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Monday
May 2, 1988

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WASHINGTON, DC

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WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
RESERVATIONS: Laurice Clark, 202–523–3517

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WHEN: June 10; at 9:00 a.m.
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WHEN: June 13; at 1:00 p.m.
WHERE: Room 305C, 26 Federal Plaza, New York, NY
RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center, 212–264–4810.

Contents

Federal Register

Vol. 53, No. 84

Monday, May 2, 1988

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue

5 CFR
1645 15620

7 CFR
729 15543
1762 15545
3901 15547
Proposed Rules:
652 15566

9 CFR
11 15640

14 CFR
71 15634

15 CFR
15b 15548

21 CFR
81 15551

24 CFR
968 15551
Proposed Rules:
570 15566

31 CFR
306 15553

33 CFR
162 15555

40 CFR
Proposed Rules:
253 15624

44 CFR
64 15555

47 CFR
Ch. I 15557
73 (3 documents) 15560
Proposed Rules:
13 15572
73 (9 documents) 15572–15575
80 15572

48 CFR
301 15561
304 15561
306 15561
307 15561
313 15561
315 15561
330 15561
332 15561
333 15561
352 15561

49 CFR
Proposed Rules:
571 (2 documents) 15576, 15578
1201 15579

Rules and Regulations

Federal Register
Vol. 53, No. 84
Monday, May 2, 1988

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota and Marketing Regulations for the 1986 Through 1990 Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations governing the 1986–90 crops of peanuts set forth at 7 CFR Part 729 to: (1) Permit State Agricultural Stabilization and Conservation (ASC) committees to allocate, under certain conditions, excess quota reserves to quota farms in the State; (2) permit "fall transfers" of peanut quotas if a good faith effort was made to plant the quota on the transferring farm; (3) change provisions governing the amount of quota a farm can receive under a "fall transfer"; (4) permit directors of State agencies responsible for the production of breeder and foundation seed to certify such seed for the experimental peanut exemption; and (5) provide specifically for the examination of automated records and electronic reports maintained by peanut handlers and buying point operators.

DATES: This interim rule is effective May 2, 1988. Comments must be received on or before June 1, 1988 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750 South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Paul P. Kume, Agricultural Program Specialist, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–9003.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1521–1 and has been classified "not major". It has been determined that this rule 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 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.

The title and number of the Federal assistance program to which this rule applies are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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

Information collection requirements contained in the regulations (7 CFR Part 729) have been approved by the Office of Mangement and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0560–0006.

As peanut farmers are now making plans to plant their 1988 crop of peanuts and the amendments provided for in this rule may effect those plans, it has been determined that it would be impracticable and contrary to the public interest to delay implementation of this rule. So that revisions to the rule, if needed, may be made promptly, the comment period has been limited to 30 days.

1. *Allocation of quota reserves.* Current regulations governing the establishment of peanut quotas for the 1986–90 crops of peanuts require that each State ASC committee establish a quota reserve, subject to the review and approval of the Deputy Administrator for State and County Operations. The reserve is used to correct quota allocation errors for individual farms. Each State's reserve for the 1986 crop was the State's unused 1985 crop reserve plus, as deemed necessary by the State ASC committee, up to 1 percent of the amount by which the State's 1986 quota was higher than the State's 1985 quota. For 1987, each State's reserve was the unused 1986 reserve plus 10 percent of the sum of (1) the quota reduced on farms in the State because of nonproduction and (2) the quota permanently released from farms in the State.

The regulations require that the State reserve not be less than the State's reserve for the preceding year. However, because reserves are used only to correct quota allocation errors, some States have accumulated large reserves. Since some States have more pounds in their reserves than needed for corrections, this rule authorizes State ASC committees to request permission to release, to quota farms, part of the reserve that the committee would otherwise be required to maintain. This allocation, to the extent permitted by the ASCS Deputy Administrator for State and County Operations (Deputy Administrator), will be made *pro rata* to quota farms in the State in the same manner in which the national poundage quota increase is allocated.

2. *Fall transfers.* "Fall transfer" are transfers of quota made after the end of the planting season. Section 358a(k) of the Agricultural Adjustment Act of 1938 (the 1938 Act), as amended by the Food Security Act of 1985 (Pub. L. No. 99–198) provides that such transfers are permitted "if the quota has been planted

on the farm from which the quota is to be leased" and "under such terms and conditions as the Secretary may by regulation prescribe". Under the current regulations a fall transfer is prohibited unless the acreage of peanuts planted on the transferring farm was equal to, or in excess of, the acreage determined by dividing the farm's effective farm poundage quota by the larger of the farm's current yield or the farm's highest actual yield in any one of the preceding 3 years. Since producers, in some cases, may not be notified of the "effective" quota before the end of the planting season, some producers may, inadvertently, find that they are not considered to have planted enough acreage to produce their effective quota to be eligible for a "fall transfer".

So that the regulations will not be unduly restrictive, this rule amends Part 729 to permit a fall transfer if it is determined by the appropriate ASCS county committee, in accordance with instructions of the Deputy Administrator, that a good faith effort was made to plant the effective quota. If the producer did not receive timely notice of the effective quota, such an effort will be deemed to exist if the producer: (1) Planted an acreage equal to or greater than (i) the farm's basic quota, plus, (ii) the pounds transferred to the farm prior to, or during, the planting season by lease, owner, or operator. However, the producer will be required to have planted sufficient acres to produce the full effective quota if the producer was notified of the effective quota by the county committee before the final planting date for the State, unless, because of the timing of the notice, adequate land preparation to produce the full effective quota was not feasible.

If the planting requirment is met, a transferring farm will be permitted to make a fall transfer up to the amount by which, due to conditions beyond the producer's control, the farm's Segregation 1 production was less than the effective quota.

Also, the current regulations limit the pounds a receiving farm could obtain under the fall transfer provisions to (i) the farm's estimated unmarketed, ungraded pounds minus (ii) the quota pounds remaining on the producer's marketing card. It has been determined that prohibiting a producer from receiving quota by fall transfer to market peanuts already graded as Segregation 1 peanuts may also be unduly restrictive. This rule amends the regulations accordingly. As amended, the regulations permit the receiving farm to receive quota, by a fall transfer, up to the amount by which (i) the sum of farm's unmarketed, ungraded pounds and the unmarketed pounds which have graded as Segregation 1 peanuts, exceeds (ii) the quota pounds remaining on the producer's marketing card. Permitting quota transfers to cover unmarketed peanuts graded as Segregation 2 or 3 was considered but rejected. Otherwise, farm operators could request and receive approval simply to effect a "disaster" transfer of additional loan pool peanuts to a quota loan pool for pricing purposes pursuant to 7 CFR § 1446.103. Such transfers increase program costs as the Commodity Credit Corporation normally suffers a loss on "disaster" transfers.

3. *Experimental peanuts.* Section 359 of the 1938 Act provides generally that only "quota" peanuts may be retained for use as seed or for other uses on a farm. However, section 372 of the 1938 Act provides that no penalty shall be collected with respect to the marketing of any agricultural commodity grown only for experimental purposes by any publicly owned agricultural experiment station. The current regulation provides that, if properly certified, breeder and foundation seed production would not be subject to marketing penalties if the seed were produced under the auspices of an agricultural experiment station and not used for domestic edible use. However, breeder and foundation seed production is often supervised by publicly-owned seed foundations associated with State universities rather than by organizations formally designated as "agricultural experiment stations". Since it has been determined that such seed foundations may qualify as "agricultural experiment stations" for this purpose, § 729.396 has been clarified to provide specifically that the exemption covers foundation and breeder seed which, as determined by ASCS pursuant to instructions of the Deputy Administrator, is grown under the auspices of a publicly-owned, State-operated seed organization. Where applicable, directors of such organizations may make the certifications required by that section of the regulations. Also, that section has been clarified in several places to make it clear that breeder and foundation seed is considered to fall within the exemption in § 729.396 as an experimental, non-commerical use of peanuts.

4. *Automated and electronic records and reports.* Presently the regulations provide that the records and reports of any peanut handler or buying point can be examined as deemed necessary to enforce the peanut poundage quota program. Effective with the 1987 marketing year, all peanut buying points were automated, and automated and electronic records of producers' farmers stock peanut sales were transmitted to county ASCS offices. Because automated and electronic records and reports must be reviewed for accuracy and program compliance, the regulations as amended to provide specifically for inspection of those records and reports.

5. *Other revisions*—Grammatical and other technical corrections have been made in the sections amended by this rule.

List of Subjects in 7 CFR Part 729

Poundage quotas, Peanuts.

Interim Rule

PART 729—PEANUTS

Accordingly, 7 CFR Part 729, Subpart—Poundage Quota and Marketing Regulations for the 1986 through 1990 crops of Peanuts, is amended as follows:

1. The authority citation for Subpart —Poundage Quota and Marketing Regulations—for the 1986 through 1990 crops of Peanuts of Part 729 is revised to read as follows:

Authority: 7 U.S.C. 1301, 1357, 1358, 1358a, 1359, 1372, 1373, 1375; 7 U.S.C. 1445c–2.

2. Section 729.322 is amended to add a new paragraph (c), to read as follows:

§ 729.322 Reserves for corrections.

* * * * *

(c) If the State committee determines that the amount of the State reserve otherwise required to be maintained by this section is higher than necessary to accomplish the purposes of this section, the Deputy Administrator, at the request of the State committee may authorize the release of part of that reserve to be allocated *pro rata* to quota farms in the State in the same manner in which the national poundage quota is allocated to farms. When making its request, the State committee shall provide evidence to the Deputy Administrator that the pounds to remain in the reserve will be sufficient for correcting allocation errors.

3. Section 729.353 is amended by revising paragraphs (a) and (b) to read as follows:

§ 729.353 Fall transfers.

* * * * *

(a) *Receiving farm.* The operator of the receiving farm must certify, and the county committee must determine, that the poundage quota being transferred is not more than will be required to market the entire production of peanuts from

the receiving farm as quota peanuts in the current year. The amount so determined shall be limited to the quantity equal to the amount by which (1) the total pounds of the farm's unmarketed peanuts which are either ungraded or have been inspected by the Federal State Inspection Service and graded Segregation 1 exceeds (2) the quota pounds remaining on the marketing card for the receiving farm.

(b) *Transferring farm.* The operator of the transferring farm must certify, and the county committee determine, that a good faith effort was made to plant the effective poundage quota on the transferring farm. Such determinations shall be made in accordance with instructions issued by the Deputy Administrator and in accordance with this paragraph. A good faith effort will be deemed to exist if the producer on the transferring farm planted sufficient acreage to produce a quantity of peanuts equal to the sum of the farm's basic quota and the pounds for the crop year which were transferred to the farm during, or prior to, the end of the planting season. Such calculations shall be made using as the farm's yield the larger of the farm's current yield as established by the county ASC committee or the farm's highest actual yield for one of the preceding 3 crop years. However, unless the producer shall also certify, and the county committee determine, that the producer was not notified of the effective quota prior to the end of the planting season or within such time to make feasible adequate land preparation by the end of the planting season to produce the full effective quota, the producer must certify, and the county committee determine, that the acreage planted, as determined using the same yield formula, was sufficient to produce the full effective quota. The producer must also certify, and the county committee determine, that the farm's actual production of Segregation 1 peanuts was less than the amount of pounds effectively required to be planted by this paragraph, and that such lack of production from the planted peanuts was due to conditions beyond the producer's control. Provided that all other conditions are met, transfers of quota under this section shall be permitted from the transferring farm only to the extent that the production of Segregation 1 peanuts on the farm was less than the transferring farm's effective quota.

4. Section 729.396(c) is revised to read as follows:

§ 729.396 Peanuts on which penalties are not to be assessed.

* * * * *

(c) *Peanuts grown for experimental purposes.* No penalty shall be collected on the marketings of any peanuts which are grown only for experimental purposes, which shall include breeder or foundation seed, on land owned or leased by a publicly-owned agricultural experiment station, which shall include a State-operated seed organization, and produced at public expense by employees of such entities, or peanuts, including those determined by the County Executive Director in accordance with instructions of the Deputy Administrator to be breeder or foundation seed peanuts, which are produced by farmers for experimental purposes pursuant to an agreement with a publicly-owned agricultural experiment station, which shall include such State-operated seed organizations. However, in all cases, the exemption shall apply only if the peanuts do not enter the domestic market for food, for seed to produce food peanuts, or for any other use. Further, for the exemption to apply, directors of such publicly-owned agricultural experiment stations, including State-operated seed organizations, must furnish to the State ASCS Executive Director a list, by county, showing the following information for farms on which peanuts are grown for experimental purposes only:

(1) Name and address of the entity supplying the information;

(2) Name of the owner, and name of the operator, if different from the owner of the farm on which the peanuts are grown;

(3) The acreage of peanuts grown; and

(4) A signed statement that: (i) Such acreage of peanuts was grown on each such farm for experimental purposes (which purposes shall include breeder and foundation seed); (ii) that such production was necessary for the State-operated program conducted for that purpose by the entity; and, (iii) that the peanuts were produced under the direction of representatives of the entity.

5. Section 729.428 is revised to read as follows:

§ 729.428 Examination of records and reports.

The Deputy Administrator, the Director of the Tobacco and Peanuts Division, the ASCS State Executive Director, or their designees, and all auditors and agents of the Office of Inspector General, United States Department of Agriculture (USDA) or the General Accounting Office are authorized to examine any records of any producer, or handler, or person buying or processing peanuts as deemed necessary to enforce the peanut poundage quota program. Upon a request for such examination, any person who dries farmers stock peanuts by artificial means for a producer, any buyer, warehouseman, processor, or common carrier of peanuts, any broker or dealer in peanuts, any farmer engaged in the production of peanuts, any agent marketing peanuts for a producer or acquiring peanuts for a buyer or association, any person engaged in the business of cleaning, shelling, crushing, or salting peanuts or manufacturing peanut products, or any person owning or operating a peanut-picking or peanut-threshing machine, shall make available for examination such books, papers, automated records, electronic records, accounts, correspondence, contracts, documents, and memoranda as are under the control of the person receiving the request which any person hereby authorized to examine records has reason to believe are relevant to any matter which relates to the provisions of this subpart.

Signed at Washington, DC, on April 26, 1988.

Vern Neppl,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 88-9641 Filed 4-29-88; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1762

Standard Forms of Telecommunications Contracts

AGENCY: Rural Electrification Administration, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends 7 CFR Chapter XVII by adding (1) Part 1762, Standard Forms of Telecommunications Contracts and (2) § 1762.01, List of Standard Forms of Telecommunications Contracts. The purpose of § 1762.01 is to provide a list of the current REA standard forms of contracts that REA prepared for use by telephone borrowers when obtaining engineering and architectural services, purchasing telephone materials and equipment, and constructing telephone facilities with REA loan funds. The listing also provides: (1) Purpose of each form, (2) the date of the current issue, and (3) the source where copies may be

obtained. This action does not change any of REA's current requirements and procedures for the procurement of engineering and architectural services, the purchase of materials and equipment, and the construction of telephone facilities by REA telephone borrowers.

EFFECTIVE DATE: March 7, 1988.

FOR FURTHER INFORMATION CONTACT: M. Wilson Magruder, Director, Telecommunications Staff Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 382–8663.

The Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.) REA hereby amends 7 CFR Chapter XVII by adding: (1) Part 1762, Standard Forms of Telecommunications Contracts and (2) Section 1762.01, List of Standard Forms of Telecommunications Contracts. Copies of the contract forms are available from the sources indicated in the listing. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity, innovations, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; and therefore, has been determined to be "not major." These actions do not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this 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 under No. 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V (48 FR 54317, December 1, 1983), this program is excluded from the scope of Executive Order, 12372 which requires intergovernmental consultation with State and local officials.

Background

REA has issued a series of publications entitled "bulletins" which serve to implement the policy, procedures, and requirements for administering its loan and loan guarantee programs and the security instruments which provide for and secure REA financing. REA has issued in this series a number of bulletins that set forth REA's requirements and procedures for the procurement of engineering and architectural services, the purchase and installation of such items as central office, carrier, lightwave, and radio equipment, and the construction of outside plant facilities by REA telephone borrowers. To assist the REA borrowers and promote efficiency, a listing of all the telecommunications contracts involved in these activities has been established showing the purpose of each contract, its current issue date, and the source where copies may be obtained.

List of Subjects in 7 CFR Part 1762

Loan programs—communications, Telecommunications, Telephone.

In view of the above, REA hereby amends 7 CFR Chapter XVII by adding Part 1762 to read as follows:

PART 1762—STANDARD FORMS OF TELECOMMUNICATIONS CONTRACTS

§ 1762.01 List of standard forms of telecommunications contracts.

Following is a list of the current standard forms of contracts that REA prepared for use by telephone borrowers when procuring engineering and architectural services, purchasing telephone materials and equipment, and constructing telephone facilities with REA loan funds. Copies of the contract forms are available from the sources indicated in the listing. A notice of any change in these contract forms will be published in the **Federal Register.**

REA Form No.	Issue date	Title	Purpose	Source of copies
165	9–69	Architectural Services Contract—Telephone	Used to engage the services of an architect	REA.[1]
168b	3–62	Contractor's Bond	Used in REA Form 515 when the contract exceeds $100,000.	Copy in the Form 515 Contract.
168c	4–79	Contractor's Bond	Used when the contractor's surety has accepted a Small Business Administration guarantee and the contract is for $1 million or less.	REA.[1]
217	7–81	Postloan Engineering Service Contract, Telephone System and Construction.	Used to engage the services of a consulting engineer to perform the postloan engineering services.	REA.[1]
238	4–72	Construction or Equipment Contract Amendment	Amending the Building Contract REA Form 257; Special Equipment Contracts, REA Forms 397 and 398; Telephone Equipment Contract (Installation Only), REA Form 400; Central Office Equipment Contracts, REA Forms 525 and 545.	REA.[1]
242	11–58	Assignment of Engineering Service Contract	Used to transfer the responsibilities of completing the performance of the engineering service contract to another company.	REA.[1]
245	11–75	Engineering Service Contract, Special Services—Telephone.	Used to engage a consulting engineer to perform special services.	REA.[1]
257	3–73	Contract to Construct Buildings	Building construction	Supt. of Doc., GPO, Wash., DC 20402.[2]
257a	10–69	Contractor's Bond	Used in REA Form 257	Copy in the Form 257 Contract.
270	7–70	Equal Opportunity Addendum	Addendum to Construction and Equipment Contracts not having current equal opportunity provisions.	REA.[1]
282	11–53	Subcontract	Subcontracting a portion of construction under a construction contract requires approval of the borrower, surety and REA prior to subcontracting.	REA.[1]

REA Form No.	Issue date	Title	Purpose	Source of copies
307	4-60	Bid Bond	Bid proposals on REA Forms 257, 515, and 525 require either a bid bond or a certified check in an amount equal to ten percent of the maximum bid price.	Copies in each of the contracts.
397	12-67	Special Equipment Contract (Including Installation)	Purchase and installation of voice frequency repeaters, trunk carrier, subscriber carrier, microwave, mobile radio, line concentrators, and other items of electronic equipment associated with transmission.	REA.[1]
397f	2-63	Contractor's Bond (Special Telephone Equipment)	Used in REA Form 397 when the contract exceeds $100,000.	Copy in the Form 397 Contract.
No form number	7-78	Addendum No. 1 to REA Form 397, Special Equipment Contract (Including Installation).	Incorporates the liquidated damages provision into the 397 contract.	REA.[1]
398	11-62	Special Equipment Contract (Not Incl. Installation)	Purchase and deliver voice frequency repeaters, trunk carrier, subscriber carrier, microwave, mobile radio, line concentrators, and other items of electronic equipment associated with transmission.	REA.[1]
399	8-82	Supplemental Agreement to Equipment Contract for Field Trial.	Used in any contract that contains material or equipment that requires a field trial and has primary status.	REA.[1]
399a	8-82	Supplemental Agreement to Equipment Contract for Field Trial (Secondary—Delivery, Installation, Operation).	Used in any contract that contains material or equipment that requires a field trial and is the secondary field trial category.	REA.[1]
400	10-65	Telephone Equipment Contract (Installation Only)	Used where the contract will cover only the installation of equipment.	REA.[1]
400a	10-65	Contractor's Bond (Telephone Equipment Contract—Installation Only).	Used in REA Form 400 when the contract exceeds $100,000.	Copy in the Form 400 Contract.
515	9-79	Telephone System Construction Contract (Labor and Material).	Telephone outside plant construction, including direct buried plant, conduit and manholes, underground cable, pole lines, aerial cable, service entrances and station protector.	Supt. of Doc., GPO, Wash., DC 20402.[2]
525	9-66	Central Office Equipment Contract (Incl. Installation)	Purchase and installation of central office switching equipment.	Supt. of Doc., GPO, Wash., DC 20402.[2]
525a	10-62	Contractor's Bond (Central Office Equipment)	Used in REA Form 525 when the contracts exceed $100,000.	Copy in the Form 525 Contract.
No form number	8-79	Addendum No. 1 to REA Form 525, Central Office Equipment Contract (Including Installation).	Incorporates the liquidated damages provision into the 525 contract.	REA.[1]
526	8-66	Construction Contract Amendment	Amending the Telephone System Construction Contract (Labor and Material), REA Form 515.	REA.[1]
545	9-66	Central Office Equipment Contract (Not Including Installation).	Purchase and deliver central office equipment	REA.[1]
756	3-63	Telephone Line Extension Construction Contract (Labor and Materials).	Construction of system improvements and line extensions where scope of the project is not known.	REA.[1]
787	8-63	Supplement A to Construction Contract REA Form 515.	Used in REA Form 515 when borrower furnishes any material for construction of the project.	REA.[1]

[1] A limited number of copies of the publication will be furnished by REA upon request. As this document is produced by the Federal Government and is, therefore, in the public domain, additional copies may be duplicated locally by any user as desired. Requests for copies should be sent to the Director, Administrative Services Division, U.S. Department of Agriculture, Rural Electrification Administration, Washington, DC 20250. The telephone number of the REA Publications Office is (202) 382-8674.

[2] This contract form is for sale by the Superintendent of Documents, Government Printing Office, Washington, DC 20402. REA Form 33, Order Blank for REA Contract Forms from the Government Printing Office should be used to order the publication. Follow the procedure under ([1]) to obtain copies of Form 33 from REA.

(7 U.S.C. 901 et seq.; 7 U.S.C. 1921 et seq.)

Dated: March 7, 1988.

Harold V. Hunter,

Administrator.

[FR Doc. 88-9560 Filed 4-29-88; 8:45 am]

BILLING CODE 3410-15-M

Economic Analysis Staff

7 CFR Part 3901

Amendment of Freedom of Information Act Implementing Regulations

AGENCY: Economic Analysis Staff, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Economic Analysis Staff's regulations implementing the Freedom of Information Act (FOIA) to conform to the Department of Agriculture's recently revised FOIA regulations (7 CFR Part 1, Subpart A) and to correct typographical errors. The Department's regulations were published in the **Federal Register** on December 31, 1987, at 52 FR 49383.

EFFECTIVE DATE: May 2, 1988.

FOR FURTHER INFORMATION CONTACT: Laura B. Snow, Economics Agencies FOIA Officer, Economics Management Staff, USDA, Room 4310, South Building, 12th and Independence Avenue, SW., Washington, DC 20250. Telephone (202) 447-7590.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be made effective in less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Also, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 3901

Freedom of information.

Accordingly, Part 3901, Chapter XXXIX, of Title 7, Code of Federal Regulations, is amended as set forth below.

PART 3901—[AMENDED]

1. The authority citation for Part 3901 is revised to read as follows:

Authority: 5 U.S.C. 301 and 552; 7 CFR 1.1-1.23 and Appendix A.

§ 3901.1 [Amended]

2. Section 3901.1 is amended by removing the citation "§§ 1.1 through 1.19" and adding in lieu thereof the citation "§§ 1.1 through 1.23".

§ 3901.2 [Amended]

3. Section 3901.2 is amended by changing the citation "5 U.S.C. 52(a)(2)" to "5 U.S.C. 552(a)(2)".

§ 3901.3 [Amended]

4. Section 3901.3 is amended by removing the citation "§ 1.3(b)" and adding in lieu thereof the citation "§ 1.3(a)(3)"; and by removing the word "in" in its first appearance in the second sentence and adding in lieu thereof the word "is".

§ 3901.4 [Amended]

5. Section 3901.4 is amended by removing the citation "§ 1.7(a)" and adding in lieu thereof the citation "§ 1.8(a)".

Done at Washington, DC, this 19th day of April, 1988.

Keith J. Collins,

Director, Economic Analysis Staff.

[FR Doc. 88-9682 Filed 4-29-88; 8:45 am]

BILLING CODE 3410-19-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 15b

[Docket No. 30210-8053]

Involuntary Child and Spousal Support Allotments of NOAA Corps Officers

AGENCY: Office of the Secretary, Commerce (DOC).

ACTION: Final rule.

SUMMARY: This rule implements section 172 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). It provides specific guidance on processing involuntary child or child and spousal support allotments to states, courts, and other interested parties. The issuance (a) establishes Department of Commerce policy; (b) provides instructions on the service of notice; (c) defines the limitations or the amount of a support allotment; (d) prescribes procedures for officer notification and consultation; and (e) lists the designated official who will process involuntary support allotments. The final rule is substantially the same as the proposed rule published in the **Federal Register** March 21, 1983 (48 FR 11720). Changes are primarily administrative.

EFFECTIVE DATE: August 1, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Moll, 202-377-5391.

SUPPLEMENTARY INFORMATION: Written comments were requested by May 20, 1983. One comment was received on October 24, 1986, and was considered in the final rule. The comment recommended an additional section describing procedures to follow in the event of an erroneous notice from an authorized person. Since circumstances, such as spouse remarriage, may alter support obligations, providing a mechanism for formal notification of change or error is reasonable and was added at § 15b.5(d)(1)(iii).

Executive Order 12291

DOC has determined that this rule is not a major rule for the purpose of E.O. 12291, because it is not likely to have an annual effect on the economy of $100 million or more, and therefore does not require a regulatory impact analysis.

Executive Order 12612

This rule does not contain policies with Federalism implications to warrant preparation of a Federalism assessment under E.O. 12612.

Paperwork Reduction Act

The rule contains information collection requirements subject to the Paperwork Reduction Act. These requirements have been submitted to the Office of Management and Budget for approval. Comments may be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for NOAA.

Regulatory Flexibility Act of 1980

I certify that this rule will not have a significant economic impact on a substantial number of small entities because this rule affects individuals and individuals are not defined as small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. 601).

List of Subjects in 15 CFR Part 15b

Child support, Alimony, Wages, Government employee, NOAA Corps allotments.

Date: April 26, 1988.

