed and prepared for analysis using the methodology developed in the previous stage; and

(III) the data analysis and reporting stage, which involves the analysis of the data and the preparation of reports that summarize the results of the study and provide recommendations for improving juvenile justice policies and practices of Indian tribes and Alaskan Native organizations. All technical and subject matter portions of the program will be guided by recommendations of an advisory committee established specifically for the program. The advisory committee will provide comments and recommendations regarding the strategies and activities for this program. It may be necessary to change or supplement advisory committee members for different stages of the program. However, the objective will be to select technical and subject matter experts capable of addressing issues related to each of the program stages.

The advisory committee members are to have combined expertise in the following areas: Indian and Alaskan Native justice system and youth services; research on criminal, juvenile justice and delinquency prevention issues among Indians and Alaskan Natives; and experience with large-scale, multi-site research.

Each stage of the program development process detailed below is designed to result in a complete and publishable product (eg: research design), and a dissemination strategy to inform the field of the development of the program and the results and products of each stage. A decision to continue or to terminate the program is made at the end of each stage based on the availability of funds and the quality and utility of program products.

*A. Stage I—Research Design*

The first stage of the program consists of developing the research design. To accomplish this task, the research team will convene a working group of individuals with the combined necessary expertise to conduct the following tasks: articulate the critical research issues; identify key research questions; conduct a literature review; define key terms, such as juvenile offenders, justice system agencies and services, and community-based alternatives to incarceration; construct data collection instruments; specify plans for protection of the confidentiality of data; develop strategies to maximize access to data sources; specify a sampling strategy that accounts for the diversity in policy, practice and resources among tribes and reservations; and develop data analysis plans. The final product of this stage will be the research design that will be used to guide the implementation of the research.

To inform the development of this research design, the research team must conduct a comprehensive review of:

(1) Statistical reports and data bases on the extent to which Indian and Alaskan Native youth living on or near a reservation engage in delinquent behavior and are involved in tribal, Federal, State, and local justice systems;

(2) literature on the structure, organization and jurisdiction of tribal justice systems' handling of Indian and Alaskan Native youth; and

(3) literature on Indian tribal and Alaska Native juvenile justice policies, practices and procedures.

1. State I Activities

Applicants must describe how the following activities will be undertaken:

a. Establishment of a project advisory committee;

b. Establishment of a working group;

c. Development of a research design plan;

d. Review of the literature;

e. Development of the research design;

f. Project advisory committee review; and

g. Development of a dissemination strategy to inform the field of the status of the project.

2. Stage I Products

The products to be completed during this stage are:

a. A plan for developing the research design that includes:

(1) research objectives;

(2) description of activities, including an integrated time/task plan; and

(3) staff assignments.

b. A research design that specifies:

(1) objectives;

(2) definition of key concepts;

(3) strategy for operationalizing and measuring key concepts;

(4) sampling strategy;

(5) preliminary plans for data collection;

(6) procedures for protection of confidentiality of data;

(7) data analysis plans;

(8) anticipated reports;

(9) time/task plan for implementation; and

(10) dissemination strategy to inform the field of the status of the program.

*B. Stage II—Data Collection and Data Processing*

This stage involves full implementation of the data collection

plan using the methodology and instruments developed in the previous stage. The data collection instruments should be pilot tested and the project advisory committee should review the results of the pilot tests. It is expected that a preliminary report on the results of the pilot tests, including comments from the advisory committee, will be prepared and appropriate revisions to the instruments and the overall research design will be made.

This stage also includes the preparation of the data for analysis. Data processing involves the preparation and application of appropriate data coding strategies and entry of the data into an automated data processing system.

1. Stage II Activities

Applicants must describe how the following activities will be undertaken:

a. Preparation of a comprehensive data collection plan;

b. Pilot tests of the data collection instruments;

c. Advisory committee review of the results of the pilot tests and appropriate adjustments to methodology and/or instruments;

d. Data collection;

e. Data processing; and

f. Preparation of a data file for analysis.

2. State II Products

The major products to be completed during this stage are:

a. Comprehensive data collection plan, including a detailed data collection protocol;

b. Report on results from pilot tests of data collection instruments and final instruments;

c. Data tape prepared for analysis, to include all necessary documentation; and

d. Dissemination strategy to inform the field of the status of the program.