Robert Brumley,

General Counsel.

Accordingly Subtitle A, 15 CFR is amended by adding a new Part 15b, reading as follows:

PART 15b—INVOLUNTARY CHILD AND SPOUSAL SUPPORT ALLOTMENTS OF NOAA CORPS OFFICERS

Sec.

Authority: 37 U.S.C. 101, 706; 15 U.S.C. 1673; 42 U.S.C. 665.

§ 15b.1 Purpose.

This part provides implementing policies governing involuntary child or child and spousal support allotments for officers of the uniformed service of the National Oceanic and Atmospheric Administration (NOAA), and prescribes applicable procedures.

§ 15b.2 Applicability and scope.

This part applies to Commissioned Officers of the NOAA Corps on active duty.

§ 15b.3 Definitions.

(a) *Active duty.* Full-time duty in the NOAA Corps.

(b) *Authorized person.* Any agent or attorney of any state having in effect a plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651-664), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under the state plan, any official of a political subdivision); and the court that has authority to issue an order against a member for the support and maintenance of a child or any agent of such court.

(c) *Child support.* Periodic payments for the support and maintenance of a child or children, subject to and in accordance with state or local law. This includes but is not limited to, payments to provide for health, education, recreation, and clothing or to meet other specific needs of such a child or children.

(d) *Designated official.* The official who is designated to receive notices of failure to make payments from an authorized person (as defined in paragraph (b) of this section). For the Department of Commerce this official is the Assistant General Counsel for Administration.

(e) *Notice.* A court order, letter, or similar documentation issued by an authorized person providing notification that a member has failed to make periodic support payments under a support order.

(f) *Spousal support.* Periodic payments for the support and maintenance of a spouse or former spouse, in accordance with state and local law. It includes, but is not limited to, separate maintenance, alimony while litigation continues, and maintenance. Spousal support does not include any payment for transfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(g) *Support order.* Any order for the support of any person issued by a court of competent jurisdiction or by administrative procedures established under state law that affords substantial due process and is subject to judicial review. A court of competent jurisdiction includes: (1) Indian tribal courts within any state, territory, or possession of the United States and the District of Columbia; and (2) a court in any foreign country with which the United States has entered into an agreement that requires the United States to honor the notice.

§ 15b.4 Policy.

(a) It is the policy of the Department of Commerce to require Commissioned Officers of the NOAA Corps on active duty to make involuntary allotments from pay and allowances as payment of child, or child and spousal, support payments when the officer has failed to make periodic payments under a support order in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person to the designated official. Such notice shall specify the name and address of the person to whom the allotment is payable. The amount of the allotment shall be the amount necessary to comply with the support order. If requested, the allotment may include arrearages as well as amounts for current support, except that the amount of the allotment, together with any other amounts withheld for support from the officer as a percentage of pay, shall not exceed the limits prescribed in section 303 (b) and (c) of the Consumer Credit Protection Act (15 U.S.C. 1673). An allotment under this Part shall be adjusted or discontinued upon notice from an authorized person.

(b) Notwithstanding the above, no action shall be taken to require an allotment from the pay and allowances of any officer until such officer has had a consultation with an attorney from the Office of the Assistant General Counsel for Administration, in person, to discuss the legal and other factors involved with respect to the officer's support obligation and his/her failure to make payments. Where it has not been possible, despite continuing good faith efforts to arrange such a consultation, the allotment shall start the first pay period beginning after 30 days have elapsed since the notice required in paragraph (d)(1) of § 15b. is given to the affected officer.

§ 15b.5 Procedures.

(a) *Service of notice* (1) An authorized person shall send to the designated official a signed notice that includes:

(i) A statement that delinquent support payments equal or exceed the amount of support payable for 2 months under a support order, and a request that an allotment be initiated pursuant to 42 U.S.C. 665.

(ii) A certified copy of the support order.

(iii) The amount of the monthly support payment. Such amount may include arrearages, if a support order specifies the payment of such arrearages. The notice shall indicate how much of the amount payable shall be applied toward liquidation of the arrearages.

(iv) Sufficient information identifying the officer to enable processing by the designated official. The following information is requested:

(A) Full name;

(B) Social Security Number;

(C) Date of birth; and

(D) Duty station location.

(v) The full name and address of the allottee. The allottee shall be an authorized person, the authorized person's designee, or the recipient named in the support order.

(vi) Any limitations on the duration of the support allotment.

(vii) A certificate that the official sending the notice is an authorized person.

(viii) A statement that delinquent support payments are more than 12 weeks in arrears, if appropriate.

(2) The notice shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate designated official, who shall note the date and time of receipt on the notice.

(3) The notice is effective when it is received in the office of the designated official.

(4) When the information submitted is not sufficient to identify the officer, the notice shall be returned directly to the authorized person with an explanation of the deficiency. However, prior to returning the notice if there is sufficient time, an attempt should be made to inform the authorized person who caused the notice to be served, that it will not be honored unless adequate information is supplied.

(5) Upon receipt of effective notice of delinquent support payments, together with all required supplementary documents and information, the designated official shall identify the officer from whom moneys are due and payable. The allotment shall be established in the amount necessary to comply with the support order and to liquidate arrearages if provided by a support order when the maximum amount to be allotted under this provision, together with any other moneys withheld for support from the officer, does not exceed:

(i) 50 percent of the officer's disposable earnings for any month where the officer asserts by affidavit or other acceptable evidence, that he/she is supporting a spouse and/or dependent child, other than a party in the support order. When the officer submits evidence, copies shall be sent to the authorized person, together with notification that the officer's support claim will be honored.

If the support claim is contested by the authorized person, that authorized person may refer this matter to the appropriate court or other authority for resolution.

(ii) 60 percent of the officer's disposable earnings for any month where the officer fails to assert by affidavit or other acceptable evidence that he/she is supporting a spouse and/or dependent child.

(iii) Regardless of the limitations above, an additional 5 percent of the officer's disposable earnings shall be withheld when it is stated in the notice that the officer is in arrears in an amount equivalent to 12 or more weeks' support.

(b) *Disposable earnings.*

The following moneys are subject to inclusion in computation of the officer's disposable earnings:

(1) Basic pay.

(2) Special pay (including enlistment and reenlistment bonuses).

(3) Accrued leave payments (basic pay portions only).

(4) Aviation career incentive pay.

(5) Incentive pay for Hazardous Duty.

(6) Readjustment pay.

(7) Diving pay.

(8) Sea pay.

(9) Severance pay (including disability severance pay).

(10) Retired pay (including disability retired pay).

(c) *Exclusions.* In determining the amount of any moneys due from or payable by the United States to any individual, there shall be excluded amounts which are:

(1) Owed by the officer to the United States.

(2) Required by law to be deducted from the remuneration or other payment involved, including, but not limited to:

(i) Amounts withheld from benefits payable under Title II of the Social Security Act where the withholding is required by law.

(ii) Federal employment taxes.

(3) Properly withheld for federal and state income tax purposes if the withholding of the amounts is authorized by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he/she were entitled. The withholding of additional amounts pursuant to section 3402(i) of Title 26 of the United States Code may be permitted only when the officer presents evidence of a tax obligation which supports the additional withholding.

(4) Deducted for servicemen's Group Life Insurance coverage.

(5) Advances of pay that may be due and payable by the officer at some future date.

(d) *Officer notification.* (1) As soon as possible, but not later than 15 calendar days after the date of receipt of notice, the designated official shall send to the officer, at his/her duty station or last known address, written notice:

(i) That notice has been received from an authorized person, including a copy of the documents submitted;

(ii) Of the maximum limitations set forth, with a request that the officer submit supporting affidavits or other documentation necessary for determining the applicable percentage limitation;

(iii) That the officer may submit supporting affidavits or other documentation as evidence that the information contained in the notice is in error;

(iv) That by submitting supporting affidavits or other necessary documentation, the officer consents to the disclosure of such information to the party requesting the support allotment;

(v) Of the amount or percentage that will be deducted if the officer fails to submit the documentation necessary to enable the designated official to respond to the notice within the prescribed time limits;

(vi) That legal counsel will be provided by the Office of the Assistant General Counsel for Administration; and

(vii) Of the date that the allotment is scheduled to begin.

(2) The officer shall be provided with the following:

(i) A consultation in person with an attorney from the Office of the Assistant General Counsel for Administration, to discuss the legal and other factors involved with the officer's support obligation and his/her failures to make payment.

(ii) Copies of any other documents submitted with the notice.

(3) The Office of the Assistant General Counsel for Administration will make every effort to see that the officer receives a consultation concerning the support obligation and the consequences of failure to make payments within 30 days of the notice required in paragraph (d)(1). In the event such consultation is not possible, despite continuing good faith efforts to arrange a consultation, no action shall be taken to require an allotment from the pay and allowances of any NOAA Corps Officer until 30 days have elapsed after the notice described in paragraph (d)(1) is given to the affected officer.

(4) If, within 30 days of the date of the notice, the officer has furnished the designated official affidavits or other documentation showing the information in the notice to be in error, the designated official shall consider the officer's response. The designated official may return to the authorized person, without action, the notice for a statutorily required support allotment together with the member's affidavit and other documentation, if the member submits substantial proof of error, such as:

(i) The support payments are not delinquent.

(ii) The underlying support order in the notice has been amended, superseded, or set aside.

(e) *Absence of funds.* (1) When notice is served and the identified officer is found not to be entitled to moneys due from or payable by NOAA, the designated official shall return the notice to the authorized person, and advise that no moneys are due from or payable by NOAA to the named individual.

(2) Where it appears that moneys are only temporarily exhausted or otherwise unavailable, the authorized person shall be fully advised as to why, and for how long, the money will be unavailable.

(3) In instances where the officer separates from active duty service, the authorized person shall be informed by the Office of Commissioned Personnel, NOAA Corps that the allotment is discontinued.

(4) Payment of statutorily required allotments shall be enforced over other voluntary deductions and allotments when the gross amount of pay and allowances is not sufficient to permit all authorized deductions and collections.

(f) *Allotment of funds.* (1) The authorized person or allottee shall notify the designated official promptly if the operative court order upon which the allotment is based is vacated, modified, or set aside. The designated official shall also be notified of any events affecting the allottee's eligibility to receive the allotment, such as the former spouse's remarriage, if a part of the payment is for spousal support, and notice of a change in eligibility for child support payments under circumstances of death, emancipation, adoption, or attainment of majority of a child whose support is provided through the allotment.

(2) An allotment established under this Directive shall be adjusted or discontinued upon notice from the authorized person.

(3) Neither the Department of Commerce nor any officer or employee thereof, shall be liable for any payment made from moneys due from, or payable by, the Department of Commerce to any individuals pursuant to notice regular on its face, if such payment is made in accordance with this Part. If a designated official receives notice based on support which, on its face, appears to conform to the law of the jurisdiction from which it was issued, the designated official shall not be required to ascertain whether the authority that issued the orde had obtained personal jurisdiction over the member.

(4) *Effective date of allotment.* The allotment shall start with the first pay period beginning after the officer has had a consultation with an attorney from the Office of the Assistant General Counsel for Administration but not later than the first pay period beginning after 30 days have elapsed since the notice required in paragraph (d)(1) of this section is given to the affected officer. The Department of Commerce shall not be required to vary its normal NOAA Corps allotment payment cycle to comply with the notice.

(g) *Designated official.* Notice should be sent to: The Assistant General Counsel for Administration, Office of the General Counsel, U.S. Department of Commerce, Washington, DC 20230, (202) 377-5387.

[FR Doc. 88-9591 Filed 4-29-88; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

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

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listings of FD&C Red No. 3 for use in coloring cosmetics and externally applied drugs, the lakes of FD&C Red No. 3 for use in coloring food and ingested drugs, and D&C Red No. 33 and D&C Red No. 36 for use as color additives in drugs and cosmetics. The new closing date for the provisional listing of these color additives will be July 1, 1988. This postponement will provide additional time for FDA to complete its evaluation of the information on FD&C Red No. 3, and to prepare appropriate **Federal Register** documents for FD&C Red No. 3, D&C Red No. 33, and D&C Red No. 36.

EFFECTIVE DATE: Effective May 2, 1988, the new closing date for FD&C Red No. 3 and its lakes, D&C Red No. 33, and D&C Red No. 36 will be July 1, 1988.

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

SUPPLEMENTARY INFORMATION:

FD&C Red No. 3

FDA established the current closing date of May 2, 1988, by a rule published in the **Federal Register** of November 3, 1987 (52 FR 42096). At that time, FDA postponed the closing date to provide time for the agency to (1) complete its review of the report of the scientific review panel, (2) consider the impact, if any, of the recent decision in *Public Citizen* v. *Young*, 831 F.2d 1108 (D.C. 1987), and (3) develop and issue an appropriate **Federal Register** document.

Because of the complexity of the issues involved in the evaluation of the data for FD&C Red No. 3, the agency previously concluded that the closing date for the provisional listing of FD&C Red No. 3 should be extended until May 2, 1988. (For further discussion of the issues concerning FD&C Red No. 3 see 50 FR 26377 at 26379; June 26, 1985, and 50 FR 35783 at 35786; September 4, 1985.) Additional time is now needed for the agency to complete its evaluation of the safety of FD&C Red No. 3. In addition, the extension of time will be used to complete the evaluation of the data submitted in response to the request for usage information on FD&C Red No. 3 which published in the **Federal Register** of November 19, 1987 (52 FR 44485) and December 21, 1987 (52 FR 48326). For these reasons, the agency believes it is reasonable to postpone the closing date for FD&C Red No. 3 until July 1, 1988. The extension will also permit time for the development and issuance of an appropriate **Federal Register** document.

D&C Red No. 33 and D&C Red No. 36

FDA established the current closing date of May 3, 1988, for D&C Red No. 33 and D&C Red No. 36, by a rule published in the **Federal Register** of March 4, 1988 (53 FR 6983). At that time, FDA postponed the closing date to (1) consider the impact, if any, of the recent decision in *Public Citizen* v. *Young*, 831 F.2d 1108 (D.C. 1987), and (2) provide time for the agency to prepare **Federal Register** documents that would explain the basis for the agency's decisions concerning the conditions under which these color additives could be safely used.

The agency has not yet completed documents fully describing the bases for each of these decisions and setting forth detailed conditions for use. Therefore, FDA believes that it is reasonable to postpone the closing date for these color additives until July 1, 1988, to provide time for the preparation and publication of appropriate **Federal Register** documents. The agency intends to publish these documents as soon as possible.

Conclusions

The agency has considered what, if any, effect this extension would have on the public health. FDA has concluded that there is no basis to believe that a 2-month extension would present a hazard to public health. This extension is thus consistent with *McIlwain* v. *Hayes*, 690 F.2d 1041 (D.C. Cir. 1982). Because of the shortness of time until the May 2, 1988, and May 3, 1988, closing dates, FDA concludes that notice and public procedure on this regulation are impracticable and that good cause exists for issuing the postponement as a final rule and for an effective date of May 2, 1988. This regulation will permit the uninterrupted use of these color additives until further action is taken. In accordance with 5 U.S.C. 553 (b) and (d) (1) and (3), this postponement is issued as a final regulation, effective May 2, 1988.

List of Subjects in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

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

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

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

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

§ 81.1 [Amended]

2. Section 81.1 *Provisional lists of color additives* is amended in the tables of paragraph (a) for the entry "FD&C Red No. 3," and of paragraph (b) for the entries "D&C Red No. 33" and "D&C Red No. 36" by revising the closing date to read "July 1, 1988."

§ 81.27 [Amended]

3. Section 81.27 *Conditions of provisional listing* is amended in the table, appearing in the introductory text in paragraph (d), by revising the closing date for the entries "FD&C Red No. 3," "D&C Red No. 33" and "D&C Red No. 36" to read July 1, 1988.

Dated: April 26, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-9614 Filed 4-29-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 968

[Docket No. R-88-1377; FR-2415]

Comprehensive Improvement Assistance Program; Multi-Stage Funding

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This rule amends Part 968, governing the Comprehensive Improvement Assistance Program (CIAP), usually funded in one stage, to permit multi-stage funding of projects on an exception basis. The rule currently provides that funding may exceed one stage on an exception basis, but funding is limited to two stages.

EFFECTIVE DATE: June 16, 1988.

FOR FURTHER INFORMATION CONTACT: Janice Rattley, Director, Project Management Division, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street SW. 20410–5000, telephone (202) 755–1800. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION:

Background

The statutory provision authorizing the Comprehensive Improvement Assistance Program, section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*), contains various requirements concerning the process of assessing the improvements needed and developing a plan for making the necessary improvements and replacements, but it does not contain any requirements concerning the number of stages in which improvements are to be funded. Therefore, the Secretary is authorized under section 14(j) to handle such an issue by regulation.

The plans required under the statute are five-year plans, which are revised each year to cover the next five-year period. The maximum length of time for completion of the comprehensive modernization for a project under the current rule is five years, regardless of whether it is funded in one stage, or on an exception basis, in two stages. At the time initial funding is approved, the total amount required for the entire project is estimated and the first increment is approved. The additional increment of funding is approved in a subsequent year if the PHA complies with all HUD requirements and funding is available.

Changes to the Rule

The current rule, in § 968.5(g), authorizes one-stage comprehensive modernization funding as the general rule. It requires two-stage funding for Public Housing Agencies (PHAs), including Indian Housing Authorities (IHAs), that lack modernization capability, i.e., that have received approval for the use of funds which have not been committed for modernization work in more than three years, where HUD has determined that the failure to commit funds is due to reasons within the PHA's control. The current rule also permits two-stage funding for projects of such magnitude that the HUD office lacks sufficient funding in a particular year for the entire project and for projects of PHAs that lack management capability.

However, the Department has determined that some comprehensive modernization programs for large projects are so complex and costly that more than two stages are needed because a particular HUD office lacks sufficient funding over a two-stage period or the PHA is unable to administer the program in just two stages. In addition, in the case of comprehensive modernization being undertaken by PHAs that lack modernization or management capability, the first stage must be devoted to addressing the capability problems, and at least two stages may be needed thereafter. Therefore, this rule revises the provisions permitting "two-stage funding" (§ 968.5(g)(2)) to allow "multi-stage funding." Under this revised rule, a maximum of five stages will be permitted.

The general rule (in § 968.5(g)(1)) that funding be done in one stage will remain. Modernization is generally to be funded in one stage. In the revised rule, however, multi-stage funding will be permitted on an exception basis for any project for which the PHA and HUD decide it is appropriate. These changes to the rule make paragraph § 968.5(g)(3) of the current rule (that permits either one-stage funding or two-stage funding for lead-based paint testing and abatement activities) unnecessary, so that paragraph is omitted in this revision.

Because of the complex nature of comprehensive modernization, the regulatory provision requiring a project funded in one stage be to completed within three years has been found to be unrealistic. Similarly, the requirement that a project funded in two stages be completed over a period not to exceed five years has been found to be unworkable. Therefore, the provision concerning the implementation period, § 968.5(g)(3) of this revised rule, limits the length of the implementation period for the original funding stage, or each additional stage permitted as an exception, to not more than five years from the date on which that stage is funded. In the case of multi-stage funding, it is expected that the first stage and each additional stage permitted under an exception will be completed in less than five years, so that the total period of multi-stage comprehensive modernization will be minimized.

This rule also updates the OMB approval number contained in the section under revision.

Justification for Final Rule

It is the policy of this Department to publish for comment, rules relating to public property, loans, grants, benefits, or contracts, despite the exemption contained in 5 U.S.C. 553 from the requirement to solicit public comment for these rules. However, in accordance with 24 CFR Part 10, the Department may omit solicitation of public comment before publishing a final rule, in a particular case, if such comment is not required by statute and solicitation and consideration of public comment are "impracticable, unnecessary or contrary to the public interest."

In this case, public comment is not required by statute. The change deals with a matter of technical procedure and permits greater flexibility in the operation of the program. In effect, it relieves a burden currently imposed by the rule that PHAs complete their modernization programs in a very short period. The change will be beneficial to PHAs and to HUD offices and will have no appreciable effect on members of the public. Consequently, the Department has determined that solicitation of public comment prior to making these changes effective is unnecessary.

Findings and Certifications

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) 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 was listed as sequence number 1020 in the Department's Semiannual Agenda of Regulations published on April 25, 1988 (53 FR 13854, 13890), under Executive Order 12291 and the Regulatory Flexibility Act.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities since its effect is merely to permit more

flexibility in the way funding of the program is accomplished.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321–4347), since the determination of the number of funding stages for this program is an administrative matter.

List of Subjects in 24 CFR Part 968

Loan programs: housing and community development, Public housing, Grant programs: housing and community development, Indians, Reporting and recordkeeping requirements.

Accordingly, 24 CFR Part 968 is amended as follows:

PART 968—COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

1. The authority citation for Part 968 continues to read as follows:

Authority: Secs. 6 and 14, United States Housing Act of 1937 (42 U.S.C. 1437d, 1437*l*); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 968.5 is amended by adding a new paragraph (c)(3) and by revising paragraph (g) to read as follows:

§ 968.5 Procedures for obtaining approval of a modernization program.

(c) *Preliminary application.* * * *

(3) An updated assessment of needs during the next five year period, when funds are requested in a subsequent year.

* * * * *

(g) *Comprehensive Modernization approach.* HUD will fund proposed Comprehensive Modernization in one stage, or, on an exception basis, in more than one stage—not to exceed a total of five stages. Bases for exception include a PHA's lack of modernization or management capability, as defined in § 968.3 (which necessitates multi-stage funding), or a total funding requirement for the Comprehensive Modernization of a large magnitude relative to the funding available to the HUD office.

(1) *One-stage funding.* Under one-stage funding, the total amount of modernization funds for all required physical and management improvements at the project shall be approved at one time, from funds for a single FFY, under one Final Application.

(2) *Multi-stage funding.* Under multi-stage funding, the total amount of modernization funds for all required physical and management improvements at the project shall be approved in the fewest number of stages that are feasible, over several different FFYs, with the total number of stages not to exceed five. The first stage will include funds for architectural/engineering work and/or a portion of the physical improvements. Management improvements may be included in the first stage to the extent they are eligible costs under § 968.4(b).

(i) *First stage.* At the first stage of funding, the Final Application shall include a comprehensive assessment of the project's physical and management improvement needs and a plan under paragraph (i)(2) of this section addressing only the work items to be completed during this stage. When approving the first stage, the HUD office will indicate the approximate balance of the funds required to complete the Comprehensive Modernization, but also will indicate that future funding will be subject to all of the following conditions: the availability of funds, satisfactory progress by the PHA in obligating first stage and subsequent stage funds, PHA submission of additional documents, and PHA compliance with HUD regulatory and statutory requirements.

(ii) *Subsequent stages.* Where the PHA is requesting funds for a subsequent stage of a multi-stage Comprehensive Modernization, the HUD office will determine whether the PHA has made satisfactory progress in obligating prior stage funds, whether it has submitted necessary additional documents, and whether it has complied with HUD regulatory and statutory requirements. If the PHA has not satisfied these conditions, the HUD office will not approve that subsequent stage of funding at this time. The PHA submission for any subsequent stage should not duplicate items previously submitted.

(3) *Implementation.* After the Final Application for each stage is approved, the PHA and the HUD office shall agree on an implementation period that is appropriate for that funding stage, not to exceed five years for any stage from the date on which that stage is first funded.

* * * * *

§ 968.5 [Amended]

3. The first parenthetical OMB number statement following paragraph (j) of § 968.5 is amended by removing the numbers "2502–0218" and "2502–0208", and adding in their places the numbers "2577–0048" and "2577–0044", respectively.

Dated: March 24, 1988.

James E. Baugh,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 88–9642 Filed 4–29–88; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 306

[Department of the Treasury Circular No. 300, Fourth Rev.]

General Regulations Governing U.S. Securities

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Department of the Treasury's general regulations governing U.S. securities, i.e., 31 CFR Part 306, as they apply to Treasury bonds and notes issued prior to August 1986 and currently held in bearer or registered forms, to permit the holders or owners thereof, from time to time, and under such terms and conditions as the Secretary deems appropriate, to request the conversion of their securities to book-entry form to be held in the TREASURY DIRECT Book-entry Securities System. It also allows book-entry notes and bonds issued prior to August 1986 and held under the provisions of Subpart O of 31 CFR Part 306, sometimes referred to as the commercial book-entry system, to be transferred to and held under the TREASURY DIRECT system. Securities that are held in TREASURY DIRECT will be governed by Subpart C and other applicable portions of 31 CFR Part 357.

EFFECTIVE DATE: May 2, 1988.

FOR FURTHER INFORMATION CONTACT: John E. Logue, Assistant Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt (202) 447–9859.

SUPPLEMENTARY INFORMATION: In August 1986, the Department of the Treasury ceased issuing new Treasury bonds and notes in definitive (certificated) form, offering them thereafter only in book-entry form. For bonds and notes issued after August 1, 1986, investors desiring a direct relationship with the Treasury Department may elect to have their book-entry securities held in the TREASURY DIRECT Book-entry Securities System (TREASURY DIRECT). Treasury bonds and notes held in TREASURY DIRECT are

governed by the applicable provisions of the Department of the Treasury Circular, Public Debt Series No. 2–86 (31 CFR Part 357). Following the establishment of TREASURY DIRECT, the Department, as well as Federal Reserve Banks, acting as fiscal agent of the Department, have been asked from time to time whether TREASURY DIRECT would be made available for bonds and notes issued prior to August 1, 1986, held either in definitive form or in the commercial book-entry system, now referred to as Treasury/Reserve Automated Debt Entry System ("TRADES"). The TREASURY DIRECT system offers investors a number of beneficial terms and conditions, including the convenience and safety of a direct deposit system for interest and redemption payments.

In response to these inquiries, the Department has decided to amend Part 306 to allow investors the opportunity to convert their definitive bonds and notes to book-entry holdings in TREASURY DIRECT, as well as to allow holders of like securities held in book-entry form under Subpart O of Part 306 to transfer them to TREASURY DIRECT. In order to accomplish the conversions and transfers in an orderly manner, and to avoid taxing TREASURY DIRECT's capacity, eligible issues will be identified in notices published in the **Federal Register**. Certain issues with a limited period of time remaining to maturity may not be made eligible.

Section 306.23, which will be newly added to Part 306, provides for notice by publication in the **Federal Register** of those issues eligible to be held in TREASURY DIRECT, and the period of time during which requests for conversion or transfer will be accepted. It also provides that an account in TREASURY DIRECT must have been established before, or coincidental with, the conversion. The rule also provides that securities held in TREASURY DIRECT will be governed by the TREASURY DIRECT regulations, i.e., Part 357, and that the provisions of Part 306 would have no further application to such securities so long as they are held in TREASURY DIRECT. A security in TREASURY DIRECT may be subsequently transferred to the commercial book-entry system, and upon such transfer, the regulations in Part 306 will re-apply.

The Department cautions investors to take special note of the fact that certain terms and conditions of securities held under the regulations set out in Part 306 differ from those that apply to book-entry securities held under Part 357. Particular note should be taken of the differences between the forms of registration available to individual investors, and the effect of such registration, under the two sets of regulations. Copies of Department of the Treasury Circular, Public Debt Series No. 2–86 (31 CFR Part 357) are available through the Federal Reserve Banks.

Special Analysis

Because this Final Rule relates to Treasury securities, the notice and public procedures, and the delayed effective date requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

It has been determined that the rule does not constitute a "major rule" for purposes of Executive Order 12291. A regulatory impact analysis, therefore, is not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply to this rule.

List of Subjects in 31 CFR Part 306

Federal Reserve System, Government securities, TREASURY DIRECT Book-entry Securities System.

Accordingly, for the reasons set forth in the preamble, Part 306 is amended as follows:

PART 306—[AMENDED]

The authority citation for Part 306 is revised to read:

Authority: 31 U.S.C. Chapter 31, 5 U.S.C. 301.

2. Part 306 is amended by adding § 306.23 to read as follows:

§ 306.23 Securities eligible to be held in the TREASURY DIRECT Book-entry Securities System.

(a) *Eligible issues.* The Secretary will, from time to time, cause to be published in the **Federal Register** a notice describing those series of Treasury issues of bonds and notes issued before August 1, 1986, that will be eligible for conversion to the TREASURY DIRECT Book-entry Securities System. The notice shall specify the period during which requests for conversion will be accepted.

(b) *Establishment of TREASURY DIRECT account.* To convert a bearer or registered security to book-entry form to be held in TREASURY DIRECT, the owner(s) must establish at the time of conversion, or prior thereto, an account in TREASURY DIRECT in accordance with § 357.20 of Part 357. Similarly, to transfer to TREASURY DIRECT a security held in book-entry form under Subpart O of this Part, the owner(s) must establish at the time of transfer, or prior thereto, an account in TREASURY DIRECT in accordance with § 357.20 of Part 357.

(c) *Procedure for conversion of bearer security.* To convert a bearer security to TREASURY DIRECT, the owner(s) thereof must present it to a Federal Reserve Bank or the Department of the Treasury, accompanied by a request for conversion, which must include the information needed for establishing a TREASURY DIRECT account, unless such account has been previously established, and is identified by its number in the request.

(d) *Procedures for conversion of registered security.* To convert a registered security to TREASURY DIRECT, the owner(s) thereof must execute an assignment in accordance with Subpart F of this part. The assignment must be in substantially the following form: "To the Secretary of the Treasury for conversion to book-entry and deposit in TREASURY DIRECT,". The security should be accompanied by the information needed for establishing the TREASURY DIRECT account, or where an account has been previously established, the above assignment should be reworded to include the account number.

(e) *Procedure for transfer of book-entry security held under Subpart O.* To transfer a book-entry security held under Subpart O of this part, the owner(s) must arrange with the bank or other entity where the security is being held to transfer the same to TREASURY DIRECT. No such transfer will be accepted unless a TREASURY DIRECT account has previously been established and the number thereof is shown in the transfer request.

(f) *Terms and conditions of securities held in TREASURY DIRECT.* An eligible security held in TREASURY DIRECT shall be subject to Subpart C and other applicable portions of Part 357, and the provisions of Part 306 shall not apply thereto.

(g) *Re-conversion from TREASURY DIRECT to definitive form or to book-entry under Subpart O.* The owner(s) of a security converted or transferred to TREASURY DIRECT in the manner herein provided may, by executing an appropriate transaction request, transfer the book-entry security to a book-entry account held under the provisions of Subpart O of this part. Thereafter, to the extent that the security was originally eligible for such conversion the book-entry security held under Subpart O may be converted to one in registered or bearer form. Securities transferred from TREASURY DIRECT under this

subsection shall be thereupon subject to the provisions of Part 306, and Part 357 shall no longer apply thereto.

Date: April 21, 1988.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 88-9613 Filed 4-29-88; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 162

[CGD8-87-09]

Inland Waterways Navigation Regulation—Lower Mississippi River Between Mile 311.5 AHP and Mile 340.0 AHP

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations in Title 33 Part 162.80(a) by extending the lower limit of the regulated area to mile 311.5 AHP. Completion of the new Auxiliary Control Structure necessitates extending the area where vessel mooring is prohibited. This regulation will assist in protecting the structure which is critical to flood control, navigation and water supplies.

EFFECTIVE DATE: June 1, 1988.

FOR FURTHER INFORMATION CONTACT: LTJG Richard J. Berard, Waterways Safety Officer, Coast Guard MSO New Orleans, Tidewater Building, 1440 Canal Street, Room 909, New Orleans, LA 70112, Telephone: (504) 589-4219.

SUPPLEMENTARY INFORMATION: On 16 September 1987, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (52 FR 34933). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of these regulations are LTJG Patrick A. Galvin, project officer, for Coast Guard MSO New Orleans, and LCDR James J. Vallone, project attorney, Eighth Coast Guard District Legal Office.

Discussion of Comments

There were no comments received on this proposal.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The only affect of the regulation will be to restrict vessels from mooring in an area upriver from the control structures. Normal navigation will not be impeded.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 162

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulations

In consideration of the foregoing, Part 162 of Title 33, Code of Federal Regulations, is amended as follows:

PART 162—[AMENDED]

1. The authority citation for Part 162 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. Section 162.80(a) is revised to read as follows:

§ 162.80 Mississippi River below mouth of Ohio River, including South and Southwest passes.

(a) *Mooring on the Mississippi River between miles 311.5 AHP and 340.0 AHP.* (1) No vessel or craft shall moor along either bank of the Mississippi River between miles 311.5 AHP and mile 340.0 AHP except in case of an emergency, pursuant to an approved navigation permit, or as authorized by the District Commander. Vessels may be moored any place outside the navigation channel in this reach in case of an emergency and then for only the minimum time required to terminate the emergency. When so moored, all vessels shall be securely tied with bow and stern lines of sufficient strength and fastenings to withstand currents, winds, wave action, suction from passing vessels or any other forces which might cause the vessels to break their moorings. When vessels are so moored, a guard shall be on board at all times to ensure that proper signals are displayed and that the vessels are securely and adequately moored.

(2) Vessels may be moored any time at facilities constructed in accordance with an approved navigation permit or as authorized by the District Commander. When so moored, each vessel shall have sufficient fastenings to prevent the vessels from breaking loose by wind, current, wave action, suction from passing vessels or any other forces which might cause the vessel to break its mooring. The number of vessels in one fleet and the width of the fleet of vessels tied abreast shall not extend into the fairway or be greater than allowed under the permit.

(3) Mariners should report immediately by radio or fastest available means to the lockmaster at Old River Lock or to any government patrol or survey boat in the vicinity any emergency mooring or vessels drifting uncontrolled within the area described in paragraph (a)(1) of this section. It is the responsibility and duty of the master of a towing vessel releasing or mooring a vessel in this reach of the Mississippi River to report such action immediately.

* * * * *

Dated: April 22, 1988.

J.D. Sipes,

Captain, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 88-9424 Filed 4-29-88; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

Suspension of Community Eligibility; New York

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective date shown in this rule because of noncompliance with the revised floodplain management criteria of the NFIP. If FEMA receives documentation that the community has adopted the required revisions prior to the effective suspension date given in this rule, the community will not be suspended and the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATE: May 17, 1988.

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

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to

purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the NFIP (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures.

On August 25, 1986, FEMA published a final rule in the **Federal Register** that revised the NFIP floodplain management criteria. The rule became effective on October 1, 1986. As a condition for continued eligibility in the NFIP, the criteria at 44 CFR 60.7 require communities to revise their floodplain management regulations to make them consistent with any revised NFIP regulation within 6 months of the effective date of that revision or be subject to suspension from participation in the NFIP.

The communities listed in this notice have not amended or adopted floodplain management regulations that incorporate the rule revision. Accordingly, the communities are not compliant with NFIP criteria and will be suspended on the effective date shown in this final rule. However, some of these communities may adopt and submit the required documentation of legally enforceable revised floodplain management regulations after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

The Administrator finds that notice and public procedures under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 90- and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

PART 64—[AMENDED]

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

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

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

§ 64.6 List of eligible communities.

State	Community name	County	Community No.	Effective date
New York	Addison, village of	Steuben	360762	May 17, 1988
Do	Albion, village of	Orleans	360641	Do.
Do	Amenia, town of	Dutchess	361332	Do.
Do	Arkwright, town of	Chautauqua	361105	Do.
Do	Ashford, town of	Cattaraugus	360062	Do.
Do	Ashland, town of	Chemung	360284	Do.
Do	Augusta, town of	Oneida	360517	Do.
Do	Aurelius, town of	Cayuga	360103	Do.
Do	Bath, village of	Steuben	360767	Do.
Do	Baxter Estates, village of	Nassau	360498	Do.
Do	Bayville, village of	do	360988	Do.
Do	Benton, town of	Yates	360955	Do.
Do	Bethany, town of	Genesee	361138	Do.
Do	Brighton, town of	Monroe	360410	Do.
Do	Brockport, village of	do	360411	Do.
Do	Buchanan, village of	Westchester	361534	Do.
Do	Cairo, town of	Greene	360286	Do.
Do	Canajoharie, town of	Montgomery	360442	Do.
Do	Canajoharie, village of	do	360443	Do.
Do	Carlisle, town of	Schoharie	361193	Do.
Do	Catskill, town of	Greene	361116	Do.
Do	Catskill, village of	do	360287	Do.
Do	Cayuga, village of	Cayuga	360107	Do.
Do	Cicero, town of	Onandaga	360572	Do.
Do	Clermont, town of	Columbia	361315	Do.
Do	Clifton Springs, village of	Ontario	361450	Do.
Do	Cold Springs, village of	Putnam	360670	Do.
Do	Cuba, town of	Allegany	361099	Do.
Do	Cuyler, town of	Cortland	361386	Do.
Do	Dansville, village of	Livinston	360383	Do.
Do	Danby, town of	Tompkins	360845	Do.
Do	Davenport, town of	Delaware	360192	Do.
Do	Dayton, town of	Cattaraugus	360066	Do.
Do	Delanson, village of	Schenectady	360737	Do.
Do	De Ruyter, town of	Madison	361291	Do.
Do	Dix, town of	Schuyler	360746	Do.
Do	Dunkirk, city of	Chautauqua	360137	Do.

State	Community name	County	Community No.	Effective date
Do	Durham, town of	Greene	360289	Do.
Do	Earlville, village of	Chenango	360397	Do.
Do	East Greenbush, town of	Rensselaer	361133	Do.
Do	East Randolph, village of	Cattaraugus	360068	Do.
Do	East Rochester, village of	Monroe	360414	Do.
Do	Edmeston, town of	Otsego	361270	Do.
Do	Elbridge, village of	Onandaga	360576	Do.
Do	Ellery, town of	Chautauqua	361072	Do.
Do	Esperance, village of	Schoharie	361542	Do.
Do	Fenner, town of	Madison	360399	Do.
Do	Forestville, village of	Chautauqua	361501	Do.
Do	Fort Ann, town of	Washington	361231	Do.
Do	Freetown, town of	Cortland	361325	Do.
Do	Fremont, town of	Steuben	360821	Do.
Do	Geddes, town of	Onandaga	360579	Do.
Do	Geneseo Falls, town of	Wyoming	361003	Do.
Do	Geneseo, town of	Livingston	360884	Do.
Do	Geneseo, village of	do	361452	Do.
Do	Geneva, town of	Ontario	360600	Do.
Do	Gloversville, city of	Fulton	360275	Do.
Do	Greenburgh, town of	Westchester	360911	Do.
Do	Harrison, town of	do	360912	Do.
Do	Hartsville, town of	Steuben	361602	Do.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: April 26, 1988.

[FR Doc. 88-9619 Filed 4-29-88; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. 1

[FCC 88-160]

Commission Policy Regarding Terrain Shielding in the Evaluation of Television Translator, Television Booster and Low Power Television Applications

AGENCY: Federal Communications Commission.

ACTION: Policy statement.

SUMMARY: This action establishes a limited Commission waiver policy regarding consideration of terrain shielding in the low power television service. This action is taken to permit the authorization of additional low power television, television translator, and television booster stations in areas of the country where terrain shielding is a significant factor.

EFFECTIVE DATE: June 1, 1988.

FOR FURTHER INFORMATION CONTACT: Keith A. Larson, Low Power Television Branch, FCC, Telephone (202) 632-3894.

SUPPLEMENTARY INFORMATION:

Policy Statement

Adopted: April 21, 1988.
Released: April 25, 1988.

By the Commission.

Introduction

1. The Commission herein revisits its policy regarding its treatment of the effects of terrain on propagation in the Low Power Television Service (LPTV). This action responds to our concern that some consideration of terrain shielding in the evaluation of television translator, television booster and LPTV applications is essential to the further authorization of service in many communities. Circumstances previously prohibiting any such consideration have changed. Accordingly, although we do not find that the public interest would be best served by incorporating considerations of terrain shielding into regular processing procedures at this time, the Commission will now grant waivers of its LPTV application acceptance standards concerning interference protection, when such requests are supported by either terrain studies or, alternatively, the assent to such grants by stations predicted to receive interference from proposed facilities, together with a less rigorous terrain showing. This *Policy Statement* sets forth general guidelines, on when we will consider terrain shielding requests, and provides general guidance for the submission of such requests.

Background

2. The Commission's experience and concerns with accounting for the effects of terrain on signal propagation in the assignment of television translator stations provide an understanding of both how it could impede the efficiency of application processing and why we must limit the applicability of its consideration at this time. During the years before the Low Power Television Service was created, interference protection studies on television translator applications depended largely on engineering judgment, where terrain shielding played a major role. In evaluating the likelihood of interference from proposed facilities to nearby stations, the Commission staff reviewed topographic maps and terrain profiles submitted by applicants. Decisions were sometimes made on the Basis of an assent by stations potentially affected by the grant of the application, with the understanding that the applicant would resolve any interference problems. These processing procedures were then feasible and worked effectively because the Commission dealt with relatively small backlogs of applications, the applications rarely were mutually exclusive, and most proposals were for service in areas of rugged terrain familiar to the applicants. Thousands of television translator stations were authorized in this manner and, generally, have operated without causing interference.

3. By the time the LPTV rules were adopted in 1982, the processing situation had changed drastically. The Commission then faced a backlog of more than 5,000 applications proposing translator and LPTV service throughout the country, and it was apparent that many of these applications were mutually exclusive. These circumstances prompted the Commission to conclude in the LPTV proceeding that it could no longer consider terrain shielding in the authorization process, where it stated in pertinent part:

> We believe that the overwhelming argument is presented by our experience with interim applications. It is far beyond our staff capacity to evaluate individually thousands

of terrain shielding claims * * *. [*Low Power Television Report and Order*, 51 RR 2d 476, 495 (1982).]

There is no universally accepted method of predicting the effects of terrain shielding. It would be beyond the scope of this proceeding to adopt a general terrain correction factor, even if we had sufficient information to enable us to do so. Under these circumstances, any attempt to allow for terrain shielding would embroil us in disputes that may not be susceptible to resolution by accepted standards and would therefore frustrate our efforts to expedite grant of low power licenses. [*Reconsideration of LPTV Report and Order*, 53 RR 2d 1267, 1274 (1983).]

Since then, and for the same reasons, the Commission has repeatedly declined to consider terrain shielding in the evaluation of television translator and low power television applications. *See Tel Radio Communications Properties, Inc.* FCC 85–327, released June 27, 1985; *Kennebec Valley Television (Channel 3, Augusta, Maine)*, 60 RR 2d 104, 105 (1986) (and authorities cited therein); *Kennebec Valley Television (Channel 12, Rutland, Vermont)*, 60 RR 2d 107 (1986).

4. Efficient and systematic processing of the more than 30,000 applications filed in the service has necessitated strict adherence to our LPTV interference protection standards (47 CFR 74.705, 74.707 and 74.709). These standards, in effect, prohibit the overlap of particular field strength contours, where contour locations are predicted from station engineering parameters and the Commission's signal propagation curves (47 CFR 73.699). The standards in § 74.707 of the rules also define mutual exclusivity among pending applications. In order to verify compliance with the standards and to determine which applications are mutually exclusive, the Commission staff generally relies on computer routines that make thousands of calculations for each application studied. These routines compute antenna height above average terrain (HAAT) in pertinent directions and utilize HAAT in predictions of contour locations. The HAAT is the antenna height above the average terrain elevation between 3.2 to 16.1 kilometers (2–10 miles) from the antenna site. Except for HAAT, the effects of terrain cannot be incorporated into these routines until we adopt standard prediction methods, and we are not yet prepared to do so. Therefore, the evaluation of terrain shielding claims in LPTV application studies would involve the use of nonroutine, and possibly lengthy, engineering analysis.

5. Deviation from normal processing procedures delays the final disposition of an application. The adverse impact on expeditious processing is magnified when groups of mutually exclusive applications are involved, since delays in the processing of one application in the group, delay action on the others. Until recently, the majority of the applications filed in the service have been mutually exclusive with other applications proposing operation in the same or nearby communities. In many cases, those applications, in turn, have been mutually exclusive with yet other applications, and so on. In this manner, hundreds of applications have been linked in "daisy chains" involving many channels and communities spread over distances of hundreds of miles. Even under normal procedures, the processing of such groups of applications is very time consuming. For instance, whenever one or more defective applications in the group is dismissed, a lottery involving the group cannot take place until the time has passed for appeals of the staff action and all appeals have been resolved. Had terrain shielding been involved in determinations of mutual exclusivity, processing would have been brought to a near halt.

Discussion and Revised Policy

6. Despite the positive effect it has had on our ability to process applications expeditiously, we are mindful that our policy on terrain shielding has frustrated well-intentioned efforts to obtain additional or improved television reception, particularly in western mountainous areas where service is provided primarily by translators. We are aware that without consideration of terrain, it has been difficult to file acceptable applications in some areas. Many applications have been rejected because of predicted interference to a nearby station where, in reality, terrain obstructions may have prevented interference. Because of these concerns and our wish to authorize desired service wherever possible, we have looked toward the time when changing circumstances would permit us to pursue a more flexible terrain policy.

7. Circumstances have changed considerably since we received 25,000 LPTV and translator applications in March of 1984. First, the application backlog, which reached a peak of 37,000, has been reduced to fewer than 4,000 applications. Second, we have recently observed favorable changes in application filing patterns. Last summer, following a three-year filing freeze, we opened the first nationwide application "filing window," in which only 1,350 applications were filed. *Report and Order in the Low Power Television/ Television Translator Service (Filing Window II)*, 2 FCC Rcd 1278 (1987). Significantly, nearly 500 of these applications were not mutually exclusive with other applications, and more than 400 of these have already been granted. Moreover, a relatively low percentage of the window applications are mutually exclusive, and these are not configured in long and complicated daisy chains. These factors are enabling much quicker authorization of service and are permitting actions to be taken on many applications without delaying the processing of others. While we wish to be cautious, it appears that our recently revised LPTV window procedures and the institution of filing fees have resulted in a reduction in incoming applications. Finally, the implementation of the LPTV service is now well underway. More than 3,000 construction permits have been granted since the service began, and the number of operating LPTV stations has been increasing steadily.

8. As a result of these changes, the Commission can give limited consideration to terrain shielding in the LPTV service. We cannot, at this time, propose standards for incorporating shielding into regular processing procedures. However, we will consider, on a case-by-case basis, requests for waiver of §§ 74.705 and 74.707 of our application acceptance standards, on the grounds of terrain shielding. Waivers must be secured in cases where proposed new or changed facilities would be predicted to cause prohibited interference. In order to be considered, waiver requests must be supported by a demonstration that the proposed facility would not be expected to interfere at the protected contour of all potentially affected stations, existing and proposed, because of the intervening terrain. An applicant may also submit the written assent to the grant of the waiver by all licensees, permittees and applicants of potentially affected stations. If the necessary assent is obtained, the demonstration may be less rigorous than otherwise expected. Potentially affected stations will include authorized full-service television, low power television and television translator stations, and those proposed in earlier filed LPTV or translator applications that are cut-off from further competing applications. As further discussed in paras. 10 and 11, *infra*, the supporting documentation generally should include a graphic description of the terrain obstructions (terrain profiles). However, in cases where the assent of affected stations has been demonstrated, our determination to grant the waiver may rely less on terrain analysis.

9. At this time, we must limit the scope of terrain waivers because we are

uncertain about the administrative resource impact of specialized manual studies, and because we want to avoid situations where lengthy analysis of certain applications delays the processing of other related applications significantly. We do not know how many terrain shielding claims will be submitted, nor how much time, on average, will be involved in evaluating each case. Accordingly, we will consider terrain shielding waivers only in connection with the acceptance of applications, i.e., whether television translator, booster or LPTV applications should be returned because of predicted interference to facilities previously proposed or authorized. We will not consider terrain shielding in determining mutual exclusivity among applications. We will further limit its consideration to those applications which, under normal processing standards and methods, are not found to be mutually exclusive with one or more applications. Requests for waivers and supporting documentation must be submitted with applications when filed. Because this is an acceptability criterion, we will not consider terrain-related issues raised for the first time in petitions for reconsideration or applications for review of staff actions. Our revised policy on terrain shielding will apply only to applications filed on or after the date on which it takes effect. Finally, our computer data base is not able to reflect any approved waivers of the acceptance standards based on terrain shielding. Therefore, applicants seeking waivers based on terrain shielding must make the required showing in each case and cannot incorporate by reference any earlier waiver.

10. We next discuss our general disposition on terrain-waiver submissions, including the information the Commission will need from applicants to evaluate claims of noninterference. The expressed assent to the grant of the waiver by all potentially affected stations would weigh heavily in our determinations and would obviate total reliance on terrain studies and permit more expeditious handling. In that event, we will not expect applicants to provide detailed terrain profiles, although we will need some graphic depiction of the terrain in all cases. In assenting to a waiver, a potentially affected station licensee would merely concur that interference from a proposed facility would be unlikely, and it would not object to the operation of that facility, *provided* interference did not occur. We emphasize that we would never construe an "assent" as a surrender of a station's rights to protection from any actual interference which may subsequently arise. (Stations in the LPTV Service, including those for which terrain-related waivers are granted, will continue to be secondary to and must not interfere with the regular off-air reception of full-service television stations.) Upon grant of the construction permit, and provided that the engineering parameters of the facility have not changed and provided that it is not causing interference, assent, once given, cannot be withdrawn. We do not believe the public interest would be served by requiring a noninterfering LPTV station, for example, to discontinue operation simply because its new owner could not obtain the same assent afforded to the original owner.

11. Where the assent of a potentially affected station has not been obtained, a waiver request must be supported by a terrain study, from which it can be concluded that the proposed facility would not be likely to interfere at the authorized station's protected contour. We will not prescribe specific requirements for such showings. However, in order to conduct any meaningful evaluation, we will need from applicants accurate profiles of terrain elevations in the directions in which interference is predicted under our standards. Normally, interference is predicted along some arc of a station's protected contour. Applicants should submit a sufficient number of profiles depicting the terrain along signal propagation paths between the site of the proposed facility and the arc of predicted interference. Profiles may be drawn on rectangular coordinate paper, where the horizontal axis represents distance in kilometers and the vertical axis represents elevations above sea level in meters. Each profile should include the following information: (1) Identification of the topographic map(s), including its source, from which elevations are taken, (2) an elevation point showing the proposed height of the antenna radiation center above sea level, (3) the azimuth of the terrain path, measured clockwise from True North, (4) identification, including the call sign, of the protected station, and (5) a sufficient number of elevation points to give an accurate representation of the terrain between the proposed site and the protected contour. Generally, points should be spaced at regular distances or terrain contour intervals. However, shorter intervals may be used to reflect abrupt changes in elevation. In addition to terrain profiles, applicants may provide quantitative engineering analysis, such as calculations of obstruction losses, to support claims of noninterference.

12. In evaluating terrain showings, the Commission will consider all information provided by applicants, and may find it necessary to request additional information, including the topographic maps from which terrain elevations were taken. Failure to provide the requested information in a timely manner may result in the dismissal of an application. The nature of our case-by-case evaluations will depend on the conditions surrounding each case, and may involve use of a variety of applicable engineering methods. Applicants, rather than the Commission staff, will bear the burden of supporting waiver requests. In no instance will we grant such a waiver where it would be apparent to us that interference would occur within the protected contour of an authorized station. Although LPTV, translator and booster stations generally are authorized on a noninterference basis, station authorizations granted with a terrain-related waiver will be explicitly conditioned on noninterference to all stations predicted to receive interference, without consideration of terrain shielding. This condition also will appear on any subsequent authorization resulting from the assignment or transfer of the facility to another party. This will provide clear notice that LPTV, translator and booster operators bear responsibility for eliminating such interference.

13. We have elected to proceed in this matter by policy statement, rather than by rule making, in order to expedite consideration of terrain shielding factors in our application process and to thereby accelerate the provision of additional service to the public. This procedural approach is both appropriate and permissible under the express provision of the Administrative Procedure Act (APA) exempting general statements of policy from rule making requirements. 5 U.S.C. 553(b)(3)(A). In this regard, we note that our action here simply describes the class of cases in which we will consider terrain shielding showings. It does not purport to establish the standards by which such showings will be evaluated or to determine the disposition of such cases in advance. On the contrary, it is clear from the policy statement that these decisional concerns will be addressed in the context of the particular facts presented in individual applications at the time the applications are processed.

These characteristics are consistent with those that the courts have considered significant in classifying an

agency action as a general statement of policy for APA purposes. *See, e.g., Telecommunications Research and Action Center v. FCC*, 800 F.2d 1181 (D.C. Cir. 1986); *Pacific Gas and Electric Co. v. FPC*, 506 F.2d 33 (D.C. Cir. 1974).

Conclusion

14. In this *Policy Statement*, the Commission has relaxed its policy regarding consideration of terrain shielding in the LPTV service. Subject to certain limitations, we will waive our LPTV application acceptance standards whenever it can be made apparent to us that terrain shielding would provide adequate interference protection. Accordingly, we will grant waiver requests supported either by well-documented terrain showings or by the written assent of all potentially affected stations, together with less rigorous terrain showings. We are confident that our revised policy, resulting from changed processing circumstances, will provide opportunities for additional LPTV, translator and booster service in areas of the country where terrain shielding is a significant factor. We will observe the effect of this policy on application processing efficiency and the extent to which it permits the authorization of additional stations. If future circumstances should warrant, we will again revisit this policy and make appropriate adjustments.

Federal Communications Commission.