*C. Stage III—Data Analysis and Reporting*

The final stage of this initiative will involve the analysis of the data collected and the preparation of reports. The description of the study and summary of the results to be used by OJJDP in preparing a report to Congress must be submitted to OJJDP no later than September 30, 1991. Applicants should outline a set of reports that will communicate the results to a variety of audiences including policy makers, practitioners, and researchers in the juvenile justice system. These reports should describe the study, summarize the results, and provide recommendations for improvements in justice system handling of youth by Indian tribes and Alaskan Native organizations.

A critical component of Stage III is the development of recommendations for policies, practices, and resource allocation and utilization. Development of useful recommendations will require the researcher to demonstrate an awareness of the diversity of the Indian tribes and Alaskan Native practices and resources, and a sensitivity to the current movement for increased levels of self-determination among Native Americans.

The research team should work in consultation with tribal and Alaskan Native representatives to identify and prioritize recommended changes in current programs and practices. Recommendations for changes should include an explanation of what the recommended change would involve in terms of any associated need for: reallocation of resources, including financial, personnel, facilities, and services; modification of existing tribal, Federal, State and local policies and procedures; amendment of current tribal, Federal, State, and local laws; and provision of program development, evaluation, training and technical assistance services.

Considerable attention should be placed on identifying promising delinquency prevention, intervention, and community-based alternative program approaches which have been designed and operationalized by Indian tribal and Alaskan Native organizations. The suitability of such approaches for program replication at additional sites or for incorporation into a comprehensive service delivery network should be assessed, in close consultation with the leadership of the Indian nations.

1. Stage III Activities

Applicants must describe how the following major activities will be undertaken:

a. Preparation of a plan for report development and dissemination;

b. Analysis of data;

c. Preparation of draft reports on analyses related to the research goals and objectives, in consultation with representatives of Indian tribes and Native American organizations;

d. Project advisory committee review of analysis and draft reports; and

e. Preparation of final reports on current justice system handling of youth by Indian tribal and Alaskan Native organizations that include recommendations for policy and program development.

2. Stage III Products

The products to be completed under this stage are:

a. Plan for data analysis and preparation of reports, that includes identification of the purpose and audience for each report;

b. Draft reports;

c. Final reports; and

d. Dissemination Strategy to inform the field of the results of the program.

**V. Dollar Amount and Duration**

Up to $740,000 has been allocated for the initial award. One cooperative agreement will be awarded competitively, with an initial budget period of fifteen (15) months. This research program will consist of three stages (Stage I—Research Design; Stage II—Data Collection and Data Processing; and Stage III—Data Analysis and Reporting). The initial award will provide support for the completion of Stage I, and implementation of a major portion of Stage II. One or more noncompeting continuation awards will be considered to complete Stage II and to conduct Stage III during the remaining twelve (12) month budget period. The project is scheduled to commence in September of 1989, and the entire project period is an estimated twenty-seven (27) months. Noncompetitive continuation awards for the additional budget periods may be withheld for justifiable reasons. They include: (1) The results of initial stages do not justify further program activity; (2) the recipient is delinquent in submitting required reports; (3) adequate grantor agency funds are not available to support the project; (4) the recipient has failed to show satisfactory progress in achieving the objectives of the project or otherwise failed to meet the terms and conditions of the award; (5) a recipient's management practices have failed to provide adequate stewardship of grantor agency funds; (6) outstanding audit exceptions have not been cleared; and (7) any other reason that would indicate continued funding would not be in the best interest of the Government.

**VI. Eligibility Requirements**

Applications are invited from public and private agencies, organizations, educational institutions, or combinations thereof. In order to expand the pool of eligible candidates, applications will be accepted from for-profit organizations provided they agree to waive any profit or fee and accept only allowable costs.

Applications may be submitted by a single organization or through a co-applicant process. Applicant

organizations choosing to submit joint proposals with other eligible organizations may do so as long as one organization is designated in the application as the applicant and any co-applicants are designated as such. Further discussion of co-applicants is provided under Section VII—Application Requirements.