H. Walker Feaster, III,

Acting Secretary.

[FR Doc. 88-9658 Filed 4-29-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-331; RM-5867]

Radio Broadcasting Services; L'Anse, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 291C2 to L'Anse, Michigan, as that community's first broadcast service, in response to a petition filed by Aaron J. Coffee. Supporting comments were filed by the petitioner. Concurrence of the Canadian government has heen obtained for the allotment of Channel 291C2 at L'Anse. The coordinates for this proposal are 46-45-18 and 88-27-12. With this action, this proceeding is terminated.

DATES: Effective June 9, 1988; the window period for filing applications will open on June 10, 1988, and close on July 11, 1988.

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. 87-311, adopted March 28, 1988, and released April 25, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan is amended by adding Channel 291C2 at L'Anse.

Federal Communications Commission

Steve Kaminer,

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

[FR Doc. 88-9590 Filed 4-29-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-277; RM-5773]

Radio Broadcasting Services; St. Joseph, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 268A to St. Joseph, Tennessee, as that community's first local FM service. A site restriction of 9.2 kilometers (5.7 miles) northwest of the community is required. The coordinates are 35-06-36 and 87-33-13. With this action, this proceeding is terminated.

DATES: Effective June 6, 1988; The window period for filing applications will open on June 7, 1988, and close on July 7, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-277, adopted March 25, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Tennessee, by adding Channel 268A to St. Joseph.

Steve Kaminer,

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

[FR Doc. 88-9588 Filed 4-29-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-280; RM-5787]

Radio Broadcasting Services; Rhinelander, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 262C1 for Channel 262C2 at Rhinelander, Wisconsin, and modifies the license of Station WRHN(FM) to reflect the higher class co-channel, at the request of Onelda Broadcasting Company. Canadian concurrence has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 9, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-280, adopted March 29, 1988, and released April 25, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW.,

Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Wisconsin, by removing Channel 262C2 and adding Channel 262C1 for Rhinelander.

Steve Kaminer,

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

[FR Doc. 88–9594 Filed 4–29–88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Parts 301, 304, 306, 307, 313, 315, 330, 332, 333, and 352

Acquisition Regulations; Miscellaneous Amendments

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is amending its acquisition regulation (HHSAR), Title 48 CFR Chapter 3, to make various administrative and procedural changes. The major changes being made involve the revision of a subpart to address the appointment of contracting officers, the deletion of a subpart on cost accounting standards, the addition of a subpart on processing disputes and appeals, and the removal of ten contract clauses and provisions.

EFFECTIVE DATE: May 2, 1988.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, Procurement Analyst, Office of Procurement and Logistics Policy, telephone (202) 245–8890.

SUPPLEMENTARY INFORMATION: The Department is amending its acquisition regulation to revise Subpart 301.6 to add coverage describing a uniform departmental process for appointing contracting officers.

The Department's contracting operations are conducted by its Operating Divisions (OPDIV's), and the Public Health Service's agencies and bureaus under a decentralized structure. Under this arrangement, authority to appoint contracting officers is currently delegated by the Secretary through the Assistant Secretary for Management and Budget to the heads of Operating Divisions and redelegated to various lower-tier officials. In the Social Security Administration, Health Care Financing Administration, the Office of the Secretary and some agencies of the Public Health Service (PHS), authority to appoint contracting officers is delegated to the principal official responsible for acquisition (PORA). In some agencies of the PHS, this authority is delegated to a bureau or institute head, although subject to the concurrence of the PORA.

The PORA has been established as a means of providing uniformity to the acquisition function while allowing the degree of organizational flexibility perceived to be necessary by those responsible for the conduct of program activities. The PORA is subordinate to the head of the contracting activity and is the professional acquisition official responsible for assuring that Federal and Departmental acquisition rules are adhered to. The PORA, for example, is the approval official for major acquisition actions of his/her agency and is the appointing official in several OPDIVs/agencies. Both the levels of expertise and the responsibility required of those filling the PORA positions makes them especially qualified to judge the qualification of those seeking or nominated to be contracting officers. This regulation confirms the PORA as the appointing official in those OPDIVs/agencies where they are currently delegated that responsibility and makes the PORA the appointing official in those agencies/bureaus where that authority currently lies elsewhere. It is consistent with the objectives of EO 12352 and its purpose of insuring a professional acquisition workforce.

This change should have no adverse impact on the operations of any agency and should be able to be implemented without difficulty. Nevertheless, should the change cause a serious problem in a specific instance, the Department will entertain a request for a waiver. Requests for such a waiver should be addressed to the Deputy Assistant Secretary for Procurement, Assistance, and Logistics and should stipulate the anticipated problem, its tangible effect on the conduct of a program, and the period for which a waiver is requested.

Subpart 330.70, Cost of Money for Capital Employed on Facilities in Use and Capital Assets Under Construction, is being removed from the HHSAR because the new Federal Acquisition Regulation (FAR) issuance of Federal Acquisition Circular 84–30 contains cost accounting standards coverage deemed sufficient to meet the needs of the Department.

Subpart 333.2, Disputes and Appeals, is being added to the HHSAR because it was determined that internal procedural guidance was needed so that contracting officers would know how to process claims and appeals arising from disputes under a contract.

Subpart 352.2, Texts of Provisions and Clauses, is being amended to remove a total of ten contract clauses and provisions which have been determined to be unnecessary. This action represents the continuing effort initiated by the Department to simplify the acquisition process.

Subpart 352.3, Provision and Clause Matrices, which contains seven sets of contract general provisions, is being amended to delete reference to those clauses being removed.

The remaining amendments concern raising dollar thresholds for certain internal administrative reviews and making internal procedural revisions.

The Department of Health and Human Services certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.); therefore, no regulatory flexibility statement has been prepared. This document does not contain information collection requirements which require the approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.).

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Parts 301, 304, 306, 307, 313, 315, 330, 332, 333, and 352

Government procurement.

Accordingly, the Department amends 48 CFR Chapter 3 as set forth below.

Dated: March 29, 1988.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

As indicated in the preamble, Chapter 3 of Title 48, Code of Federal Regulations, is amended as shown.

1. The authority citation for Parts 301, 304, 306, 307, 313, 315, 330, 332, 333, and 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 301—[AMENDED]

301.105 [Amended]

2. Section 301.105 is amended by removing the following references and control numbers:

HHSAR segment	OMB Control No.
* * * * *	
323.70	0990–0137
* * * * *	
352.237–71	0990–0132
352.242–70	0990–0131
* * * * *	
352.270–6	0990–0130
* * * * *	

3. Subpart 301.6 is revised to read as follows:

Subpart 301.6—Contracting Authority and Responsibility

Sec.
301.603 Selection, appointment, and termination of appointment.
301.603–1 General.
301.603–2 Selection.
301.603–3 Appointment.
301.603–4 Termination.
301.603–70 Delegation of contracting officer responsibilities.
301.670 Head of the contracting activity.
301.670–1 Responsibility.
301.670–2 Designation.
301.670–3 Redelegation.

Subpart 301.6—Contracting Authority and Responsibility

301.603 Selection, appointment, and termination of appointment.

301.603–1 General.

(a) The appointment and termination of appointment of contracting officers shall be made by the principal official responsible for acquisition (PORA). This authority is not delegable. The head of the contracting activity shall ensure that only the PORA is redelegated, and exercises, this authority.

(b) Only GS–1105 and 1106 and GS/GM–1101 and 1102 personnel shall be appointed as contracting officers (see 301.603–3(b)).

(c) The appointment of contracting officers shall be made at one of the four levels specified under the HHS Acquisition Certification Program (see 301.603–3(b)).

(d) An individual shall be appointed only in instances where a valid organizational need for a contracting officer can be demonstrated or a replacement position is to be filled. Factors to be considered in assessing the need for a contracting officer appointment include volume of actions, complexity of work, and structure of the organization.

301.603–2 Selection.

(a) When an organizational need for a contracting officer is determined or a replacement is required, an official (usually the prospective contracting officer's immediate supervisor) will nominate a contracting officer candidate. The nomination shall be accompanied by the candidate's current Standard Form (SF) 171, Personal Qualifications Statement, that contains all relevant information, to include that stated in FAR 1.603–2, a copy of the nominee's most recent performance appraisal, and a copy of the certificate issued under the HHS Acquisition Certification Program indicating the current level of certification.

(b) The PORA shall review the submitted material to determine the candidate's ability to perform the contracting functions required to meet the organizational need. If the PORA requires additional information to make the decision, it shall be provided expeditiously by the nominating official.

301.603–3 Appointment.

(a) Contracting officer appointments shall become effective when the PORA signs the Standard Form 1402, Certificate of Appointment. SF 1402's shall be prepared and maintained in accordance with FAR 1.603–3.

(b) Appointments shall be made at one of the four levels established by the HHS Acquisition Certification Program. Therefore, the contracting officer candidate must meet the minimum eligibility requirements of certification for one of the four stated levels. The level will be determined by the organizational need or position being refilled (replacement). The four levels are as follows:

(1) *Level I—Purchasing Agent.* Mandatory for all personnel who have signature authority for small purchases (GS–1102, 1105, and 1106), including orders from GSA sources.

(2) *Level II—Acquisition Official.* Mandatory for those in the GS–1102 series. Sufficient for delegation of contracting officer authority to a maximum of $100,000.

(3) *Level III—Senior Acquisition Official.* Mandatory for those in the GS–1102 series for delegation of contracting officer authority above $100,000.

(4) *Level IV—Acquisition Manager.* Mandatory for preaward review and approval authority as specified in HHSAR Subpart 304.71.

(c) Changes to contracting officer appointments, either increasing or decreasing the warrant limitations, shall be made by the PORA. Changes must be made from one of the four certification levels to another, or within one of the certification levels, and must be implemented by the PORA's issuance of a new SF 1402 to replace the existing SF 1402.

(d) Personnel shall not ordinarily be appointed as contracting officers if they do not meet the qualifications prescribed for one of the four certification levels. However, if it is essential to appoint a contracting officer who does not fully meet the certification qualifications, an interim appointment may be granted by the PORA. The PORA shall require as a condition of the interim appointment that all training or experience requirements be met within a six month time period. Usually, interim appointments shall not exceed six months. Failure to successfully complete the necessary training requirements or gain the experience within this time frame will result in termination of the appointment, unless the PORA determines that unusual circumstances prevented the attainment of either. In this instance, one additional six month interim appointment may be issued, but no more shall be allowed. The PORA shall fully document all interim appointment actions.

(e) The original SF 1402 shall be provided to the contracting officer, and a copy shall be retained by the PORA. Another copy of the SF 1402 along with the SF 171 material shall be forwarded to the servicing personnel office for inclusion in the individual's personnel file folder. Files on individuals should not be established by the PORA.

301.603–4 Termination.

Termination of contracting officer appointments shall be executed by the PORA in accordance with FAR 1.603–4.

301.603–70 Delegation of contracting officer responsibilities.

(a) Non-GS/GM–1101 or 1102 or GS–1105 or 1106 personnel shall only be delegated contracting officer responsibilities when determined necessary by a warranted contracting officer (holder of a valid SF 1402), and in accordance with this subsection. Personnel, such as a contracting officer's representative or an ordering officer, shall be delegated only the needed responsibilities by the warranted contracting officer in a written memorandum of delegation which clearly states any limitations on the delegation. Personnel who are not in the GS/GM–1101 or 1102 or GS–1105 or 1106 job series shall not be issued a SF 1402, Certificate of Appointment.

(b) Non-acquisition personnel who are delegated acquisition responsibilities shall be required to have the training,

experience, and education requirements necessary for the responsibilities assigned. If, for example, responsibility is to be delegated for making small purchases, the training, education, and experience for Level I—Purchasing Agent, or its equivalent as determined by the PORA, shall be required.

301.670 Head of the contracting activity.

301.670-1 Responsibility.

The head of the contracting activity (HCA) is responsible for conducting an effective and efficient acquisition program. Adequate controls shall be established to assure compliance with applicable laws, regulations, procedures, and the dictates of good management practices. Periodic reviews shall be conducted by qualified personnel, preferably assigned to positions other than in the contracting office being reviewed, to determine the extent of adherence to prescribed policies and regulations, and to detect a need for guidance and/or training.

301.670-2 Designation.

Each OPDIV head and PHS agency head has been designated as HCA along with the following officials:

(a) Deputy Assistant Secretary for Procurement, Assistance and Logistics;

(b) Deputy Assistant Secretary for Administrative and Management Services, OS; and

(c) Each Regional Director.

301.670-3 Redelegation.

(a) The heads of contracting activities may redelegate their HCA authorities to the extent that redelegation is not prohibited by the terms of their respective delegations of authority, by law, by the Federal Acquisition Regulation, by the HHS Acquisition Regulation, or by other regulations. However, HCA and other contracting approvals and authorities shall not be redelegated below the levels specified in the HHS Acquisition Regulation or, in the absence of coverage in the HHS Acquisition Regulation, the Federal Acquisition Regulation. To ensure proper control of redelegated acquisition authorities, HCA's shall maintain a file containing successive delegations of HCA authority through and including the contracting officer level.

(b) Personnel delegated responsibility for acquisition functions must possess a level of experience, training, and ability commensurate with the complexity and magnitude of the acquisition actions involved.

PART 304—[AMENDED]

304.7005 [Amended]

4. Section 304.7005 is amended by removing the second sentence.

PART 306—[AMENDED]

5. Section 306.501 is amended by revising the entry for "SSA" to read as follows:

306.501 Requirement.

* * * * *

SSA—Deputy Commissioner for Management.

* * * * *

PART 307—[AMENDED]

307.105-2 [Amended]

6. Section 307.105-2(a)(3) is amended by removing "$100,000" and adding "$250,000".

PART 313—[AMENDED]

313.104 [Amended]

7. Section 313.104 is amended by redesignating paragraphs (h), (i), and (j) as paragraphs (i), (j), and (k), respectively.

PART 315—[AMENDED]

315.608-71 [Amended]

8. Section 315.608-71(a)(1) is amended by removing "$250,000" and adding "$300,000".

315.905-71 [Amended]

9. Section 315.905-71 is amended by removing the last sentence in paragraph (b).

315.905-73 [Amended]

10. Section 315.905-73 is amended by removing the phrase "(see Subpart 330.70)" in the last sentence of paragraph (b)(1).

315.905-74 [Amended]

11. Section 315.905-74 is amended by removing the phrase "(see Subpart 330.70)" from the last sentence.

315.7002 [Amended]

12. Section 315.7002(a) is amended by removing "$100,000" and adding "$25,000".

PART 330—[AMENDED]

330.70 [Removed]

13. Subpart 330.70 is removed.

PART 332—[AMENDED]

332.770 [Removed]

14. Section 332.770 is removed.

PART 333—[AMENDED]

15. Subpart 333.2 is added to read as follows:

Subpart 333.2—Disputes and Appeals

Sec.

Subpart 333.2—Disputes and Appeals

333.203 Applicability.

(c) The Armed Services Board of Contract Appeals (ASBCA) has been designated by the Secretary as the authorized "Board" to hear and determine disputes for the Department.

333.209 Suspected fraudulent claims.

The contracting officer shall submit any instance of a contractor's suspected fraudulent claim to the Office of the Inspector General for investigation.

333.210 Contracting officer's authority.

The contracting officer shall refer a proposed final decision to the Office of General Counsel, Business and Administrative Law Division (OGC-BAL), or the Regional Attorney in the HHS regional office servicing the region in which the contracting officer is located, for advice as to the legal sufficiency and format before sending the final decision to the contractor. The contracting officer shall provide OGC-BAL or the Regional Attorney with the pertinent documents with the submission of each proposed final decision.

333.211 Contracting officer's decision.

(a)(2) See 333.210.

(a)(4)(v) When using the paragraph in FAR 33.211(a)(4)(v), the contracting officer shall insert the words "Armed Services" before each mention of the term "Board of Contract Appeals".

(c)(2) The contracting officer does not have jurisdiction to consider a claim from the contractor over $50,000, unless that claim has been certified.

(h) At any time within the period of appeal, the contracting officer may modify or withdraw his/her final decision. If an appeal from the final decision has been taken to the ASBCA, the contracting officer will forward his/her recommended action to OGC-BAL or the cognizant Regional Attorney with the supplement to the contract file

which supports the recommended correction or amendment.

333.212 Contracting officer's duties upon appeal.

(a) Appeals shall be governed by the rules set forth in the "Rules of the Armed Services Board of Contract Appeals", or by the rules established by the U.S. Claims Court, as appropriate.

(b) OGC–BAL or the cognizant Regional Attorney is designated as the Government Trial Attorney to represent the Government in the defense of appeals before the ASBCA. A decision by the ASBCA will be transmitted by the Government Trial Attorney to the appropriate contracting officer for compliance in accordance with the ASBCA's decision.

(c) If an appeal is filed with the ASBCA, the contracting officer shall assemble a file within 30 days of receipt of an appeal, or advice that an appeal has been filed, that consists of all documents pertinent to the appeal, including:

(1) The decision and findings of fact from which the appeal is taken;

(2) The contract, including specifications and pertinent modifications, plans and drawings;

(3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claims in response to which the decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered pertinent.

The contracting officer shall furnish the appeal file to the Government Trial Attorney for review and approval. After approval, the contracting officer shall prepare four copies of the file, one for the ASBCA, one for the appellant, one for the Government Trial Attorney, and one for the contracting office.

(d) At all times after the filing of an appeal, the contracting officer shall render whatever assistance is requested by the Government Trial Attorney. When an appeal is set for hearing, the concerned contracting officer, acting under the guidance of the Government Trial Attorney, shall be responsible for arranging for the presence of Government witnesses and specified physical and documentary evidence at both the pre-hearing conference and the hearing.

(e) If a contractor which has filed an appeal with the ASBCA elects to accept fully the decision from which the appeal was taken, or any modification to it, and gives written notification of acceptance to the Government Trial Attorney or the concerned contracting officer, the Government Trial Attorney will notify the ASBCA of the disposition of the dispute in accordance with Rule 27 of the ASBCA.

(f) If the contractor has elected to appeal to the U.S. Claims Court, the U.S. Department of Justice will represent the Department. However, the contracting officer shall still coordinate all actions through OGC–BAL.

333.212–70 Formats.

(a) The following format is suggested for use in transmitting appeal files to the ASBCA:

Your reference: _____

(Docket No.) _____

(Name)

Recorder, Armed Services Board of Contracts Appeals, Skyline Six, 5109 Leesburg Pike, Falls Church, Virginia 22041.

Dear (Name):

Transmitted herewith are documents relative to the appeal under Contract No._____ with the (name of contractor), in accordance with the procedures under Rule 4.

The Government Trial Attorney for this case is (Insert Division of Business and Administrative Law, Office of General Counsel, Department of Health and Human Services, 330 Independence Avenue SW., Washington, DC 20201, or Regional Attorney and office address, as appropriate).

The request for payment of charges resulting from the processing of this appeal should be addressed to: (Insert name and address of cognizant finance office.)

Sincerely yours,

Contracting Officer

Enclosures

(b) The following format is suggested for use in notifying the appellant that the appeal file was submitted to ASBCA:

(Contractor Address)

_____

_____

Dear _____:

An appeal file has been compiled relative to the appeal under Contract No. _____, and has been submitted to the Armed Services Board of Contract Appeals (ASBCA). The enclosed duplicate of the appeal file is identical to that submitted to the Board, except that contract documents which you already have may have been excluded.

You may furnish or suggest any additional information deemed pertinent to the appeal to the Armed Services Board of Contract Appeals according to their rules.

The ASBCA will provide you with further information concerning this appeal.

Sincerely yours,

Contracting Officer

Enclosure

333.213 Obligation to continue performance.

(a) The Disputes clause at FAR 52.233–1 shall be used without the use of Alternate I. However, if the contracting officer determines that the Government's interest would be better served by use of paragraph (h) in Alternate I, he/she must request approval for its use from the Director, Office of Procurement and Logistics Policy (through normal acquisition channels).

333.214 Contract clause.

The clause at FAR 52.233–1 shall be used in all circumstances except as indicated in 333.213.

PART 352—[AMENDED]

352.202–1 [Amended]

16. In § 352.202–1 the introductory text is amended by adding the word "all" between the words "in" and "solicitations" and by removing the term "fixed-price" between the words "resultant" and "contracts".

352.208–70 [Removed]

17. Section 352.208–70 is removed.

352.215–70 [Removed]

18. Section 352.215–70 is removed.

352.225–12 [Removed]

19. Section 352.225–12 is removed.

352.232–72 [Removed]

20. Section 352.232–72 is removed.

352.237–71 [Removed]

21. Section 352.237–71 is removed.

352.242–70 [Removed]

22. Section 352.242–70 is removed.

352.243–70 [Removed]

23. Section 352.243–70 is removed.

352.247–70 [Removed]

24. Section 352.247–70 is removed.

352.270–6 [Removed]

25. Section 352.270–6 is removed.

352.270–8 [Removed]

26. Section 352.270–8 is removed.

352.370 [Amended]

27. Section 352.370 is amended to remove, in each set of contract general provisions, reference to foregoing contract clauses which are being removed. The clause references being removed are located in Item II, Department of Health and Human Service Acquisition Regulation (HHSAR) (48 CFR Chapter 3), of each set of contract general provisions, as follows:

a. In the General Provisions for a Cost-Plus-A-Fixed-Fee Contract, in Item II, entire entry for numbers 2, 3, 7, 8, 10, 12, and 14 are removed, and the remaining clauses are renumbered in numerical sequence.

b. In the General Provisions for a Negotiated Cost-Reimbursement Contract with Nonprofit Institutions Other Than Educational Institutions, in Item II, the entire entry for numbers 2, 5, 9, 10, 12, 15, and 17 are removed, and the remaining clauses are renumbered in numerical sequence.

c. In the General Provisions for a Negotiated Fixed-Price Research and Development Contract, in Item II, the entire entry for numbers 2, 3, 5, 8, and 10 are removed, and the remaining numbers are renumbered in numerical sequence.

d. In the General Provisions for a Negotiated Fixed-Price Supply Contract, in Item II, the entire entry for numbers 2, 3, 5, 7, and 9 are removed, and the remaining clauses are renumbered in numerical sequence.

e. In the General Provisions for a Negotiated Cost-Reimbursement Contract with Educational Institutions, in Item II, the entire entry for 2, 4, 8, 9, 11, 14, and 16 are removed, and the remaining clauses are renumbered in numerical sequence.

f. In the General Provisions for a Cost-Reimbursement Supply Contract, in Item II, the entire entry for numbers 2, 3, 7, 8, 10, 12, and 14 are removed, and the remaining clauses are renumbered in numerical sequence.

g. In the General Provisions for a Sealed Bid Contract, in Item II, the entire entry for numbers 2, 3, 5, 6, and 8 are removed, and the remaining numbers are renumbered in numerical sequence.

[FR Doc. 88-9418 Filed 4-29-88; 8:45 am]
BILLING CODE 4150-04-M

Proposed Rules

Federal Register
Vol. 53, No. 84
Monday, May 2, 1988

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

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 652

Surface Mining Specifications; Specifications for Soil Removal, Stockpiling, Replacement, and Reconstruction for Surface Coal Mining and Reclamation Operations on Prime Farmland

AGENCY: Soil Conservation Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Soil Conservation Service (SCS) of the U.S. Department of Agriculture (USDA) is extending the public comment period on the proposed rule as published in the February 19, 1988 **Federal Register**, which establishes the specifications for soil handling in relation to mining activities on prime farmland, as provided for in section 515(b)(7) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87, 30 U.S.C. 1265(b)(7).

This extension is in response to the mining industry's request for adequate time to comment.

DATES: Comments must be submitted on or before May 19, 1988. Public Hearings: Upon request, SCS will hold public hearings on the proposed rule in Washington, DC; Champaign, Illinois; Lexington, Kentucky; Bismarck, North Dakota; and Columbus, Ohio. SCS will accept requests for public hearings until 5:00 p.m., e.t. on May 19, 1988.

FOR FURTHER INFORMATION CONTACT: Walter F. Rittall, Acting Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, DC 20013. Phone: 202–382–1870. For copies of the proposed rule as it applies to one of the identified states contact: Ernest V. Todd, state conservationist, 665 Opelika Road, Auburn, Alabama 36830; Albert E. Sullivan, state conservationist, Federal Office Building, Suite 2405, 700 West Capitol Avenue, Little Rock, Arkansas 72201; John J. Eckes, state conservationist, Springer Federal Building, 301 North Randolph Street, Champaign, Illinois 61820; Robert L. Eddleman, state conservationist, Corporate Square-West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224; J. Michael Nethery, state conservationist, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309; James N. Habiger, state conservationist, 760 South Broadway, Salina, Kansas 67401; Randall W. Giessler, state conservationist, 333 Waller Avenue, Room 305, Lexington, Kentucky 40504; Pearlie S. Reed, state conservationist, Hartwick Building, Room 522, 4321 Hartwick Road, College Park, Maryland 20740; Russell Mills, acting state conservationist, 555 Vandiver Drive, Columbia, Missouri 65202; Charles Mumma, acting state conservationist, Federal Building, Rosser Avenue and Third Avenue, P.O. Box 1458, Bismarck, North Dakota 58502–1458; Roger A. Hansen, acting state conservationist, 200 North High Street, Room 522, Columbus, Ohio 43215; C. Budd Fountain, state conservationist, USDA-Agricultural Center Building, Stillwater, Oklahoma 74074; James H. Olson, state conservationist, 228 Walnut Street, Room 820, Harrisburg, Pennsylvania 17108–0985; Lawrence Nieman, acting state conservationist, Federal Building, 200 4th Street SW., Huron, South Dakota 57350–2475; Harry W. Oneth, state conservationist, W.R. Poage Federal Building, 101 South Main Street, Temple, Texas 76501–7682; or Rollin N. Swank, state conservationist, 75 High Street, Room 301, Morgantown, West Virginia 26505.

Galen S. Bridge,

Deputy Chief for Programs.

[FR Doc. 88–9607 Filed 4–29–88; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No; R–88–1383–FR 2449]

Urban Development Action Grant (UDAG)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: This rule proposes to implement the amendments under the Housing and Community Development Act of 1987 and the HUD—Independent Agencies Appropriations Act, 1988 to section 119(h) of the Housing and Community Development Act of 1974—Urban Development Action Grant (UDAG) statute, 42 U.S.C. 5318, by modifying the UDAG project selection criteria and by modifying the definitions of eligible cities. This proposed selection system would spread UDAG Funds to more areas of the country.

DATE: *Comments Due:* June 1, 1988.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Stanley Newman, Director, Office of Urban Development Action Grants, Room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6290. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development Act of 1987 (Pub. L. 100–242, approved February 5, 1988), (1987 Act), and the HUD-Independent Agencies

Appropriation Act, 1988 (Pub. L. 100–202, approved December 22, 1987) amended section 119(h) of the Urban Development Action Grants (UDAG) statute, 42 U.S.C. 5318. While many of the modifications will not take effect until final regulations are published, several changes will take effect immediately, as mandated by the law. The following provisions will take effect immediately:

1. The two phase 65%–35% selection system.
2. New statutorily assigned weights for measuring impaction, distress and project merit;
3. Bonus points for cities that have not recently received a preliminary UDAG approval;
4. A $10 million cap on individual grants for FY 1988 and FY 1989;
5. Eligibility of certain Indian tribes in Oklahoma, as well as certain specified Hawaiian counties, American Samoa, Guam and the Northern Mariana Islands.

Since December 1983, projects meeting UDAG requirements for funding have exceeded the budget resources available. Therefore, the Department placed into effect a selection system which scored and ranked all projects meeting program requirements. The projects were rated according to the following formula: up to 40 points for the area's "impaction" (poverty, pre-1940 housing, population growth); up to 30 points for the area's "distress" (unemployment rate, per capita income change, and job lag, where available); and up to 30 points for specific project merits (leveraging ratio, jobs, taxes and other benefits). These criteria were specified in the UDAG statute, with impaction being given the primary weight. This formula generally resulted in more projects being funded in the Northeast and Midwest sections of the country. The Congress perceived that the distribution of funds was not equitable and changed the selection system to allow a meritorious project to compete regardless of its geographic location.

The new statutory two-phase selection system (with revised weights and bonus points) was adopted in order to spread UDAG funds to more areas of the country. Because of reduced budget levels, a cap of $10 million on any UDAG grant was made effective for fiscal years 1988 and 1989.

The revised selection system will operate in the following way: The funds to be awarded during each UDAG round will be divided into two phases. The first phase, comprising 65% of the monies available, will be awarded based on a 105-point ranking system. Up to 70 of the 105 points will be awarded based on the applicant city's impaction and distress ranking. Impaction and distress will have equal weight, and each will be valued at 35 points. An additional 33 points will be awarded based on project merits, including such factors as leveraging ratio, jobs, and taxes.

A project also will receive one bonus point if the city has not received a UDAG preliminary grant approval for one year, and two points if the city has not received a preliminary grant approval for two years. If there are two or more fundable projects from the same city in the same funding round, the bonus point or points will go to the project from that city with the highest number of project points before the bonus points are assigned.

The second funding phase, comprising 35% of the monies available in a given round, will be awarded based only on the characteristics of the project application, with no points given for impaction or distress. The bonus points for cities that have not received a UDAG in the recent past will also apply to the 35% phase.

If the Secretary decides to fund pocket-of-poverty projects, they will be funded separately from the two-phase system.

The HUD-Independent Agencies Appropriation Act, 1988 makes certain Indian tribes in Oklahoma eligible for the program. Earlier appropriation changes included American Samoa, Guam and the Northern Mariana Islands as potentially eligible areas. The 1987 Act directs that the counties of Kauai, Maui and Hawaii in the State of Hawaii be treated as cities for purposes of determining UDAG eligibility.

Additional provisions proposed in these regulations will take effect only upon effectiveness of final rules. They are summarized below:

- Definitions of project "transaction" and "economic development components" are included for clarification of the leveraging ratio requirement.
- The methodology for determining eligibility of distressed cities is amended for communities with high per capita income to assure that eligibility is targeted.
- The section on criteria for selection has been reorganized to clarify which requirements must be met before an application can be considered for selection, and which competitive selection factors apply to large and small cities. The maximum points awarded for each criterion and factor are now specified in the regulations. Several selection factors have been deleted, since the Act now contains a prescriptive list. These are temporary jobs, extent of relocation, extent of minority business participation and impact on energy efficiency. (The latter two factors have been moved to the section on eligible activities, and will continue to be encouraged in UDAG projects.) Two new factors called for in the Act have been added—"pressing employment need" and "pressing residential need." The assigning of points for these two factors will be based in part upon certifications by the applicant since data documenting the extent of these needs is not readily available. Applicants should be aware that the certification relating to pressing residential need could affect compliance with the new provisions under section 104(d) of the Housing and Community Development Act of 1974.
- Several definitions have been revised, either to clarify policies or to conform to the new Act. The nondiscrimination provision has been modified to change the category "neighborhood" to "housing" and to include the type of applicant (city or urban county).
- The applicant review schedule set out in the proposed rule will remain in effect unless revised by the Secretary within 30 days of the start of a fiscal year.
- Guidelines are provided for determining the amount of funds available for each round.
- The eligible use of repaid grant funds by recipients is modified and reporting requirements on the uses of such funds are specified.

The Housing and Community Development Act of 1987 references "eligible activities * * * under section 104". It is assumed that this reference is an error and should have read "105". Section 104 does not list eligible activities. The proposed rule refers to section 105.

- Certifications relating to relocation assistance are revised. Applicants are also alerted to the new provisions at section 104(d) of the Housing and Community Development Act of 1974, which will apply to UDAG projects that result in the demolition of low/moderate income housing units or the conversion of such units to another use. As a condition for a grant made on or after October 1, 1988, the applicant will be required to certify that it is following a residential antidisplacement and relocation assistance plan under which (1) such units will be replaced with housing designed to be affordable to low/moderate-income households for a period of at least 10 years and (2) each low/moderate-income household displaced from such a unit will be provided relocation assistance, including payment of reasonable moving expenses and housing assistance that will ensure that shelter costs at a replacement unit will not exceed 30

percent of the households income for a five-year period. The displaced household could elect, as an altenative to rental assistance, to receive and apply the capitalized value of such rental assistance as a down payment on a cooperative or mutual housing unit. On April 2, 1987, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) was amended to, among other things, extend URA coverage to persons displaced as a direct result of rehabilitation, demolition or private developer acquisition carried out for a federally assisted project or program, including an Urban Development Action Grant Program. The amendments also substantially increase the levels of relocation assistance to be provided to displaced businesses. For UDAG and other HUD-assisted projects, the URA changes will apply to all displacements occurring on or after April 2, 1989. The public will have the opportunity to comment on the proposed rule implementing the new provisions under section 104(d) of the HCD Act of 1974 and the URA amendments. Given the effective dates of these changes, however, potential applicants should review planned activities in the light of the budgetary implications and potential impact on program design of these amendments.

• A modification is made to the submission and review schedule to indicate the deadline dates for receipt of firm financial commitments.

Other Matters

The Department is providing an abbreviated (30-day) public comment period for this proposed rule. Under section 7(o)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o), no rule promulgated by the Department may become effective until after passage of the first period of 30 calendar days of continuous session of Congress after the day on which the rule is published as final. Because of this section 7(o) constraint of the Congressional calendar for the rest of the year, it is imperative that the public comment period be no longer than 30 days to permit time for review of the public comments and development of a final rule at least 30 days before Congress adjourns for the year.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities because the number of affected small entities would not be substantial. The funding for the UDAG program has been reduced in recent years and the effect of the changes will be neutral on the competitive position of small entities.

This rule is listed as sequence number 988 in the Department's Semiannual Agenda of Regulations published April 25, 1988 (53 FR 13854, 13883) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalogue of Federal Domestic Assistance number is 14.221—Urban Development Action Grants.

List of Subjects in 24 CFR Part 570

Community development block grants, grant programs: housing and community development, loan programs: housing and community development, Low and moderate income housing, New Communities, Pockets of poverty, Small cities.

Accordingly, the Department proposes to amend 24 CFR Part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for 24 CFR Part 570 would continue to read as follows:

Authority: Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 570.541 would be amended by adding new paragraphs (m), (n), (o) and (p), to read as follows:

§ 570.451 Definitions.

* * * * *

(m) The term "city" includes large cities and small cities, as defined in this section, and the counties of Kauai, Maui and Hawaii in the State of Hawaii and American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands and Indian tribes.

(n) A "transaction" is a major project element which can be undertaken separately and can be evaluated on its own merits.

(o) An "economic development component" is a major project element which cannot be undertaken separately but which generates its own cash flow separate from other components of the project, exclusive of publicly-owned infrastructure and parking.

(p) An "Indian tribe" means one that is defined in § 570.3(m), is located on a reservation or an Alaskan Native Village and was eligible for the General Revenue Sharing Program before that program's September 30, 1986 repeal (31 U.S.C. 6701 et. seq.). For the purposes of UDAG, an Indian reservation includes former Indian reservations in Oklahoma, as determined by the Secretary of Interior.

3. In § 570.452, paragraphs (c)(2), (d)(1)(ii) introductory text, (d)(2)(ii) and (e) would be revised, and (d)(1)(ii)(E) would be added to read as follows:

§ 570.452 Distressed communities.

* * * * *

(c) * * *

(2) If the city or urban county's percentage of poverty is less than one-half of the HUD-established standard, or if the change in per capita income is more than twice the HUD-established standard, then it must meet four of the following seven minimum standards: percentage of housing constructed before 1940; percentage of poverty; per capita income change; population growth lag/decline; job lag/decline; unemployment; unemployment criteria used to establish the Labor Surplus Area designation.

(d) * * *

(1) * * *

(ii) If the percentage of poverty is less than one half of the HUD-established standard, or if the change in per capita income is more than twice the HUD-established standard, then the city must meet four of the following five standards.

* * * * *

(E) Percentage of poverty.

* * * * *

(2) * * *

(ii) If the percentage of poverty is less than one-half of the HUD-established standard, or if the change in per capita income is more than twice the HUD-

established standard, then the city must meet four of the following six minimum standards: percentage of housing constructed before 1940; percentage of poverty; per capita income change; population growth lag/decline; job lag/decline; unemployment criteria used to establish the Labor Surplus Area designation.

* * * * *

(e) *Indian Tribes.* An Indian tribe that meets the definition in § 570.451(p) shall be presumed to meet the minimum standards of distress. However, the Secretary may deny eligibility to a tribe if available data establishes that the tribe's distress is not comparable to that of potentially eligible jurisdictions.

4. Section 570.455 would be amended by adding new paragraphs (c) and (d), to read as follows:

§ 570.455 Eligible activities.

* * * * *

(c) Projects whose increased energy efficiency facilitates broader economic development, preserves scarce fuels or promotes development and use of renewable energy resources are encouraged.

(d) Projects in which minorities are participants as contractors, major suppliers, equity investors, lessors, owners or private participating parties are encouraged.

5. In § 570.456, paragraph (a) would be revised to read as follows:

§ 570.456 Ineligible activities and limitations on eligible activities.

(a) Large cities and urban counties may not use assistance under this subpart for planning the project or developing the application. However, they may use entitlement community development block grant funds for this purpose, provided that the UDAG project meets the eligibility test of this Part. Any small city which submits a project application which is selected for preliminary approval and for which legally binding commitments have been approved consistent with the terms of the grant agreement and for which a release of funds pursuant to 24 CFR Part 58 has been issued may devote up to three (3) percent of the approved amount of its action grant to defray its actual costs in planning the project and preparing its application.

* * * * *

6. Section 570.458(c)(14) would be amended to revise paragraph (ix)(I) and to add new paragraphs (xvi) and (xvii) as follows:

§ 570.458 Full applications.

* * * * *

(c) * * *

(14) * * *

(ix) * * *

(I) The relocation and acquisition requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations in Part 42 of this title, and the relocation requirements in section 570.457 governing displacement subject to section 104(k) of the Housing and Community Development Act of 1974. (For grants approved on or after October 1, 1988 the applicant shall comply with the requirement for follow a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations (when published for effect).)

* * * * *

(xvi) For an appropriate project, the project will relieve the most pressing employment needs of the applicant by:

(A) Reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally;

(B) Retraining recently unemployed residents in new skills; or

(C) Providing training to increase the local labor pool of skilled labor.

(xvii) For an appropriate project, the area has a severe shortage of housing for low and moderate income persons. (The applicant should be aware that this certification could affect its compliance with the new provisions under section 104(d) of the Housing and Community Development Act of 1974).

7. Section 570.459 would be revised to read as follows:

§570.459 Criteria for selection.

(a) *General.* Each funding round, HUD will review all new applications received and all applications pending consideration and will determine which meet the basic program requirements. The specific nature and purpose of the proposed project will determine the extent to which each of the selection criteria in paragraphs (e) and (f) of this section will apply. In utilizing the discretion of the Secretary when providing assistance and applying selection criteria under this section, the Secretary will not discriminate against applications on the basis of: (1) The type of activity involved, i.e., whether the activity is primarily housing, industrial or commerical; or (2) the type of applicant, i.e., whether the applicant is a city or an urban county.

(b) Requirements which must be met to be considered in project selection:

(1) *A firm private commitment.* No project will be funded under this subpart unless there is firm private commitment to finance and carry out the proposed project. The private commitment must have a clear, direct relationship to the activities for which funding is requested.

(2) *Leveraging Ratio.* Each project, each transaction within a project, and each economic development component within a project must have a leveraging ratio of at least $2.50 of private funds to every $1.00 of action grant funds.

(3) *A firm commitment of public resources.* If a project requires a commitment of other public resources, then there must be a firm public commitment.

(4) *Funds required*—The Secretary must determine that the project requires action grant funds by finding that:

(i) the private development would not occur unless public funding becomes available (see §570.458(c)(14)(ii));

(ii) the action grant funds will not substitute for local funds (see §570.458(c)(14)(iii));

(iii) but for the receipt of the action grant funds, the project would not be undertaken; and

(iv) the grant amount provided is the least amount necessary to make the project feasible. For Fiscal Years 1988 and 1989 the maximum grant amount for any project is $10,000,000.

(5) *Impact on physical and economic conditions.*The proposal must demonstrate to HUD the extent to which the project will have a substantial impact on the physical and economic development of the city or urban county;

(6) *Timeliness.* The proposal must demonstrate to HUD that the proposed activities are likely to be accomplished in a timely fashion with the grant amount available. (HUD expects projects to be completed within four years from the date of the announcement of preliminary funding approval); and

(7) *Demonstrated Performance.* The applicant has demonstrated performance in carrying out housing and community development programs. Performance shall be evaluated using such considerations as past compliance with HUD regulations and statutory requirements and progress in carrying out programs as planned.

(c) *Selection of projects for preliminary approval: Large cities and urban counties.* Projects shall be selected on the basis of the following point system:

(1) *Impaction (maximum value of 35 points).* The comparative degree of economic distress among applicants, as measured by combining the points from three factors: (i) The percentage of the total housing stock that was built prior to 1940—up to 17 points; (ii) the extent

of poverty—up to 11 points; and (iii) the population growth rate—up to 7 points;

(2) *Distress (maximum value of 35 points).* The comparative degree of economic deterioration in cities and urban counties, as measured by combining the points from three factors:

(i) Per capita income change—up to 15 points;

(ii) Unemployment rate—up to 15 points; and

(iii) Job lag/decline—up to 5 points;

(3) *Other criteria (maximum value of 33 Points) and bonus points (maximum value of 2 points).* The factors contained in paragraphs (e) through (f) of this section.

(d) *Selection of projects for preliminary approval: Small cities.* Projects shall be selected on the following basis:

(1) *Impaction (maximum value of 35 points).* The comparative degree of economic distress among applicants, as measured by combining the points from three factors:

(i) The percentage of the total housing stock that was built prior to 1940—up to 17 points;

(ii) The extent of poverty—up to 11 points; and

(iii) The population growth rate—up to 7 points;

(2) *Distress (maximum value of 35 points).* The comparative degree of economic deterioration, as measured by combining the points from the following factors:

(i) Per capita income change—up to 18 points; and

(ii) Labor Surplus Area (LSA) unemployment rate—up to to 17 points;

(3) *Other criteria (maximum value of 33 points) and bonus points (maximum value of 2 points).* The factors contained in paragraphs (e) through (f) of this section.

(e) *Other criteria (maximum value of 33 points).* In evaluating a proposed project, HUD will consider the following factors. The maximum point value for each factor is identified below:

(1) *Leveraging ratio* (10 points). The extent to which the grant will stimulate economic recovery by leveraging private investment;

(2) *New permanent jobs* (3 points). The number of new permanent jobs to be created;

(3) *UDAG funds per new permanent job* (7 points). The amount of action grant funds requested in relationship to the number of new permanent jobs;

(4) *Percent new low/moderate income jobs* (1 point). The percentage of new permanent jobs accessible to low/moderate income persons, including low/moderate income persons who are unemployed.

(5) *Percent new minority jobs* (1 point). The percentage of new permanent jobs accessible to minorities, including minorities who are unemployed.

(6) *Retained jobs* (2 points). The number of jobs that will be lost without the provision of a UDAG award. Retained jobs shall be measured by the number of jobs that were in existence before the start of the project and that are dependent upon the project for their continued existence as substantiated by firm evidence that if the project does not proceed, the jobs will be lost;

(7) *Pressing employment need* (1 point). Based upon the applicant's certification, HUD will assess whether the project will relieve the most pressing employment needs of the applicant by:

(i) Reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally;

(ii) Retraining recently unemployed residents in new skills; or

(iii) Providing training to increase the local labor pool of skilled labor;

(8) *Pressing residential need* (1 point). HUD will assess whether the project will relieve a pressing housing need for low and moderate income persons in the jurisdiction by using the factors described in this paragraph (e)(9):

(i) The applicant certifies that the area has a severe shortage of housing for low and moderate income persons (this certification may affect the applicant's compliance with the new provisions under section 104(d) of the Housing and Community Development Act of 1974); and

(ii) The application proposes that:

(A) Not less than 51% of all funds available for the project will be used for dwelling units and related facilities; and

(B) Not less than 30% of all funds used for dwelling units and related facilities will be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20% of all dwelling units made available to occupancy using such funds will be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income;

(9) *Tax benefits per UDAG dollar.* (5 points) The impact of the proposed project on the fiscal base of the community and the relationship to the amount of grant funds;

(10) *State/local funds per UDAG dollar.* (2 points) The extent of assistance to be made available by State/local funds or special economic incentives in relation to the amount of UDAG funds;

(f) *Bonus Points.* An applicant will be provided with bonus points as provided for below:

(1) An applicant that did not receive preliminary grant approval during the 12-month period preceding the date on which applications are required to be submitted for the grant competition involved shall be awarded 1 bonus point.

(2) An applicant that did not receive a preliminary grant approval during the 24-month period preceding the date on which applications are required to be submitted for the grant competition involved shall be awarded two bonus points.

(3) If an applicant has submitted and has pending more than one application, bonus points shall only be provided to the pending application which receives the highest number of points awarded under paragraph (e) of this section.

The following table summarizes the point system to be used by HUD in accordance with § 570.460(c)(1) in selecting projects for preliminary funding approval:

UDAG PROJECT SELECTION SYSTEM

Selection criteria for large cities, urban counties and small cities	Factors	Maximum points
A. Impaction	Pre-1940 Housing (17)	35
	Extent of Poverty (11)	
	Population Growth Rate (7)	
B. Distress		35
Large Cities and Urban Counties	Per Capita Income Change (15)	
	Unemployment rate (15)	
Small Cities	Job lag (5)	
	Per Capita Income Change (18)	

UDAG PROJECT SELECTION SYSTEM—Continued

Selection criteria for large cities, urban counties and small cities	Factors	Maximum points
C Other Criteria	LSA Unemployment Rate (17) 1. Leveraging ratio (10) 2. New Permanent Jobs (3) 3. UDAG funds per New Permanent Job (7) 4. Percent New Low/Moderate Income Jobs (1) 5. Percent New Minority Jobs (1) 6. Retained Jobs (2) 7. Pressing Employment Need (1) 8. Pressing Residential Need (1) 9. Tax Benefits per UDAG $ (5) 10. State/Local funds per UDAG $ (2)	33
D. Bonus Points	1. Applicant has not received a preliminary UDAG approval for one year (1) *or* 2. Applicant has not received a preliminary UDAG approval for two years (2)	2
Total Possible Points		106

8. In § 570.460, paragraph (a) introductory text would be revised, paragraphs (c)(1) through (c)(5) would be redesignated as paragraphs (c)(4) through (c)(8), respectively, new paragraphs (c)(1) through (c)(3) would be added, and paragraph (d) would be removed, to read as follows:

§ 570.460 HUD review and action on applications.

(a) *Submission and review schedule.* The following chart indicates dates for submission of pre-application requests for determination of eligibility, the full application, HUD review and consultation with the applicant, the deadline for receipt of firm financial commitments, and the date by which the decision for preliminary approval will be made. This schedule will remain in effect unless, within 30 days of the start of a fiscal year, the Secretary announces by Federal Register Notice a revised schedule applicable to the upcoming fiscal year. Public announcements of preliminary funding approvals will be made shortly after the decision date.

Determination of eligibility (pre-application SF-424) to be submitted by	Application submission period	Review period	Deadline for firm financial commitments[1]	Decision date
Large cities/Urban counties:				
Sept. 30	Nov. 1–30	Dec. 1–Jan. 31	Jan. 15	Jan. 31.
Jan. 31	Mar. 1–31	Apr. 1–May 31	May 15	May 31.
May 31	July 1–31	Aug. 1–Sept. 30	Sept 15	Sept. 30.
Small cities:				
Nov. 30	Jan. 1–31	Feb. 1–Mar. 31	Mar. 15	Mar. 31.
Mar. 31	May 1–31	June 1–July 31	July 15	July 31.
July 31	Sept. 1–30	Oct. 1–Nov. 30	Nov. 15	Nov. 30.

[1] If, in a particular month a deadline falls on a weekend, the deadline is carried over to the following Monday. If the deadline falls on a Federal holiday, it is carried over to the next business day.

* * * * *

(c) *Central office action on applications.* (1) Preliminary approval decisions will be made by HUD Central Office utilizing the point system described in section 570.459. Central Office funding decisions for distressed cities and urban counties will be based upon a funding formula for grants which, to the extent practicable, will make 65% of funds available for projects based upon points received for all the criteria and 35% of funds available for projects based only on other criteria and bonus points, as described in sections 570.459(e) and (f). Applications for Pockets of Poverty are selected separately from distressed cities and urban counties. Applicable criteria for Pockets of Poverty are found in section 570.466.

(2) The funds for the competition are to be an amount approximately equal to the amount of appropriated funds available, divided by the number of scheduled competitions, plus available carry-overs and recaptures.

(3) For Fiscal Years 1988 and 1989, the maximum grant amount for any project is $10,000,000.

9. In § 570.461, paragraph (e) would be revised to read as follows:

§ 570.461 Post preliminary approval requirements.

* * * * *

(e) *Program Income.* Notwithstanding any other provisions of this part and unless otherwise provided in the grant agreement, program income received by the Recipient under this Subpart before the completion of construction of all action grant funded activities shall be used to reimburse costs incurred for the Recipient activities. Such income shall be used instead of any draw under the letter of credit to the extent adequate to reimburse costs so incurred. Program income shall be spent for activities eligible under Title I of the Housing and Community Development Act of 1974 and shall be spent in accordance with 24 CFR Part 570. Upon completion of the activities, program income shall be received and retained by the Recipient and made available by the Recipient for economic development activities that are eligible for funding under the Urban Development Action Grant program or section 105 of the Housing and Community Development Act of 1974. These funds are to be considered miscellaneous revenues and shall not be governed by 24 CFR Part 570. The Recipient shall provide the Secretary

with a statement of the use of repaid grant funds during the most recent full fiscal year and projected receipt and use of repaid grant funds for the following fiscal year of the applicant.

* * * * *

Date: April 5, 1988.

Nancy C. Silver,

Acting General Deputy, Assistant Secretary for Community Planning and Development.

[FR Doc. 88-9577 Filed 4-29-88; 8:45 am]

BILLING CODE 4210-29-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13 and 80

[Gen. Docket No. 88-37]

Ship Radio Officer Qualifying Service Endorsements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment.

SUMMARY: This Order extends the time within which to file reply comments in this proceeding concerning Amendment of Parts 13 and 80 of the Rules concerning ship radio officer qualifying service endorsements. This Action is taken in response to motions.

DATES: Reply comments are now due by May 6, 1988.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Federal Communications Commission, Washington, DC 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION: The Proposed rule in this proceeding was published on February 25, 1988, 53 FR 5596.

Order Extending Reply Comment Period

In the matter of amendment of Parts 13 and 80 of the Rules concerning ship radio officer qualifying service endorsements; Gen Docket No. 88-37.

Adopted: April 19, 1988.
Released: April 27, 1988.

By: Chief, Private Radio Bureau.

1. The American Radio Association, MM&P, AFL-CIO (ARA) and the Radio Officers Union, District 3 of the National Marine Engineers Beneficial Association, AFL-CIO (ROU), have requested that the Commission extend the time within which to file Reply Comments in the General Docket captioned above from April 25, 1988, to May 6, 1988.

2. The ARA/ROU have shown good cause in support of their request. ARA/ROU state that they are participating in the 55th Session of the Maritime Safety Committee of the International Maritime Organization from April 11-22, 1988, in London, England. They argue that the current reply period does not allow sufficient time after their return from England for review of the record and preparation of reply comments.

3. It is therefore ordered that the time within which to file comments in the proceeding captioned above is extended through May 6, 1988. Authority for this action is contained in §§ 1.46 and 0.331 of the Commission's Rules, 47 C.F.R. 1.46 and 0.331.

Federal Communications Commission.

Richard J. Shiben,

Acting Chief, Private Radio Bureau.

[FR Doc. 88-9660 Filed 4-29-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-163; RM-6025]

Radio Broadcasting Services; Osage City, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Osage Radio, Inc., proposing the substitution of FM Channel 225C2 for Channel 224A at Osage City, Kansas and modification of its license for Station KZOC(FM) to specify operation on Channel 225C2. The coordinates used for Channel 225C2 are 38-33-42, 95-52-31.

DATES: Comments must be filed on or before June 16, 1988, and reply comments on or before July 1, 1988.

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: William D. Silva, Esq., Blair, Joyce and Silva, 1825 K Street, NW., Suite 510, Washington, DC 20006 (Counsel to Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-163, adopted March 25, 1988, and released April 25, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures or comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-9593 Filed 4-29-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 8B-168, RM-6217]

Radio Broadcasting Services; Pine Bluff, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Robert Jason, proposing the allocation of Channel 287C2 to Pine Bluff, Wyoming, as that community's first local FM service. A site restriction of 7.8 kilometers (4.9 miles) northwest of the community is required. The coordinates for the proposed site are 41-13-41 and 104-07-47.

DATES: Comments must be filed on or before June 16, 1988, and reply comments on or before July 1, 1988.

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: Daniel F. Van Horn, Esquire, Arent, Fox, Kintner, Plotkin & Kahn, 1050 Connecticut

Avenue, NW., Washington, DC 20036–5339 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summmary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–168, adopted March 30, 1988, and released April 25, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as the 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.