Applicants must demonstrate that they have: prior experience in the design and implementation of large scale, multiple site research; knowledge of Indian tribal and Alaskan Native issues; and knowledge of juvenile justice and delinquency prevention programs, policies, and resources. In the case of co-applicants, the organizations must jointly demonstrate the above areas of experience and knowledge.

The applicants must also demonstrate that they have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

**VII. Application Requirements**

All applicants must submit a completed Application for Federal Assistance (Standard Form 424), including a program narrative, a detailed budget, and budget narrative. All applications must include the information outlined in this section of the solicitation (Section VII) in Part IV, Program Narrative of the application (SF-424).

In accordance with Executive Order 12549, 28 CFR 67.510, applicants must also provide a certification that they have not been debarred (voluntarily or involuntarily) from the receipt of Federal funds. Form 4662/2, which will be supplied with the application information package, must be submitted with the application.

Additionally, applicants must also provide a *Certification Regarding Drug-Free Workplace Requirements* which meets the requirements of the Drug Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D). Form 4061/3, which will be supplied with the application information package, must be submitted with the application.

In submitting applications that contain more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations that describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicant. Under this arrangement, each organization would agree to be jointly and severally responsible for all project funds and services. Each co-applicant must sign the SF-424 and indicate their acceptance of the conditions of joint and several responsibility with the other co-applicant.

Applications that include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000. The following information must be included in the application:

*A. A Statement of the Problem to be Addressed*—Applicants must include the review of the literature and a discussion of the potential contribution of this research to the field.

*B. Program Goals and Objectives*—A succinct statement of the applicant's understanding of the goals and objectives of the program must be included, and specification of key research questions to be addressed.

*C. Research Design and Strategy*—Applicants must describe the proposed approach for achieving the goals and objectives of the research program. Applicants must include a detailed discussion of how each of the activities in the three stages of the program will be accomplished, including a detailed discussion of the process for product preparation.

*D. Products*—Applicants must concisely describe the interim and final products of each stage of the program, and must address the purpose, audience, and usefulness to the field of each product.

*E. Program Implementation Plan*—Applicants must prepare a plan that outlines the major activities involved in implementing the program, describe how they will allocate available resources to implement the program, and how the program will be managed.

The plan must include an annotated organizational chart depicting the roles and describing the responsibilities of key organizational/functional components, and resumes of key personnel responsible for managing and implementing the program. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. Applicants should provide recommendations for project advisory committee and working group members. This documentation and individual résumes may be submitted as appendices to the application.

*F. Time-Task Plan*—Applicants must develop a time-task plan for the twenty-seven (27) month project period, clearly identifying major milestones and products. This must include designation of organizational responsibility and a schedule for the completion of the activities and products identified in Section IV. Please note that the study description and summary of the results to be used in preparing a report for Congress must be submitted to OJJDP no later than September 30, 1991.

*G. Organization Capability*—Applicants must demonstrate that they are eligible to compete for this cooperative agreement on the basis of the eligibility criteria established in Section VI of this solicitation. Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in Section VI above. Applicants must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of this initiative. Applicants are invited to append one example of prior work products of a similar nature to their application.

Applicants must describe how their organization plans to fulfill the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act, which were previously described in section I of this program announcement.

Applicants must demonstrate that their organization has or can establish fiscal controls and accounting procedures that assure Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received Federal funds will be asked to submit a copy of the Office of Justice Programs (OJP) Accounting System and Financial Capability Questionnaire (OJP Form 7120/1). Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. All questions are to be answered regardless of instructions (Section C.I.B. note). The CPA certification is required only of those applicants who have not previously received Federal funding.

*H. Program Budget*—Applicants shall provide a fifteen (15) month budget with a detailed justification for all costs, including the basis for computation of these costs. Applicants must also include a well justified budget estimate to cover costs for the remaining twelve (12) months of the program period.

Applications submitted by co-applicants and/or those containing contract(s) must include detailed budgets for each organization's expenses. The budget must include funds to support the activities of the project advisory committee and working group.

**VIII. Procedures and Criteria for Selection**

In general, all applications received will be reviewed in terms of their responsiveness to this solicitation and the specific program application requirements set forth in Section VII. Applications will be evaluated by a peer review panel according to the OJJDP Competition and Peer Review Policy, 28 CFR Part 34, Subpart B, published August 2, 1985, at 50 FR 31366–31367. Site visits may be conducted by peer review panelists and/or OJJDP staff to verify information provided by the applicant(s) ranked through peer review as best qualified for further consideration.