Steve Kaminer,

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

[FR Doc. 88–9587 Filed 4–29–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–169; RM–6216]

Radio Broadcasting Services; Burns, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Gary Albarez proposing the allocation of Channel 270C2 to Burns, Wyoming, as that community's first local FM service. A site restriction of 12.5 kilometers (7.8 miles) southwest of the community is required. The coordinates for the proposed site are 41–07–05 and 104–28–08

DATES: Comments must be filed on or before June 16, 1988, and reply comments on or before July 1, 1988.

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: Daniel F. Van Horn, Esquire, Arent, Fox, Kintner, Plotkin & Kahn, 1050 Connecticut Avenue, NW., Washington, DC 20036–5339 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–169, adopted March 30, 1988, and released April 25, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the thme 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.

Steve Kaminer,

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

[FR Doc. 88–9589 Filed 4–29–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–146, RM–6048]

Radio Broadcasting Services; Osceola, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Pollack Broadcasting Company, proposing the substitution of FM Channel 251C for Channel 251C2 at Osceola, Arkansas, and modification of its license accordingly, to provide that community with its first wide coverage area FM service. The site coordinates for the proposal are 35–28–00 and 90–11–20.

DATES: Comments must be filed on or before June 6, 1988, and reply comments on or before June 21, 1988.

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: Barry D. Wood and Willard W. Pardue, Jr., Esqs., Wiley, Rein and Fielding, 1776 K St., NW., Washington, DC 20006.

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.88–146 adopted March 23, 1988, and released April 14, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 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.

Steve Kaminer,

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

[FR Doc. 88–9596 Filed 4–29–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 87-240; RM-5785]

Radio Broadcasting Services; Morton, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by James S. Bumpous, published in the Federal Register at 52 FR 27437, July 21, 1987 requesting the allocation of Channel 249C1 to Morton, Texas, as that community's first local FM service, due to lack of continuing interest in the allotment. With this action, this proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-240, adopted March 25, 1988, and released April 25, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Steve Kaminer,

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

[FR Doc. 88-9592 Filed 4-29-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-165, RM-5978; RM-6198]

Radio Broadcasting Services; Sioux Center, IA, and Sioux Falls, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on two mutual exclusive petitions for rule making. Tri-State Broadcasters, Inc. requests the substitution of Channel 230C2 for Channel 232A at Sioux Center, Iowa, and the modification of its license for Station KVDB-FM to specify the higher powered channel. The Vaughn Broadcasting Group requests the substitution of Channel 230C2 for Channel 228A at Sioux Falls, South Dakota, and the modification of its license for Station KKRC(FM) to specify the higher powered channel. Co-channel Class C2 stations are required to be separated by at least 190 kilometers but the two communities here are separated by only approximately 57 kilometers. Parties are requested to further demonstrate who its community should receive the higher class allotment. Channel 230C2 can be allocated to Sioux Center, IA, in compliance with the Commission's minimum distance separation requirements and can be used at Station KVDB-FM's current transmitter site. Channel 230C2 can be allocated to Sioux Falls in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.3 kilometers (8.3 miles) east to accommodate Vaughn's desired transmitter site. In accordance with Section 1.420(g) of the Commission's Rules, competing expressions of interest in the use of Channel 230C2 at either community will not be accepted.

DATES: Comments must be filed on or before June 13, 1988, and reply comments on or before June 28, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lauren A. Colby, Esq., 10 E. Fourth Street, P.O. Box 113, Frederick, MD 21701 (Counsel to Tri-State); Clifford M. Harrington, Esq., John Joseph McVeigh, Esq., Fisher, Wayland, Cooper & Leader, 1255-23rd Street NW., Suite 800, Washington, DC 20037 (Counsel to Vaughn).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-165, adopted March 25, 1988, and released April 21, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC. 20037.

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 1.1231 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.

Steve Kaminer,

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

[FR Doc. 88-9661 Filed 4-29-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-166, RM-6251]

Radio Broadcasting Services; Conklin, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Programmed Communications, Inc. proposing the allocation of Channel 227A to Conklin, New York, as the community's first local FM service. Channel 227A can be allocated to Conklin in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.5 kilometers (3.4 miles) southwest to avoid a short-spacing to Station WNTQ, Syracuse, New York, and to Station WKXZ, Norwich, New York. The coordinates for this proposal are North Latitude 42-00-31; West Longitude 75-51-58. Canadian concurrence is required since Conklin is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before June 13, 1988, and reply comments on or before June 28, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Timothy Kuhl, P.O. Box 738, Syracuse, New York 13214 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–166, adopted March 25, 1988, and released April 21, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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 1.1231 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.

Steve Kaminer,

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

[FR Doc. 88–9662 Filed 4–29–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–164, RM–6245]

Radio Broadcasting Services; Woodbury, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Bart Walker proposing the allotment of Channel 285A to Woodbury, Tennessee, as that community's first FM service. A site restriction of 5.4 kilometers (3.4 miles) northwest of the city is required. The site coordinates are 35–51–09 and 86–07–19.

DATES: Comments must be filed on or before June 13, 1988, and reply comments on or before June 28, 1988.

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: Bart Walker, 2519 Cabot Court, Murfreesboro, TN 37130 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–164, adopted March 25, 1988, and released April 21, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 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.

Steve Kaminer,

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

[FR Doc. 88–9663 Filed 4–29–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–167, RM–6125]

Radio Broadcasting Services; Staunton, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Ogden Broadcasting of Virginia, Inc., permittee of Channel 232A at Staunton, Virginia, proposing the substitution of Channel 232B1 for Channel 232A and modification of its construction permit to specify operation on the higher class co-channel. A site restriction of 13.4 kilometers (8.3 miles) southwest of the city is required.

DATES: Comments must be filed on or before June 13, 1988, and reply comments on or before June 28, 1988.

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: Philip L. Malet, Esquire, Steptoe & Johnson, 1330 Connecticut Avenue NW., Washington, DC 20036 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–167, adopted March 30, 1988, and released April 21, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.204(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

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–9664 Filed 4–29–88; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 57]

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments on a petition for rulemaking.

SUMMARY: The Motor Vehicle Manufacturer Association (MVMA) has submitted a petition asking NHTSA to amend the test conditions specified in Standard No. 208 *Occupant Crash Protection*. The test conditions presently require seats that are separately adjustable in a vertical direction to be tested at the lowest vertical adjustment position. MVMA's petition asks that vertically adjustable seats and other adjustable seat features (such as adjustable lumbar support) be set at the "nominal design riding position." This position would be defined by the vehicle manufacturer and furnished to NHTSA prior to any compliance testing. MVMA argued that such a requirement would be similar to the existing provisions for adjustable seat backs, and would eliminate the potential burden of duplicative testing. The assertion of duplicative testing was based on the possibility of a vehicle being offered in some models with vertically adjustable seats and in other models with standard fixed height seats. According to the petitioner, both of these models would have to be tested to ensure that the vehicle complied with the standard.

The agency has not made a tentative decision to either grant or deny the petition. While the MVMA petition does raise some seemingly valid points, it does not present sufficient evidence, information, or supporting data to warrant the requested amendment. In the same vein, the petition does not demonstrate that the proposed amendment would not reduce the level of safety protection afforded by the existing provision. However, the agency believes it is premature to make a final assessment of the petition, because the vehicle manufacturers are just beginning to acquire testing experience under Standard No. 208. It is possible that, during this testing, the manufacturers have acquired specific data or information that demonstrates that the problem alleged by MVMA is substantial enough to justify changing the provisions of standard No. 208. Therefore, this notice seeks *specific* data or other information demonstrating that the current specifications for verically adjustable seats cause testing problems for Standard No. 208.

DATE: Comments on this notice must be recieved by the agency not later than June 16, 1988.

ADDRESS: Comments on this notice should refer to the docket and notice numbers set forth in the heading above and should be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 8:00 am to 4:00 pm Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM-12, NHTSA, Room 5320, 400 Seventh Street SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION:

Background

Standard No. 208, *Occupant Crash Protection* (49 CFR § 571.208) specifies the test conditions for the frontal, lateral, and rollover tests that are conducted to determine whether a vehicle complies with the injury criteria set forth in the standard. Currently, section S8.1.2 of Standard No. 208 specifies that seats that are separately adjustable in a vertical direction shall be tested at the lowest vertically adjustable position. The purpose of this provision is to ensure uniformity in positioning vertically adjustable seats for Standard No. 208 compliance testing.

This provision had its genesis in a November 3, 1970 final rule (35 FR 16927) that established the first automatic restraint requirements in Standard No. 208. Ever since the July 1, 1973 effective date of that rule, Standard No. 208 has included a provision that vertically adjustable seats shall be at the lowest position for the compliance testing. This provision reflects the agency's belief that seat adjustment position may affect test results, thereby introducing test variability if a single adjustment position were not specified.

Ford Motor Company (Ford) has consistently challenged this agency belief with respect to the test conditions. For example, in response to the notice proposing to incorporate the Hybrid III test dummy into 49 CFR Part 572, *Anthropomorphic Test Dummies* (50 FR 14602; April 12, 1985), Ford commented that it does not believe that the 50th percentile male dummy represents a 50th percentile vehicle occupant. Based on these views of representativeness, Fort alleged that a 50th percentile male occupant would probably sit further away from the steering wheel than is currently specified in Standard No. 208. The standard requires that the seat be placed at the midpoint of its fore-aft adjustment positions. In the same vein, Ford claimed that it conducts its dynamic testing for certification purposes with the test dummy in the same position relative to the vehicle's interior surfaces, regardless of whether a vertically-adjustable power seat or a manual seat is in the vehicle being tested.

According to its comment, many Ford models are offered with power seats that adjust vertically to positions that are lower than the vertical position for the comparable manual seat. However, for its certification testing, Ford stated that its seating reference points are based *only* on the vertical position of the manually adjustable seat, not on the lowest vertical adjustment position of the power seat. Ford stated its belief that a requirement that vehicles with power and manual seats be tested twice, once with the manual seat at its standard vertical height and once with the power seat it its lowest vertically adjustable position, implies that there is a safety difference between the manual and power seats. Ford stated that it is unaware of any evidence showing this to be true.

NHTSA responded to these comments as follows, in the preamble to the final rule adopting the Hybrid III test dummy:

> Ford noted that the test procedure calls for testing vertically adjustable seats in their lowest position. It said that such a requirement was reasonable for vertically adjustable seats that could not be adjusted higher [sic] than seats that are not vertically adjustable. However, Ford said that new power seats can be adjusted to positions above and below the manually adjustable seat position. It said that testing power seats at a different position would increase test variability. Ford recommended adjusting vertically adjustable seats so that the dummy's hip point is as close as possible to the manufacturer's design H-point with the seat at the design mid-point of its travel.
>
> The agency recognizes that the seat adjustment issue raised by Ford may lead to test variability. However, the agency does not have any data on the effect of Ford's suggested solution on the design of other manufacturers' power seats. The agency will solicit comments on Ford's proposal in the NPRM addressing additional Hybrid III injury criteria. 51 FR 26688, at 26698; July 25, 1986.

The Petition

MVMA has filed a petition for rulemaking with this agency, asking tha. section S8.1.2 of Standard No. 208 be amended. More specifically, MVMA's petition asks that seats with any adjustable features, such as vertically

adjustable power seats or seats with adjustable lumbar supports, be set at the "nominal design riding position" before the car is subjected to a crash test. The "nominal design riding position" would be specified by the vehicle manufacturer and provided to the agency prior to compliance testing of the vehicle.

According to MVMA's petition, this requested change would be consistent with the requirement already in section S8.1.3 of Standard No. 208. That section specifies that reclining seat backs shall be placed at "the manufacturer's nominal design riding position." A description of this position is provided to the agency by the manufacturer prior to any compliance testing. Additionally, MVMA's petition claims that positioning the seats according to the manufacturer's specifications would eliminate the potential for duplicative testing of the same vehicle. The petition asserted that if a vehicle were offered with some models equipped with fixed seats, while others were equipped with adjustable seats, that vehicle would have to be tested twice by the agency. The test of the model with fixed seats would be conducted with those seats in their fixed position, while the rest of the model with adjustable seats would be conducted with those seats at their lowest position, which would be lower than the fixed seat position. Additionally, MVMA argued that testing vertically adjustable seats at their "nominal design riding position" would be more representative of the vertical seat adjustment positions that will typically be selected by drivers while using their cars on the public roads.

Issues on Which Comments are Requested

There are several issues on which this notice requests public comments. One is whether the requested change would result in different test conditions for comparable vehicles. If the requested change were made, the power seats in the Lincoln Continental, Cadillac, Eldorado, and the Chrysler New Yorker, for instance, might all be adjusted to different vertical positions. These differing adjustments would *not* necessarily result from differences in the vehicles or be more representative of actual positions to which the seats are adjusted in "real world" use. Instead, the differences could simply reflect the individual vehicle manufacturer's preferences for test conditions. On the other hand, use of the nominal design riding position may make test results *more* comparable between vehicles, if the nominal design riding positions were appropriately selected. Under the current test procedure, NHTSA has no reason to believe that the lowest vertical seat position for one vehicle manufacturer corresponds to the lowest vertical seat position for other vehicle manufacturers. One manufacturer may, for example, have a very low "lowest seat position" to accommodate very tall people, while other manufacturers might not make the same design choice. If this were true, using the nominal design riding position may make crash test results between different vehicles more, instead of less, comparable. Further, the nominal design riding position may be more representative of the vertical seat adjustment while in actual use.

Second, the agency does not believe that any change to the currently specified seat location placements should be undertaken before carefully evaluating the probable effects of the positioning change on the kinematic or biomechanical behavior of the test dummy. For example, raising or lowering the seating position of the test dummy could affect both the chest deflection and the femur loading of the dummy during the test. MVMA's petition gives no indications that it has analyzed these effects and determined that they were negligible. Comments and data are requested on the effects of seat height adjustment on dummy responses during crash tests.

Third, there may be some technical difficulties associated with the requested change. There is currently no recommended dimension specified by the Society of Automotive Engineers or any other private group to measure power seat elevation. Comments are requested on the specific procedure for determining seat elevation, including an identification of an appropriate hard surface fiducial mark to serve as a point of reference for such vertical adjustments.

Ordinarily, the agency would perform its own analysis of these issues and publish a grant or denial of this petition. However, there are exceptional circumstances in this case that make it appropriate to allow the public an opportunity to comment on this petition *before* the agency makes its decision. The exceptional circumstances arise in this case because of the agency's response to Ford's comments on vertically-adjustable seats during the Hybrid III test dummy rulemaking. Those comments raised the same issues raised by this petition. In response to Ford's comments on vertically-adjustable seats raised in the Hybrid III test dummy rulemaking, the agency announced that it would solicit comments on Ford's suggestion about changing the test conditions for vertically-adjustable seats in a subsequent proposed rulemaking on the Hybrid III test dummy. *See* 51 FR 26699; July 25, 1986. At the time the agency made this commitment, it believed that such a proposal would be published very soon. However, it now appears that the anticipated rulemaking action will not be undertaken in the near future. To honor its previous commitment, NHTSA has decided to seek comments on the issue of vertical seat placement before making its final decision on MVMA's petition.

The agency will review these comments carefully before making a final decision on the MVMA petition. The agency recognizes that vehicle manufacturers have only recently begun to acquire the necessary testing experience to identify potential problem areas in the Standard No. 208 test procedures. Thus, it is possible that some commenters can present data or other evidence indicating that:

1. The existing vertical seat adjustment requirements present difficulties for compliance testing or are otherwise incompatible with current seating system designs; *and*

2. The alternative vertical seat adjustment provisions proposed by MVMA would *not* present substantial practical problems and would *not* lessen the safety protection afforded to vehicle occupants.

The agency will make a decision to grant or deny the MVMA petition after analyzing the comments received on this notice. A separate notice announcing the agency's final decision will be published after analyzing the comments on this notice.

Interested persons are invited to submit comments on the MVMA petition and the agency's tentative response thereto. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be

accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for this notice will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final decision on this petition will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on April 26, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 88-9584 Filed 4-29-88; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

Federal Motor Vehicle Safety Standards; Grant of Petition for Rulemaking Fuel System Integrity

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for rulemaking.

SUMMARY: The agency grants a petition for rulemaking from the California Highway Patrol requesting that NHTSA amend Federal Motor Vehicle Safety Standard No. 301, *Fuel System Integrity,* to set specialized requirements that would reduce the frequency and magnitude of fuel spills caused when objects on the roadway impact the fuel tank or fuel lines on heavy trucks and truck tractors. The agency is granting the petition pending the results of its forthcoming investigation of fuel tank fires in over-the-road trucks. NHTSA anticipates that its research will yield information on a number of the issues raised by the petitioner including the relationship, if any, between incidents of post-crash fires and debris-caused fuel spillage. The granting of this petition does not necessarily mean that a rule will be issued. The determination of whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

FOR FURTHER INFORMATION CONTACT: Mr. Guy Hunter, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone (202) 366-4914.

SUPPLEMENTARY INFORMATION: This notice grants a petition for rulemaking from the Department of California Highway Patrol (CHP) requesting NHTSA to amend Safety Standard No. 301, *Fuel System Integrity,* by adding specialized requirements that would reduce the frequency and magnitude of fuel spills caused when objects on the roadway impact and puncture or break the fuel tank or fuel lines on heavy trucks and truck tractors. The standard presently applies to passenger cars and school buses, and to multipurpose passenger vehicles, trucks and buses that have a gross vehicle weight rating of 10,000 pounds or less.

The CHP submitted data on 142 diesel truck fuel spills reported by its Border Division during calendar years 1984 and 1985. The reported fuel spills averaged 71 per year with an annual loss of 3,180 gallons. According to the CHP, one-third of the 142 spills were caused by an object on the road being struck by a vehicle's front wheels and thrown against the tank or fuel lines. The CHP believes that such objects—i.e., highway "debris"—constitute a "not uncommon hazard" and have included the following: automobile bumpers and driveshafts, tire casings, tire treads, bicycles, ladders, mattress springs, pieces of wood, trash cans, and lead pipes. While the petitioner was concerned also with spills caused when the fuel tank is ruptured by a jackknifed semitrailer, CHP suggested that NHTSA research and issue standards for "the minimum positioning, size, and strength of guards to protect fuel lines, crossover lines and bottom fittings against breakage when struck by the objects commonly thrown by the front wheels."

The petitioner states that the major negative impact of these diesel fuel spills is the expenditure of state resources to stop traffic, investigate the leak and clean up the spill. CHP states, "These spills use up investigative and cleanup time far out of proportion to the cost of repairing the minor fuel system damage that caused the incident." CHP also states that its survey includes seven accidents that were caused by spilled fuel when unsuspecting motorists skidded in a spillage or struck a dropped fuel tank. The CHP describes an incident (occurring outside of the Border Division) where a motorcycle driver lost control of the vehicle and suffered permanent injuries when the motorcycle skidded in oil that had spilled from the debris-damaged fuel system of a truck.

The petitioner points out that Subpart E of the Federal Motor Carrier Safety Regulations (FMCSR) of the Federal Highway Administration sets forth the type of requirements for fuel systems that CHP petitions NHTSA to apply to all new heavy trucks. Title 49 of the Code of Federal Regulations (CFR) § 393.65(f) states: "A fuel line which is not completely enclosed in a protective housing must not extend more than 2 inches below the fuel tank or its sump. Diesel fuel crossover, return, and withdrawal lines which extend below the bottom of the tank or sump must be protected against damage from impact * * *." Section 393.67(c)(4) requires that drains or other bottom fittings must not extend more than three-fourths of an inch below the lowest part of the fuel tank or sump, and must be protected against damage from impact. The petitioner stated that NHTSA should issue its own requirements for heavy trucks because "some of the original and second stage diesel truck manufacturers may not have paid close enough attention to these [FMCSR] requirements." Petitioner also states that 49 CFR 393.65(f) is "much too open to loose interpretation," because it does not precisely specify the force of the impact the fuel crossover, return and withdrawal lines must be capable of withstanding without incurring the proscribed damage.

The agency believes the issues raised by the petitioner warrant further consideration. NHTSA plans to conduct research into the issue of heavy vehicle post-crash fires to determine whether rulemaking is appropriate on this issue. The agency grants CHP's petition pending the results of its investigation and anticipates that NHTSA's research will yield information on a number of the issues raised by the petitioner, including the relationship, if any, between incidents of post-crash fires and debris-caused fuel spillage. The granting of this petition does not necessarily mean that a rule will be issued. The determination of whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

[Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 40 CFR 1.50 and 501.8]

Issued on: April 27, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 88–9651 Filed 4–29–88; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1201

[Ex Parte No. 468]

Review of Railroad Depreciation Studies by Independent Public Accountants

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing a reporting revision that would alter the manner in which the review of a railroad depreciation study is conducted. This proposal was initiated by an Advanced Notice of Proposed Rulemaking published at 52 FR 5791 (2–26–87). The proposal would require each Class I railroad to have an independent public accountant review each road and equipment depreciation study that it prepares. The reviewer would then prepare and submit to the Commission a report on the study's conformity with the Commission's regulations an instructions. We believe that this revision will assure that depreciation rates are approved on a timely basis. Additional options upon which we are seeking comment would be the use of independent contractors, expert in the field of depreciation to: (1) Review the depreciation study prepared by the railroad, or (2) actually prepare the depreciation study. In either case, the contractors would be under the direct control of the Commission. The Commission is statutorily required to prescribed a rate of depreciation for each account, or account subgroup, of road and equipment property of Class I railroads. Presently, the railroads perform the depreciation studies, develop proposed rates and the Commission reviews and approves the rates. This proposal would help expedite this process. A more rapid completion of the depreciation study process would provide both railroads and the Commission with better and more timely information.

DATES: Comments must be filed on or before June 16, 1988. This proposed revision would be applicable for depreciation studies submitted for approval 30 days after adoption of these proposed rules.

ADDRESS: An original and 10 copies of any comments should be sent to: Ex Parte No. 468, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: William F. Moss, III, (202) 275–7510. [TDD for Hearing Impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to The Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 275–7428. (Assistance for the hearing impaired is available through TDD services on (202) 275–1721).

Regulatory Flexibility Act

This proposed rule will not have a significant impact on a substantial number of small entities. This decision directly affects only Class I railroads which have annual revenues of $50 million or more.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

This proposed revision will be submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). Respondents may direct comments to OMB by addressing them to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Interstate Commerce Commission, Washington, DC 20423.

List of Subjects in 49 CFR Part 1201

Railroads, Uniform system of accounts.

These rules are proposed under the authority of 49 U.S.C. 10321, 11143, 11145 and 5 U.S.C. 553.

Decided: April 14, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners, Sterrett, Simmons, and Lamboley. Commissioner Simmons, joined by Commissioner Lamboley, dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 88–9636 Filed 4–29–88; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 53, No. 84
Monday, May 2, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes and Committee on Judicial Review; Public Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of meetings of the Committee on Governmental Processes and the Committee on Judicial Review of the Administrative Conference of the United States.

Committee on Governmental Processes

Dates: Monday, May 9, 1988.
Time: 3:00 p.m.
Location: Covington and Burling, 1201 Pennsylvania Avenue NW., Washington, DC (Room 1205).
Agenda: The committee will meet to discuss a draft recommendation on contractual indemnification of government contractors. The draft recommendation was published in the **Federal Register** for comments on April 12, 1988 (53 FR 12048). The Administrative Conference's consultant for this project is Professor Frank P. Grad of Columbia University School of Law.
Contact: David M. Pritzker 202–254–7065.

Committee on Judicial Review

Date: Wednesday, May 11, 1988.
Time: 10:00 a.m.
Location: Administrative Conference of the United States Library, 2120 L Street NW., Suite 500, Washington, DC.
Agenda: The committee will continue its discussion of a draft recommendation on nonacquiescence by federal agencies in the decisions of appellate courts. The draft recommendation, based on a study by Professors Samuel Estreicher and Richard Revesz, was published for comment in the **Federal Register** on April 14, 1988 (53 FR 12444).
Contact: Mary Candace Fowler 202–254–7065.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairmen may permit members of the public to present oral statements at meetings. Any member of the public may file a written statement with a committee before, during, or after a meeting. Minutes of the meetings will be available on request to the contact persons. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037.

Jeffrey S. Lubbers,
Research Director.
April 27, 1988.
[FR Doc. 88–9685 Filed 4–29–88; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 88–004N]

Exemption for Retail Stores; Adjustment of Dollar Limitations

AGENCY: Food Safety and Inspection Service, USDA.
ACTION: Notice.

SUMMARY: This notice announces that the dollar limitations currently in effect on the annual sales of meat and poultry products that can be sold by retail stores exempt from Federal inspection requirements to consumers other than household consumers, such as hotels, restaurants and similar institutions, have been adjusted to conform with price changes for meat and poultry products as indicated by the Consumer Price Index. The dollar limitation for meat products increases from $30,500 to $31,600 for calendar year 1988 and the dollar limitation for poultry products decreases from $31,000 to $28,100 for calendar year 1988.

EFFECTIVE DATE: May 2, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Stafko, Director, Policy Office, Policy and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–8168.

Background

Federal inspection of meat and poultry products prepared for sale or distribution in commerce or in States designated under section 301(c) of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 661(c)) and section 5(c) of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 454(c)) is required by law and administered by the Food Safety and Inspection Service (FSIS). However, section 301(c)(2) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(2)) and section 5(c)(2) of the Poultry Products Inspection Act (21 U.S.C. 454(c)(2)) state that the general requirement of routine Federal Inspection "* * * shall not apply to operations of types traditionally and usually conducted at retail stores * * * when conducted at any retail store * * * for sale in normal retail quantities * * * to consumers * * *."

FSIS regulations (9 CFR 303.1(d) and 381.10(d)) define retail stores that qualify for exemption from routine Federal inspection under the FMIA or PPIA. Whether FSIS deems an establishment to be an exempt retail establishment depends, in part, upon the percentage and volume of its trade with consumers other than household consumers, such as hotels, restaurants and similar institutions. Accordingly, the Federal meat and poultry products inspection regulations state in terms of dollars the maximum amount of meat and poultry products which may be sold to nonhousehold consumers if the establishment is to remain an exempt retail establishment. During calendar year 1987, the maximum amount for meat products was $30,500; for poultry products, the amount was $31,000.

The Federal meat and poultry products inspection regulations (9 CFR 303.1(d)(2)(iii)*b*) and 381.10(d)(2)(iii)(*b*) further provide that the dollar limitation on product sales by retail stores to consumers other than household consumers will be automatically adjusted during the first quarter of each calendar year whenever the Consumer Price Index, published by the Bureau of Labor Statistics (BLS), Department of Labor, indicates a change during the previous year in the price of the same volume of product exceeding $500, upward or downward. The regulations also require that notice of the adjusted dollar limitation be published in the **Federal Register.**

The BLS Consumer Price Index for 1987 indicates a price increase in meat products of 3.5 percent and a price decrease in poultry products of 9.2 percent. As a percentage of the existing dollar limitation, a change in excess of $500 is indicated for both meat and poultry products. When rounded off to the nearest $100, the price increase for

meat products amounts to $1,100 and the price decrease for poultry products amounts to $2,900.

Accordingly, FSIS, in accordance with §§ 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*) of the regulations, has automatically raised the dollar limitation or permitted sales of meat products and lowered the dollar limitation of permitted sales of poultry products to consumers other than household consumers by establishments operating as retail establishments exempt from Federal inspection requirements. Therefore, the dollar limitations for 1987 have increased from $30,500 to $31,600 for meat products and decreased from $31,000 to $28,100 for poultry products.

Done at Washington, DC on April 22, 1988.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 88-9617 Filed 4-29-88; 8:45 am]

BILLING CODE 3410-DM-M

COMMISSION ON CIVIL RIGHTS

Nevada Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Nevada Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 11:30 a.m., on May 20, 1988, at the University of Nevada, Las Vegas, Wright Hall, Gold Room #112, 4505 Maryland Parkway, Las Vegas, Nevada 89154. The purpose of the meeting is to discuss findings and conclusions of the Committee's casino employment study.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Elizabeth C. Nozero or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 22, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88-9608 Filed 4-29-88; 8:45 am]

BILLING CODE 6335-01-M

Oklahoma Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Oklahoma Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m., on May 26, 1988, at the Lincoln Plaza Hotel Conference Center, Seminole Room, 4445 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. The purpose of the meeting is to plan program activities and to receive an orientation on the Commission, Advisory Committee operations, and regional programs.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Charles Fagin or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 22, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88-9609 Filed 4-29-88; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Construction Progress Reporting (State and Local Government)
Form Number: Agency—C-777 (SL); OMB-NA
Type of Request: New collection
Burden: 3,400 respondents; 3,400 reporting hours
Needs and Uses: Census collects monthly data on the value of new construction work owned by State and local government, and fiscal year expenditure data on this same construction. These estimates should be comparable on a fiscal year basis, but have differed significantly during the past decade. The difference is growing. A possible source of the difference is the undercoverage of the desired universe used in the monthly survey. This proposed survey will be used to evaluate this undercoverage and to improve the survey by correcting the value of new State and local cosntruction estimates. The Bureau of Economic Analysis uses the data from the monthly survey to develop construction components of the Gross National Product accounts. Other government agencies use the data in making policy decisions
Affected Public: State or local governments
Frequency: One time
Respondent's Obligation: Voluntary
OMB Desk Officer: Francine Picoult, 395-7340

Agency: Bureau of the Census
Title: 1990 Decennial Census—Special Place Prelist Operation
Form Number: Agency—D-351, D-351(GQ), D-351(HU); OMB-NA
Type of Request: New collection
Burden: 265,000 respondents; 198,750 reporting hours
Needs and Uses: Census proposes to conduct this one-time survey 3 months before the 1990 Decennial Census. The collected information will be used to update address information for Special Places (e.g., colleges or universities, dormitories, missions, shelters, prisons, boarding and rooming houses, hospitals, hotels and motels, and nursing homes). This survey is necessary to ensure complete coverage of Special Places in the 1990 Decennial Census
Affected Public: Individuals or households, state or local governments, businesses or other for-profit institutions, Federal agencies or employees, non-profit institutions, and small businesses or organization
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395-7340

Agency: Bureau of the Census
Title: 1990 Decennial Census—Precanvass Operation
Form Number: Agency—D-102A, D-102B, and D-328; OMB-NA
Type of Request: New collection
Burden: 20,100,000 respondents; 930,880 reporting hours
Needs and Uses: This unit-by-unit precanvass operation will be used to verify and update the commercial mailing list that will be used to conduct the 1990 Decennial Census. This precanvass is necessary to account for newly constructed housing units or housing units that do

not appear on the commercial list; to correct inaccurate unit designations; and to add any other units that are part of the ever-changing inventory of residential housing and special places

Affected Public: Individual or households

Frequency: One time

Respondent's Obligation: Mandatory

OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Francine Picoult, OMB Desk Officer, Room 3008, New Executive Office Building, Washington, DC 20503.

Dated: April 26, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–9669 Filed 4–29–88; 8:45 am]

BILLING CODE 3510–07–M

Export Administration

[Docket No. 7102–01]

Actions Affecting Export Privileges; Joseph P.M. d'Haens

Summary

Pursuant to the March 25, 1988 Decision and Order of the Administrative Law Judge, which Decision and Order is attached hereto and affirmed by me, Joseph P.M. d'Haens, with an address at Amerikalei 96, 2000 Antwerp, Belgium, is denied for a period of twenty (20) years from the date hereof all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations (15 CFR Parts 368–399).

Procedural Background

On March 25, 1988, the Administrative Law Judge entered his Decision and Order, which has been referred to me for final action pursuant to section 2412(c)(1) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401–2420 (1982 and Supp. III 1985)). The parties have made certain filings with me following the March 25, 1988 date, in particular, the filing of new counsel for the Respondent requesting a remand of the matter to the Administrative Law Judge (or an extended period of consideration by this office) for the purposes of: (1) Providing documentary evidence concerning matters already considered at the previous hearing and (2) providing "additional evidence which counsel is not presently prepared to detail." I find no compelling reason to grant the requested relief. Respondent had ample opportunity to present evidence on issues raised in the hearing before the Administrative Law Judge, yet failed to do so. With respect to any additional evidence, it may well be that Respondent is entitled to a reopening of these proceedings in accordance with section 388.18 of the Regulations; however, such a request must be made in accordance with the provisions of that section.

Order

Having examined the record, and based on the facts of this case, I affirm the findings, conclusions and penalties made and imposed by the Administrative Law Judge in his Decision and Order of March 25, 1988, which Decision and Order is attached hereto and made a part hereof by express reference.

This constitutes final agency action in this matter.

Dated: April 25, 1988.

Paul Freedenberg,

Under Secretary for Export Administration.

Decision and Order

In the Matter of Joseph P.M. d'Haens, Respondent, Docket No. 7102–01.

Appearance for Respondent: Joseph P.M. d'Haens, Amerikalei 96, 2000 Antwerp, Belgium.

Appearance for Agency: Thomas C. Barbour, Esq., Attorney-Advisor, Office of the Deputy Chief Counsel for Export Administration, U.S. Department of Commerce, Room H–3329, Washington, DC 20230.

Preliminary Statement

On April 15, 1987, the Office of Export Enforcement (OEE), issued a charging letter to Respondent Joseph P.M. d'Haens, (hereinafter referred to as "Respondent"). The charging letter alleges that Respondent violated §§ 387.2, 387.3 and 387.5 of the Export Administration Regulations (25 CFR Parts 368–399), (the Regulations). The charging letter, dated April 15, 1987, was served on Respondent on or about May 5, 1987.

Respondent's answer to the charging letter was received in the Office of the Administrative Law Judge on May 11, 1987. Neither party has requested a hearing in this matter. However, both parties have made written submissions over the past 10 months in support of their respective positions. This decision is rendered pursuant to § 388.14 of the Regulations, which provides for adjudication on the record without a hearing.

The April 15, 1987 charging letter alleges that Respondent committed three violations of the Regualtions.

First, Respondent is alleged to have unlawfully conspired with Franz Traxler, doing business as Airfo GmbH, Munich, West Germany, and Michael Kolleczek, doing business as Airfo International, New York, New York. The alleged purpose of the conspiracy was to obtain a U.S.-orgin semiconductor manufacturing system (the GCA Mann 4800) on the representation that an academic institution in Belgium was the intended ultimate destination. The conspirators are alleged to have intended to, and did in fact, cause the system to be shipped to Hungary without the required reexport authorization, in violation of section 387.3 of the Regulations.

Second, Respondent allegedly violated § 387.5 of the Regulations by representing to GCA, the domestic manufacturer of the equipment, and indirectly to the Office of Export Administration (OEA), that he was purchasing the GCA Mann 4800 System on behalf of Stedelijke Industriele Hogeschool Antwerpen (I.H.A.M.), including his obtaining a Belgium Import Certificate reflecting I.H.A.M. as the ultimate consignee, when he knew that the representation was materially false and misleading, in violation of § 387.5 of the Regulations.

Third, Respondent is alleged to have caused, aided and abetted a violation of the Regulations by participating in the conspiracy with Traxler and Kolleczek to effect the reexport of the GCA Mann 4800 System from Switzerland to Hungary without the required reexport authorization, in volation of § 387.2 of the Regulations.

Respondents Contention

Respondent argues that he did not violate the Regulations, and that he did not illegally conspire with others with respect to the acquisition and disposition of the equipment. He claims that his representations in obtaining the export license and Belgium export certificate were not false and that he did not participate in a conspiracy with others to reexport the semiconductor manufacturing system from Switzerland to Hungary without the required reexport authorization.

The Participants

1. Joseph P. M. d'Haens is a Belgian citizen and a parttime instructor at Stedelijk Instituut voor Hogere Technische Studien (SIHTS) Municipal Institute for Higher Technological Studies. This is the evening division of the Stedelijke Industriele Hogeschool Antwerpen (Municipal College for Technology of Antwerp). The acronym I.H.A.M. is used to describe either or both the College and the Institute in Antwerp, Belgium.

2. Airfo International, Inc. is a freight forwarding company with offices at 161 15 Rockaway Blvd., Jamaica, New York and 200 Park Avenue, Suite 4401, New York, New York.

3. Michael A. Kolleczek was the manager of Airfo International, Inc. and was associated with ASL International Freight Forwarding Corp., J.F.K. International Airport, in Jamaica, New York.

4. Airfo GmbH was a West German Company engaged in the freight forwarding business, with offices at Flughafen Riem, Munich, West Germany. It was associated with Airfo International, Inc.

5. Franz Traxler was an employee of Airfo GmbH in Munich, West Germany.

6. GCA Corporation was an American corporation engaged in the business of manufacturing and selling semiconductor manufacturing equipment. Its Burlington Division was located at 209 Burlington Road, Bedford, Massachusetts.

7. GCA International was a corporation and affiliate of GCA Corporation, marketing GCA products in foreign countries. Its Swiss offices were located in Kreuzlingen, Switzerland.

8. Emri J. Diosy was the Manager-Contracts at GCA Corporation, Burlington Division.

9. Ed Baumann was an employee of GCA International in Kreuzlingen, Switzerland.

Facts

The essential facts recited hereafter are not materially contraverted. On February 9, 1982, utilizing stationery with the letterhead "Stedelijke Industriele Hogeschool Antwerpen" (I.H.A.M.), Respondent placed an order with GCA/Burlington Division in Bedford, Massachusetts for a GCA Mann 4800 DSW Step on Wafer system, including various parts and accessories. This order was a follow up to respondent's earlier discussions concerning the purchase of a GCA Mann 4800 with the Swiss subsidiary of the American manufacturer. The GCA Mann 4800 is a semiconductor manufacturing equipment system which is on the controlled commodity list because of the high technology it utilizes. On or about February 17, 1982, GCA/Burlington Division filed an export license application with OEA seeking authorization to export a GCA Mann 4800 DSW Direct Step on Wafer System, including parts and accessories, to I.H.A.M. The applicant sought exemption from the requirement that an import certificate be filed on the grounds that the ultimate consignee was an institute of higher learning.

Shipment of the system from Boston was arranged through Airfo International, a freight forwarding firm in New York, New York, and its West German parent, Airfo GmbH. While shipping arrangements were being made, OEA advised GCA/Burlington on March 12, 1982, that I.H.A.M. was not considered an institute of higher learning and, thus, an import certificate was required from the ultimate consignee. On March 17, 1982, the Swiss subsidiary of GCA forwarded to its U.S. parent a cable it received from the Respondent explaining I.H.A.M.'s academic program. In addition, in that telex, Respondent also stressed the need for delivery before the end of March because of the budgetary cycle of the academic institution.

By letter dated March 19, 1982, after receiving a facsimile copy of an Import Certificate from Belgium identifying "Joseph d'Heans/I.H.A.M., Paardenmarket 94, 2000 Antwerpen" as the intended importer of a GCA Mann 4800 DSW System, GCA/Burlington resubmitted its export license application to OEA. Following receipt of the Belgian Import Certificate, export license A603641 was issued, authorizing the export of a GCA Mann 4800 DSW System, with parts and accessories, to I.H.A.M.

On March 23, 1982, Michael A. Kolleczek, of Airfo International in New York, forwarded to GCA/Burlington Division a letter which included the necessary documents for the shipment of the GCA Mann 4800 System. In accordance with the instructions contained in that letter, GCA transported the system to the Boston airport, from which it was shipped to the intermediate consignee, Pro Air AG, in Zurich, Switzerland, on March 29, 1982. The documents accompanying the shipment identified GCA/Burlington Division as the exporter, Airfo International as the agent of the exporter, Pro Air, Zurich, Switzerland as the intermediate consignee and I.H.A.M. as the ultimate consignee. Three pieces of equipment that missed the March 29 flight were shipped on March 30. The system was never shipped from Zurich to I.H.A.M. in Belgium. It was transshipped to Hungary, an unauthorized destination.

The record reflects that on March 1, 1982, a request for a quote for insuring the shipment of the system from Boston to Zurich by air and then on to "BUD" (Budapest) by truck, was made by the Airfo office in Munich, to the Airfo office in New York. Prior to shipping the system, Airfo International had obtained insurance covering the shipment of the GCA Mann 4800 System by air from Boston to Pro Air in Zurich, and then from Zurich, via truck, to Budapest, Hungary.

Discussion

The record establishes that Respondent ordered the GCA Mann 4800 System on I.H.A.M. stationery. The original order and subsequent representations reflect that the equipment was to go to I.H.A.M., an academic institution in Belgium. It is now clear that, contrary to the respresentations made, the system was never intended to be shipped to Belgium. Instead, as alleged in the charging letter, the true ultimate consignee was in Budapest, Hungary. Despite his protestations to the contrary, the evidence, including statements in Respondent's answer, establish that the Respondent was an active participant in the diversion scheme from the outset.

Conspiracy is inherently secretive by nature, and is often proved only by circumstantial evidence. "Inferential proof may be controlling where the offense charged is so inherently secretive in nature as to permit the marshalling of only circumstantial evidence." *United States* v. *Pelfrey*, 822 F.2d 628, 632 (6th Cir. 1987). As another Circuit Court has stated:

> For it is most often true, especially in broad schemes calling for the aid of many persons, that after discovery of enough to show clearly the essence of the scheme and the identity of a number participating, the identity and the fact of participation of other remain undiscovered and undiscoverable. Secrecy and concealment are essential features of successful conspiracy. The more completely they are achieved, the more successful the crime. Hence, the law rightly gives room for allowing the conviction of those discovered upon showing sufficiently the essential nature of the plan and their connections with it, without requiring evidence of knowledge of all its details or of the participation of others.

United States v. *Donsky*, 825 F.2d 746, 753 (3rd Cir. 1987), citing *Blumenthal* v. *United States*, 332 U.S. 539, 556–7 (1947). It is also well settled that each conspirator does not have to know all of

the details of the conspiracy or participate in every phase of the scheme. *See, e.g., United States* v. *Carter*, 760 F.2d 1568 (11th Cir. 1985).

As counsel for the Office of Export Administration urges, the sum total of the evidence and the inferences to be drawn, clearly demonstrate an illegal conspiracy. For example, the March 1, 1982, telex from Airfo GmbH to Airfo International requesting a quote for insurance for a shipment of a GCA Mann 4800 System from Boston to Budapest via Zurich demonstrates that the intent to ship the system to Hungary existed at the time Respondent told the U.S. exporter that the system was being purchased for end-use by I.H.A.M. in Belgium. While Respondent has sought to distance himself from the illegal diversion which took place with respect to the GCA Mann 4800 System, upon close examination, Respondent's answer show that it was his representation and action that gave an appearance of legitimacy to this transaction. In that answer Respondent admits that he was purchasing the GCA equipment for a Mr. H. Range, the Managing Director of Racommerz AF, a Swiss company. Respondent claims that Range asked him to set up and manage a semiconductor plant in Belgium. He also asserts that Range requested him to order the equipment for immediate delivery, even though the projected plant would not be ready for some time. Respondent also attempts to distance himself somewhat from I.H.A.M., stating that since I.H.A.M. "accepted that the equipment, after installation in Belgium, would be accessible for educational purposes intimates that I.H.A.M. was the purchaser of the GCA Mann 4800 System." He also asserts that the import certificate which he obtained from the Belgian government correctly shows that he, rather than I.H.A.M., is to receive the U.S.-origin goods in Belgium. Affidavits from officials of I.H.A.M. were submitted in an effort to establish that he was authorized to utilize I.H.A.M. letterhead in ordering the equipment. Respondent's actions at the time reflect the intent to show I.H.A.M. as the purchaser and user. Now it is clear that neither he nor I.H.A.M. was the purchaser or the end user, and he well knew that. The evidence, when considered in total, shows Respondent's "defense" is a sham. He consistently sought to convince the U.S. manufacturer that I.H.A.M. was the purchaser of the GCA Mann 4800 system. His communications to GCA were on I.H.A.M. letterhead and purportedly on behalf of I.H.A.M. In his March 17, 1982 cable to GCA's Swiss subsidiary, Respondent sought to provide a basis for why an institute such as I.H.A.M. would order a GCA Mann 4800 System. That cable clearly reflects that it was the school, and not the Respondent, which purportedly was purchasing the equipment. His recent statement (attached as document 3 to Respondent's answer) clearly establishes that I.H.A.M. was *not* purchasing the equipment ("I want to add that it occurred frequently that school stationery was used by professors for the purchase of equipment, *as far as this transactions* [sic] *did not have any influence whatsoever on the budget of the school* * * *." (Emphasis added.))

That I.H.A.M. did not order the GCA Mann 4800 System, and could not have placed an order for that system because of its cost, is also established by the statement of Mr. Broeckhove, another official of the school. Respondent simply used the letterhead stationary he obtained from I.H.A.M. in an attempt to give an appearance of legitimacy to the purchase of the GCA Mann 4800 System. His representations of urgency respecting the annual budget cycle and present fund availability were also totally false and made with the deliberate intent to mislead, since, in fact, the institution had no money's available nor proposed for the acquisition of such manufacturing equipment.

By admitting that he was purchasing the equipment at the request of Mr. H. Range of Racommerz AG, not at the request of I.H.A.M. Respondents own evidence shows that he caused OEA to be provided with materially false and misleading information of the intended end-user of the GCA Mann 4800 System. His false representations prevented the Export control mechanisms from determining the eligibility of the purchaser and/or end-user to acquire such equipment.

Despite his implicit admission to providing false information concerning the intended end-use of the GCA Mann 4800 System, Respondent claims that he was not involved in any conspiracy. The evidence leads to a different conclusion. A crucial aim of the conspiracy was to provide the appearance of an apparently legitimate end-user for the GCA Mann 4800 System. As shown above, Respondent went to great lengths during the time that the system was being ordered to make it appear that I.H.A.M. was its intended end-user. It was only long after the diversion took place that respondent acknowledged that, I.H.A.M. was not the true purchaser of the system. Simply put, Respondent's misleading representations and subsequent lack of candor materially assisted his associates in the diversion of the subject equipment. That his hands-on participation in the actual diversion from Zurich is not shown, does not release him from responsibility from all acts taken in fulfillment of the conspiracy, up to and including the transhipment to Budapest, Hungary.

The intent to have the system shipped to Budapest, Hungary, not Antwerp, Belgium, was clearly evidenced by the conspirators Kolleczek and Traxler on March 1, 1982. This date is important for, as the chronology reflects, on several occasions thereafter Respondent sought to convince both the U.S. exporter and OEA that the GCA Mann 4800 System was intended for end-use at I.H.A.M. Indeed, at no time during the ordering or shipping of the system did Respondent reveal that he was working on behalf of anyone other than I.H.A.M. Yet he had to know how the equipment was to be shipped, paid for, etc. Documents created contemporaneously with the ongoing conspiracy are entitled to much greater weight than the after-the-fact rationalizations attempted by Respondent. It was only after the scheme was uncovered that Respondent sought to distance himself from the various representations he made regarding the involvement of I.H.A.M. in this transaction. Contrary to his statements, Respondent was a knowing participant in the conspiracy.

Indeed, Respondent's answer includes several incomplete and otherwise misleading statements which cast question on his credibility. For example, one submission states that Respondent never provided any transportation instructions to Airfo's *New York* office. However, while Respondent may not have discussed the shipment with Airfo in New York, an exhibit shows that he discussed the shipment with Airfo's West German office.

Respondent's suggestion that he did not know what Range was advising Airfo also appears to be misleading. On March 19, 1982. Respondent provided the Belgian Import Certificate he had obtained to the Swiss subsidiary of GCA, which in turn telexed that document to its U.S. parent. On that same date, Range told Airfo that the Belgian Import Certificate had been sent to the United States. Simply put, the "coincidence" involving these two nearly simultaneous documents, containing information which was central to the overall purposes of the conspiracy, cannot be overlooked. Only one set of inferences can be drawn from the pattern of conduct. It is that

Respondent was working with Range and the others in the diversion scheme.

Respondent's final defense is that he believed the GCA Mann 4800 System was exported from the U.S. to GCA International in Switzerland and that in March 1982 Range told him the system was to be stored in Switzerland.

By letter dated June 18, 1982, reference was made to "recent telephone conversations and also to several telexes sent to your office * * *". What GCA International sought there was a written commitment from the Respondent for the installation of the GCA Mann 4800 System that had been shipped in April. On November 11, 1982 and January 26, 1983, GCA International again sought a response from the Respondent to its request for installation instructions. It was not until February 18, 1983, that Respondent even agreed to meet with GCA International to discuss installation of the system. Respondent's failure to respond to these numerous requests from GCA International is in marked contrast to his "latter day" assertions that he believed the system was under the control of the manufacturer and that he was waiting for installation in Belgium. Once again, Respondent's after-the-fact attempts to provide a justification for his actions, in connection with this illegal diversion scheme, simply do not comport with the evidence.

Findings

1. On or about February 5, 1982, the Respondent misrepresented to GCA International that he was a Professor of Digital Electronics at Stedelijke Industriele Hogeschool, Paardenmarkt 94, 2000 Antwerpen, Belgium and that he was requesting on the said school's behalf a price quotation from GCA for a Mann 4800 DSW (Direct Step on Wafer) System.

2. On or about February 9, 1982, the Respondent signed and caused to be sent a letter, dated February 9, 1982, to GCA Corporation, Bedford, Massachusetts, on the stationery of Stedelijke Industriele Hogeschool Antwerp ("I.H.A.M."), ordering one Mann 4800 DSW (Direct Step on Wafer) System and accessory equipment for the said school at a price of U.S. $608.100.

3. On or about February 12, 1982, the Respondent caused Emri J. Diosy, GCA Corporation to file an application for export license (No. A603641) with the OEA stating that the commodity to be exported, the Mann 4800 DSW, would be sold and shipped to Stedelijke Industriele Hogeschool, Antwerp, Belgium.

4. On or about March 1, 1982, Franz Traxler, Airfo GmbH, sent a telex dated March 1, 1982 to Respondents co-conspirators Michael A. Kolleczek and Airfo International, Inc., instructing them to make out the House Air Waybill ("HAWB") to Stedelijke Industriele Hochshul, Attn: Dr. D'Haens, Antwerp, Belgium, but to make out the Master Air Waybill ("MAWB") to Pro Air AG in Zurich, Switzerland and in the same telex Traxler requested that the co-conspirators Michael A. Kolleczek and Airfo International, Inc., obtain a quote for insuring the shipment from Boston to Zurich, then to Budapest, Hungary by truck.

5. On or about March 17, 1982, the respondent made and caused to be made and sent to Emri J. Diosy, GCA Corporation in Bedford, Massachusetts, and from Diosy to OEA, a telex, dated March 17, 1982, explaining the academic nature of Stedelijke Industriele Hogeschool and its relationship to "I.H.A.M.".

6. On or about March 18, 1982, the Respondent caused the Ministry of Economic Affairs of Belgium to prepare International Import Certificate No. USA–681, and caused the certificate to be sent to Emri J. Diosy, GCA Corporation in Bedford, Massachusetts, by misrepresenting to the Belgian authorities that the Mann 4800 DSW System would be imported into Belgium and that the total value of the import was 608.100 Belgian Francs.

7. On or about March 19, 1982, Franz Traxler, Airfo GmbH, Respondent Michael A. Kolleczek and Airfo International, Inc., caused Emri J. Diosy, GCA Corporation to resubmit the application for export license, A603641, to OEA, together with International Import Certificate No. USA–681 from the Belgian Ministry of Economic Affairs and the telex dated March 17, 1982, from the Respondent.

8. On or about March 23, 1982, the co-conspirators Michael A. Kolleczek and Airfo International, Inc., prepared, signed and caused to be sent to Emri Diosy, GCA Corporation in Bedford, Massachusetts a letter dated March 23, 1982, together with the Shipper's Export Declaration, and other Export documents advising that he (Kolleczek) had booked the shipment to the Mann 4800 DSW System on Swissair Flight SR 129 on March 29, 1982, from Boston to Zurich.

9. On or about March 26, 1982, the co-conspirators Michael A. Kolleczek and Airfo International, Inc., applied for and caused an insurance company, in New York, to issue cargo insurance for the Mann 4800 DSW System covering its transportation from Boston to Pro Air A.G., Zurich, Switzerland, and from Zurich, by truck, to Elektromodul, Abt. in Budapest, Hungary.

10. On or about March 30, 1982, the Respondent, Michael A. Kolleczek and Airfo International, Inc., caused the OEA, to issue Export License A603641 (expiration date—April 30, 1982) to GCA/Burlington Division in Bedford, Massachusetts for the export of a Mann 4800 DSW System and other items from the United States to Stedelijke Industriele Hogeschool in Antwerp, Belgium.

11. On or about March 29 and 30, 1982, ASL International Freight Forwarding Corp., Respondent Michael A. Kolleczek, and Airfo International, Inc., caused Swissair Airlines to transport the Mann 4800 DSW from Boston, Massachusetts to consignee Pro Air A.G., Zuerich Airport, Switzerland under Air Waybill No. 085–5976–3130.

12. On or about March 29, 1982, the Respondent, Michael A. Kolleczek, and Airfo International, Inc., caused GCA Corporation to prepare and send an invoice with the shipment of the Mann 4800 DSW System, noting on it Import Certificate No. USA 681 and the name Stedelijke Industriele Hogeschool as the buyer.