Specifically, applications will be rated according to the following criteria and point values (weights):

*A. The Problem to be Addressed by the Project is Clearly Stated*

This criterion includes a clear, concise, well justified statement of the problem, and evidence of knowledge of relevant literature. The applicant demonstrates a sensitivity to the need to apply research findings to problem-solving to advance policies, practices and procedures. (10 Points)

*B. The Objectives of the Proposed Project are Clearly Defined*

This criterion includes a succinct statement of the goals and objectives of the project, with specification of the research questions to be addressed. (10 Points.)

*C. The Project Design is Sound and Contains Program Elements Directly Linked to the Achievement of Project Objectives*

This criterion includes—appropriateness and technical adequacy of the approach to the activities and products of each stage of the program for meeting the goals and objectives; and potential utility of proposed products. (30 Points)

*D. The Project Management Structure is Adequate to the Successful Conduct of the Project (Total 30 Points.)*

This criterion includes:

(1) Adequacy and appropriateness of the project management structure and activities specified in the project implementation plan, and the feasibility of the time-task plan. (15 Points)

(2) The qualifications of staff identified to manage and implement the program including research team staff, project advisory committee members, and working group members. This criterion also includes the clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the project implementation plan. (15 Points)

*E. Organizational Capability is Demonstrated at a Level Sufficient to Successfully Support the Project*

This criterion includes the extent and quality of organizational experience in the development, delivery and coordination of large, multi-site research programs. It also applies to the extent to which an organization complies with the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act. (10 Points)

*F. Budgeted Costs are Reasonable, Allowable, and Cost Effective for the Activities Proposed to be Undertaken*

This criterion includes completeness, reasonableness, appropriateness and cost-effectiveness of the proposed costs, in relationship to the proposed strategy and tasks to be accomplished. (10 Points)

Applications will be evaluated by a peer review panel. The results of peer review will be a relative aggregate ranking of applications in the form of "Summary of Ratings." These will be based on numerical values assigned by indvidual peer reviewers. Peer review recommendations, in conjunction with the results of internal review and any necessary supplementary reviews, will assist the Administrator in considering competing applications and in selection of the application for funding. The final award decision will be made by the OJJDP Administrator.

**IX. Submission Requirements**

Applicants must submit the original signed application and three copies to OJJDP. The necessary forms for applications (Standard Form 424) will be provided upon request.

Applications must be received by mail or hand delivered to the OJJDP by 5:00 p.m. on July 7, 1989. Those applications sent by mail should be addressed to: Research and Program Development Division, National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, Room 784, 633 Indiana Avenue NW., Washington, DC 20531. Hand delivered applications must be taken to Room 784, 633 Indiana Avenue NW., Washington, DC between the hours of 8:00 a.m. and 5:00 p.m. except Saturdays, Sundays or Federal holidays.

The OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether their submission will be recommended for funding.

Organizations that plan to respond to this announcement are requested to submit written notification of their intent to apply to NIJJDP/OJJDP. The submission of this notification is optional.

**X. Civil Rights Compliance**

A. All recipients of OJJDP assistance including any contractors, must comply with the non-discrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR Part 42, Subparts C, D, E, and G).

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs.

C. Applicants shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in benefits of, or denied or prohibited from obtaining employment in connection with, any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary financial assistance to any other recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure

its civil rights compliance obligations under any award.

## XI. References

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French, L., ed. *Indians and Criminal Justice.* Totowa, New Jersey: Allanheld, Osmun and Company Publishers, Inc., 1982.

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Kickingbird, K. " 'In our image . . ., after our likeness:' the drive for the assimilation of Indian court systems." *The American Criminal Law Review,* Volume 13, Number 4, Spring 1976, pp. 675–700.

U.S. Department of Interior, Bureau of Indian Affairs "Indian tribes performing law enforcement functions." In the **Federal Register,** Volume 53, Number 170, September 1, 1988, pp. 33867–33877.

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Date: May 17, 1989.

**Terrence Donahue,**

*Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.*

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