13. On or about March 29, 1982, the Respondent, Michael A. Kolleczek, and Airfo International, Inc., caused Emri J. Diosy, GCA Corporation to file with U.S. Customs Service in Boston, Massachusetts a Shipper's Export Declaration falsely representing that the ultimate destination of the Mann 4800 DSW System was the country of Belgium and that the ultimate consignee for the export was Stedelijke Industriele Hogeschool in Antwerp, Belgium.

14. On or about March 30, 1982, Respodent, Michael A. Kolleczek, and Airfo International, Inc., agreed to arrange for and cause the shipment from Basel to Zurich, Switzerland of accessory equipment including an environmental chamber for use with the same GCA Mann 4800 DSW System.

15. On or about Aprill 9, 1982, the co-conspirators, Michaiel A. Kolleczek and Airfo Internaitonal, Inc., sent invoice nos. 087 and 087–a to Airfo GmbH in Munich, West Germany, billing Airfo GmbH for the shipment of the Mann 4800 DSW System from Boston, Massachusetts to Pro Air A.G. in Zurich, Switzerland and for the cost of insuring the same cargo from Boston, Massachusetts to Elektromodul in Budapest, Hungary.

16. As a part and in furtherance of the conspiracy, the Respondent ordered the semiconductor manufacturing equipment from GCA Corporation, allegedly for export to and use in Antwerp, Belgium.

17. It was part of the conspiracy that the Respodent made and caused to be made false statements and representations on documents and forms which were sent and submitted by GCA Corporation from Bedford, Massachusetts to the Office of Export Administration, U.S. Department of Commerce, to influence action by OEA and to obtain a validated export license from OEA.

18. It was a further part of the conspiracy that the Respondent and the other co-conspirators made and caused to be made false statements and representations in documents and forms which were sent and submitted by GCA Corporation to U.S. Customs Service in Boston, to influence action by the U.S. Customs Service and to effect the export of the semiconductor manufacturing equipment.

19. Respondent made and caused to be made, false statements to the Ministry of Economic Affairs, Belgium, in order to influence action by such Ministry of Economic Affairs and by the Office of Export Administration, U.S. Department of Commerce.

20. As part of the conspiracy the Respondent caused to be exported semiconductor manufacturing equipment to an intermediate consignee Pro Air A.G., a freight forwarder, in Zurich, Switzerland, for further transport by truck to Budapest, Hungary.

21. In 1982, the President of the United States was authorized by Congress to further United States foreign policy and to maintain national security by restricting and controlling the commercial export of goods which would make a significant contribution to the military potential of any other country or combination of countries, such goods being designated in the Commodity Control List, Title 15, Code of Federal Regulations ("CFR"), § 399.1, and by delegating the responsibility for administering the commercial export of the goods on the Commodity Control List to the Office of Export Administration in the Department of Commerce.

22. In 1982, the Office of Export Administration ("OEA"), International Trade Administration, U.S. Department of Commerce was an agency of the United States charged with the authority to issue validated export licenses for the export of certain commodities to controlled countries under the Export Administration Act of 1979 (50 U.S.C. App. 2401 *et seq.*), as extended by Act of Congress, Pub. L. 98–108 (October 1, 1983).

23. At that time a person desiring to export commodities contained on the Commodities Control List was required to obtain a validated license issued by OEA before exporting the commodity from the United States, except where the export was authorized under a general license.

24. The Mann 4800 DSW (Direct Step on Wafer) system was a high technology system, with application to military uses, and was included on the Commodity Control List; the export of this commodity from the United States to a country other than Canada was not authorized under general license, and before any such export could be made, a validated license to the ultimate destination, (Budapest, Hungary) was required but was not obtained.

Based on the foregoing;

I find that the Respondent acting in conspiracy with others obtained U.S. semiconductor manufacturing system (a GCA Mann 4800) and a license to export same by falsely representing its destination and end users and did thereafter effect its diversion to Hungary without the required validated license to that country in violation of § 387.3 of the Regulations.

I further find that Respondent falsely represented he was purchasing a semiconductor manufacturing system on behalf of Stedelijke Industriele Hogeschool (I.H.A.M.) Antwerp, Belgium and falsely obtained and filed an import certificate from the Belgium government, representing that I.H.A.M. was the ultimate consignee, what he knew to be materially false, all in violation of § 387.5 of the Regulations.

I also find that Respondent in furtherance of the conspiracy, aided and abetted the violation whereby the semiconductor manufacturer system was reexported from Zurich, Switzerland to Budapest, Hungary, contrary to the terms' of the export license and in violation of § 387.2 of the regulations.

Conclusion

Though this Respondent asserts that he was not a party to the alleged diversion of the identified controlled equipment, to Hungary. The evidence demonstrates otherwise. His after the fact disclaimers are at odds with reality. The purchase of sophisticated semiconductor equipment of a value in excess of one-half million dollars was not a casual hardware store type purchase. The school had no such resources available and its pre-approval processes had not been utilized. Clearly the school never contemplated the purchase that was represented by Respondent. The use and verification of the school as the purchaser was a fraud perpetrated by Respondent. It was also the principal and first step in the diversion. His failure, or more properly, his refusal, to communicate with the manufacturer for almost a year after delivery in Europe indicates continuing guilty knowledge and participation by him. The criminal conviction after a trial by jury of the co-conspirators Michael A. Kolleczek and Airfo International, Inc., is also appropriately for consideration here, for the Respondent here was an indicated co-defendant and is a fugitive in that criminal conspirarcy proceeding (USDC, District of Massachusetts Criminal #83–002249MC).

The bare representation that Respondent was acquitted by a Belgium court of charges based upon the same acts is of interest but is not relied upon because it is an unsupported representation. Like the conviction of the co-conspirators it wouldl be appropriate to consider if there were some supporting records. In any event the result here is based on this record which compels the findings of misconduct as charged, by more than a preponderance of the evidence.

It is unfortunate that there has been extensive unexplained delay here, particulatly from the May, 1984 criminal conviction to the April 1987 charging letter. In other cases I have railed against such unnecessary delay which I will not reiterate here. The Respondent has shown no prejudice from such continuations.

Respondents submissions showing of his background as a researcher, scientist academician and military officer serve for naught in the face of what has been shown and admitted here. He is neither the first nor the last to sell himself and his reputation of a handful of silver. He must suffer the consequences of his own deception. In light of the fact that the GCA Mann 4800 System is controlled for reasons of national security and would not be licensed for export to Hungary, it is appropriate to impose a long term denial of Respondent's export privileges as a sanction for these violations.[1]

Order

I. For a period of 20 years from the date of the final Agency action, Respondent: Joseph P.M. d'Haens, Amerikalei 96, 2000 Antwerp, Belgium and all successors, assigness, officers, partners, representatives, agents, and

[1] Historically, the term "indefinite" which agency counsel requests meant until questions were answered on some conditions corrected. "Permanent" was the term used for those to be barred for all time. That latter term has caused problems in managing the list of denied parties. Twenty years should serve the interest of justice here.

employees hereby are denied all privileges of participating, directly or indirectly, in any manner of capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction either in the United States or aboard, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such a denial of export privileges shall extend to matters which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent(s)'s privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly, or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill or lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(b) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VI. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. App 2412(c)(1)).

Dated: March 25, 1988.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 88-9572 Filed 4-29-88; 8:45 am]

BILLING CODE 3510-DT-M

[Case No. OEE-2-88]

Export Privileges; Samata S.A. et al.

In the matter of Mario Brero, individually with an address at: La Chenalettaz, CH-1096 Treytorrens, Switzerland, and doing business as Samata S.A., 36 Rue de Montchoisy, CH-1207 Geneva, Switzerland, Marli S.A., 3 Chemin Taverney, CH-1218 Geneva, Switzerland, Graphic Data Products S.A., 3 Chemin Taverney, CH-1218 Geneva, Switzerland, Fincosid S.A., Galleria Benedettini, CH-6500 Bellinzona, Switzerland, Tourimex S.A., Via Bordemo, CH-6596 Gordola, Switzerland and Lilly Merchandising Co., Taborstrasse, Vienna, Austria, Respondents.

Order Temporarily Denying Export Privileges

The Office of Export Enforcement, Bureau of Export Administration,[1] United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations, 15 CFR Parts 368-399 (1987) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended, 50 U.S.C. app. 2401-2420 (1982 and Supp. III 1985) (the Act), has asked the Deputy Assistant Secretary for Export Enforcement, in his capacity as the individual who performs the duties of the Assistant Secretary for Export Enforcement, when, as is presently the case, that position is vacant,[2] to issue an order temporarily denying all United States export privileges to Mario Brero, individually and doing business as Samata S.A., and to Marli S.A., Graphic Data Products S.A., Fincosid S.A., Tourimex S.A. and Lilly Merchandising Co. (hereinafter collectively referred to as respondents).

The Department states that, as a result of an ongoing investigation, it has reason to believe that respondents are involved in a scheme to obtain controlled U.S.-origin commodities from the United States, take possession of them in Switzerland and then reexport them, oftentimes to proscribed destinations. The Department has reason to believe that, in carrying out their scheme, respondents have provided false and misleading statements of material fact concerning the intended end-users of U.S.-origin equipment respondents ordered from the United States. In fact, it appears that the Western European companies identified by respondents as being the intended end-users had no involvement in the transactions. Once the U.S.-origin goods were received by respondents in Switzerland, the Department has reason to believe that respondents reexported the goods to end-users in the Soviet bloc.

The U.S.-origin goods which respondents obtained from the United States are controlled for reasons of national security. The Department also states that its investigation has given it

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[1] On October 1, 1987, in accordance with the pertinent provisions of the Export Administration Act of 1979, as amended, and a Departmental directive from Bruce Smart, then-Acting Secretary of Commerce, implementing those provisions, the Office of Export Enforcement was moved within the Department from the International Trade Administration of the United States Department of Commerce to the Bureau of Export Administration of the United States Department of Commerce. The functions and scope of authority of the Bureau of Export Administration are set forth in Department Organization Order (DOO) 50-1, issued on March 23, 1988.

[2] The reorganization which created the Bureau of Export Administration also created the positions of Under Secretary for Export Administration and Assistant Secretary for Export Enforcement. *See also* DOO 10-16 (issued on March 10, 1988).

As a result, the Assistant Secretary for Export Enforcement is now the Department official who issues temporary denial orders. *See* DOO 50-1. At present, however, this position is vacant. Pursuant to DOO 50-1, the Deputy Assistant Secretary for Export Enforcement is the Department official who is to perform the duties of the Assistant Secretary when that position is vacant.

reason to believe that respondents Brero and Samata currently have in their possession and control U.S.-origin commodities which are controlled for reasons of national security.

The Department believes that respondents' past activities, coupled with its belief that respondents Brero and Samata currently possess and control U.S.-origin goods, establish that the violations of the Act and the Regulations which they are suspected of having committed and which the Department is presently investigating were deliberate and covert and are likely to occur again unless appropriate action is taken to reduce the likelihood that respondents can continue to acquire U.S.-origin goods either inside or outside of the United States. The Department believes that respondents' activities show a clear pattern of disregard for the Act and the Regulations.

Furthermore, the Department believes that in order to reduce the likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations, a temporary denial order naming Mario Brero, Samata S.A., Marli S.A., Graphic Data Products S.A., Fincosid S.A., Tourimex S.A. and Lilly Merchandising Co. is necessary to give notice to companies in the United States and abroad that they should cease dealing with these parties in transactions involving U.S.-origin goods.

Therefore, based on the showing made by the Department, I find that an order temporarily denying export privileges to the respondents is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with the respondents in goods and technical data subject to the Act and the Regulations in order to reduce the substantial likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations. This order is issued on an *ex parte* basis without a hearing based on the Department's showing that expedited action is required.

Accordingly, it is hereby Ordered

I. All outstanding individual validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of respondents' privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Respondents Mario Brero, individually with an address at La Chenalettaz, CH–1096 Treytorrens, Switzerland, and doing business as Samata S.A., 36 Rue de Montchoisy, CH–1207 Geneva, Switzerland; Marli S.A. and Graphic Data Products S.A., both with an address at 3 Chemin Taverney, CH–1218 Geneva, Switzerland; Fincosid S.A., Galleria Benedetini, CH–6500 Bellinzona, Switzerland; Tourimex S.A., Via Bordemo, CH–6596 Gordola, Switzerland; and Lilly Merchandising Co., Taborstrasse, Vienna, Austria, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.10(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of Administrative Law Judges, U.S. Department of Commerce, Room H–6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order is effective immediately and shall remain in effect for 60 days.

VII. In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this temporary denial order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order. By written submission, any respondent may also request that a hearing be held on the renewal request.

A copy of this Order and of Parts 387 and 388 of the Regulations shall be served on each respondent and this order shall be published in the **Federal Register.**

Dated: April 22, 1988.

William V. Skidmore,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 88–9610 Filed 4–29–88; 8:45 am]

BILLING CODE 3510–DT–M

Machine Tool Special Issue Licenses; Request for Comments

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for special issue licenses under Article 10 of the Arrangement Between the Coordination Council for North American Affairs and the American Institute in Taiwan Concerning Trade in Certain Machine Tools.

DATE: Comments must be submitted no later than May 12, 1988.

ADDRESS: Send all comments to John A. Richards, Director, Office of Industrial Resource Adminstration, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Room 3878, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Office of Industrial Resource Administration, Department of Commerce, Room 3878, Washington, DC, 20230, (202) 377–3984.

SUPPLEMENTARY INFORMATION: Paragraph 10 of the Arrangement Between the Coordination Council for North American Affairs and the American Institute in Taiwan Concerning Trade in Certain Machine Tools provides for the issuance of special issue licenses for the importation of machine tools covered by the Arrangement. Such licenses may be issued when it is determined "that the attainment of the objectives of this Arrangement requires the importation * * * of arrangement products in excess of the applicable export limit." Special issue licenses are granted for a limited time period and for a specified number of machines.

The Department has received a request for special issue licenses to import 72 milling machines with facing for numerical controls from Taiwan over the next twelve months. The milling machines meet the following specifications: spindle speeds of 0–1200 rmps, 0–2667 rpms and 0–7200 rmps on low, medium and high speeds, respectively; feed rates of 0.1–70" /min cutting and 100"/min rapid; x-axis table travel of 14", y-axis of 10" and z-axis of 14"; accuracies of +/−0–00015" repeatability, +/− 0.0005 position, +/− 0.0002" roundness and +/− 0.0002" cylindricity; table size of 28.7" × 10"; and throat distance of 10.63". Other relevant characteristics are: (1) Stepping motor, (2) tooling CV–30 (BT–30), (3) 2HP DC spindle motor, and (4) capacity of maximum ¾" end mill.

Any party interested in commenting on this request should send written comments as soon as possible, and not later than May 12, 1988.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–009 at the above address, (202) 377–1248.

Joseph A. Spetrini,

Acting Assistant Secretary, for Import Administration.

April 27, 1988.

[FR Doc. 88–9670 Filed 4–29–88; 8:45 am]

BILLING CODE 3510–05–M

Short-Supply Review on Certain Carbon Steel Billets; Request For Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, the U.S.-Spain Arrangement Concerning Trade in Certain Steel Products, and the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products, with respect to certain carbon steel billets suitable for rolling into wire rod.

DATE: Comments must be submitted no later than May 12, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377 0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, the U.S.-Spain Arrangement Concerning Trade in Certain Steel Products, and the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products provide that if the U.S. determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products.

We have received a short-supply request for the following types of carbon steel billets, made in basic oxygen furnaces and suitable for rolling into wire rod, with a square cross section of 5⅛ inches on each side and a length of 50 feet:

(1) AISI grade 12L14;

(2) AISI grades 1006, 1022, 1080, and 1541 aluminum killed, fine grain; and

(3) AISI grades 1008 and 1010 modified, fully rimmed.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than May 12, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce, at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88–9671 Filed 4–29–88; 8:45 am]

BILLING CODE 3510–DS–M

National Technical Information Service

Intent To Grant Exclusive Patent License; Safe Water, Inc.

The National Technical Information Service (NTIS), United States Department of Commerce, intends to grant to Safe Water, Inc., having a place of business at Williamsburg, Virginia, an exclusive license in the United States to use the invention entitled "Gas Content Determination of Evaporite Formations Using Acoustic Emissions During Dissolution," United States Patent No. 4,679,435 (Application Serial Number 6–

838,490). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of the Interior.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Charles A. Bevelacqua, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, Department of Commerce.

[FR Doc. 88-9681 Filed 4-29-88; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Army

Office of the Assistant Secretary

Army Science Board; Closed Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 23-24 May 1988.

Time:

0830-1700 hours, 23 May 1988, Fort Hunter-Liggett, CA.

0830-1700 hours, 24 May 1988, Fort Ord, CA.

Place: Fort Hunter-Ligget, CA and Fort Ord, CA.

Agenda: The Army Science Board 1988 Summer Study on Army Testing will meet for the purpose of gathering facts in phase IV of the study. The opening session will be devoted to a visit to the Combat Development Evaluation Command, Fort Hunter-Liggett, CA to obtain an overview of the mission and role of a test organization, assess the T&E planning and execution processes used to estimate operational effectiveness and suitability of Army materiel, and tour environment as operationally realistic as possible. The session at Fort Ord, CA will be devoted to the summarizing of notes and report writing efforts. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-9611 Filed 4-29-88; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: May 26, 1988.

Time of Meeting: 0930-1700 hours.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board's Ad Hoc Subgroup on Competition in Contracting will meet to gather facts for the study. This meeting will be open to the public. Any person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-9626 Filed 4-29-88; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

Intent To Repay to the Iowa Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA) (20 U.S.C. 1234e), the Secretary of Education (Secretary) intends to repay to the Iowa Department of Education (SEA) under a grantback arrangement an amount equal to 75 percent of funds recovered by the Department of Education as a result of a final audit determination. This notice describes the SEA's plans for the use of funds which the Secretary intends to repay and the terms and conditions under which the Secretary intends to make these funds available and invites comments on the proposed grantback.

DATE: All written comments should be received on or before June 1, 1988.

ADDRESS: All written comments should be submitted to Dr. Thomas L. Johns, Director, Policy Analysis Staff, Office of Vocational and Adult Education, U.S. Department of Education, (Room 620, Reporters Building), 400 Maryland Avenue SW., Washington, DC 20202-5609.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas L. Johns, (202) 732-2237.

SUPPLEMENTARY INFORMATION:

A. Background

In September, 1986, the Department of Education recovered $78,018 from the SEA in satisfaction of an audit, covering the period from July 1, 1980 to June 30, 1981. The auditors examined the accounting procedures, and system of internal controls of the SEA in expending funds under the Vocational Education Act of 1963 (VEA), as amended, 20 U.S.C. 2301 *et seq.*

The auditors issued the following finding:

The SEA did not maintain adequate time distribution records to substantial payroll costs charged to the Vocational Amendment Act Fund (Account Number 733) in fiscal year 1981. Several employees with varying percentages of duties and responsibilities were 100 percent funded from the 733 account.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the State agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the SEA that resulted in the audit determination have been corrected, and that the SEA in all other respects, is in compliance with the requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of the funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Agreement

Pursuant to section 456(a)(2) of GEPA, the SEA has applied for a grantback of $58,513 and has submitted a plan to use the proposed grantback funds consistently with sections 113 and 251 of the Carl D. Perkins Vocational Education Act (Perkins Act), 20 U.S.C. 2301 *et seq.* (Supp. II 1984). The audit findings against the States Board resulted from improper expenditures of VEA funds. However, since the Perkins Act has superseded the VEA, the State Board's proposal reflects the requirements of the Perkins Act.

The SEA proposes to use grantback funds for improvement of curriculum by paying the costs of State participation in two curriculum development consortia:

(1) The development of applied mathematics curriculum materials by the Center for Occupational Research and Development, Waco, Texas; and

(2) The development of applied communications curriculum materials by the Agency for Industrial Technology, Bloomington, Indiana.

D. The Secretary's Determination

The Secretary has carefully reviewed the request for repayment of funds, the plan, and other information submitted by the SEA. Based upon that review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

E. Notice of the Secretary's Intent to Enter into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least thirty days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with the requirement of section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Iowa Department of Education under a grantback arrangement. The grantback award would be in the amount of $58,513 which is 75 percent of the $78,018 recovered by the Department as a result of the finding described above.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will be Made

The SEA agrees to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements; and

(b) The plan that was submitted in conjunction with the grantback request dated May 8, 1987, as amended on September 22, 1987, and any other amendments to that plan that are approved in advanced by the Secretary.

(2) All funds received under the grantback arrangement must be expended not later than September 30, 1989, in accordance with section 456(c) of GEPA and the SEA's plan.

(3) The SEA must, not later than December 30, 1989, submit a report to the Secretary which—

(a) Indicates how the funds awarded under the grantback have been used;

(b) Shows that the funds awarded under the grantback have been liquidated; and

(c) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.048, Basic State Grants for Vocational Education)

Dated: April 26, 1988.

William J. Bennett,

Secretary of Education.

[FR Doc. 88-9680 Filed 4-29-88; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88-21-NG]

Application to Import Gas From Canada and Mexico; Amagas Resources, Inc.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 8, 1988, of an application filed by AMAGAS Resources, Inc. (AMAGAS), to import up to 100 Bcf of Canadian and/or Mexican natural gas for short-term or spot sales in the U.S. domestic market.

AMAGAS, a Delaware corporation with its principal place of business in Houston, Texas, requests authority to import the gas over a two-year term and intends to use only existing pipeline facilities. AMAGAS purposes to file quarterly reports with the ERA giving the name of the purchaser and seller for each transaction including prices and volumes.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than June 1, 1988.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9590

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person

may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., June 1, 1988.

The administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to the decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of AMAGAS' application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 25, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–9599 Filed 4–29–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. G–2623–000 et al.]

Notice of Applications for Abandonment of Service and To Amend Certificates [1]; Phillips 66 Natural Gas Co. et al.

April 27, 1988

Take notice that each of he Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to abandon service or to amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 12, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G–2623–000, D, Apr. 18, 1988	Phillips 66 Natural Gas Company, 990–G Plaza Office Building, Bartlesville, OK 74004.	Panhandle Eastern Pipe Line Company, South Guymon & Hugoton Fields, Sherman and Hansford Counties, Texas, and Texas County, Oklahoma.	(1)
G–2645–000, D, Apr. 18, 1988	....do....	....do....	(1)
CI61–1429–015, D, Apr. 13, 1988	Sun Exploration & Production Company, P.O. Box 2880, Dallas, TX 75221–2880.	El Paso Natural Gas Company, Langlie Mattix Field, Lea County, New Mexico.	(2)
CI61–1429–016, D, Apr. 13, 1988	....do....	Jalmat *et al.* Fields, Lea County, New Mexico	(3)
CI61–1429–017, D, Apr. 13, 1988	....do....	S. Leonard *et al.* Fields, Lea County, New Mexico	(3)
CI61–1429–018, D, Apr. 18, 1988	....do....	Langlie Mattix *et al.* Fields, Lea County, New Mexico	(3)
CI81–443–001, D, Apr. 18, 1988	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221.	Panhandle Eastern Pipe Line Company, Spooney (Lower Morrow) Field, Hansford County, Texas.	(4)
CI88–411–000, (CI67–288) B, Apr. 11, 1988.	Mesa Operating Limited Partnership, P.O. Box 2009, Amarillo, TX 79189–2009.	Colorado Interstate Gas Company, O.M. Hemphill #1, Sec. 29–T34S–R42W, Greenwood Field, Morton County, Kansas.	(5)
CI88–423–000 (CI66–1128), B, Apr. 15, 1988.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Williams Natural Gas Company, South Bishop Field, Roger Mills County, Oklahoma.	(4)
CI88–427–000 (G–13632), B, Apr. 19, 1988.	Mobil Producing Texas & New Mexico Inc.	West Texas Gathering Company, S. Kermit Field, Winkler County, Texas.	(6)

[1] The Lewter No. 2 well located in Sec. 25–2N–15ECM, Texas County, Oklahoma, has been plugged and abandoned. Production has ceased and no further development is expected from the acreage involved.

[2] Effective 1-2-86, Sun assigned its interest in Property No. 437466, Cooper Jal Unit (partical interest), to Doyle Hartman, James A. Davidson, Michael L. Klien, and Hohn H. Hendrix Corporation.
[3] Effective 1-2-86, Sun assigned certain properties to Doyle Hartman, James A. Davidson, Michael L. Klein and John H. Hendrix Corporation.
[4] Effective 1-1-87, ARCO assigned its interest in certain acreage to Hondo Oil and Gas Company.
[5] Effective 9-1-85, Mesa Operating Limited Partnership assigned certain acreage to Kaiser-Francis Oil Company.
[6] Reserves depleted, well plugged, and lease expired.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 88-9602 Filed 4-29-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CS71-92-000 et al.]

Applications for Small Producer Certificates [1]; Temex Energy, Inc. (Amarex, Inc.) et al.

April 27, 1988.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and section 157.40 of the Commission's Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 11, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS71-92-000	4-14-88 [1]	Temex Energy, Inc. (Amarex, inc.), 400 Templeton Energy Center, 333 North Belt, Houston TX 77060
CS71-446	11-23-87 [2]	Mary Patricia Dougherty, *et al.* (Mrs. James R. Dougherty, *et al.*) c/o Graves, Dougherty, Hearon & Moody, P.O. Box 98, Austin, TX 78767
CS72-875	4-14-88 [3]	Barron Ulmer Kidd, Trustee; Helen Ulmer Van Atta; BeeKay Company and BeeKay Company, Inc. (Barron Kidd, BeeKay Company and BeeKay Company, Inc.), Suite 500, Two Turtle Creek Village, Dallas TX 75219
CS88-54-000	4-12-88 [4]	C & H Production, Inc., 629 Ashbourne Drive, Shreveport, LA 71106
CS88-55-000	3-28-88	American Cometra, Inc., 500 Throckmorton Street, Suite 2500, Fort Worth, TX 76102
CS88-56-000	3-28-88	William J. Green, P.O. Box 1465, Midland, TX 79701
CS88-57-000	3-28-88	Laguna Petroleum Corporation, P.O. Drawer 2758, Midland, TX 79702

[1] By letter dated April 11, 1988, Applicant states it has acquired all of the properties of Amarex, Inc. (Amarex) and that Amarex has ceased to exist. Applicant requests that the small producer certificate issued to Amarex in Docket No. CS71-92 be redesignated under the name of Temex Energy, Inc.
[2] By letter dated November 18, 1987, as supplemented by letter dated March 30, 1988, received April 5, 1988, Applicant requests redesignation of the small producer certificate in Docket No. CS71-446 in the names of Mary Patricia Dougherty, Stephen Tarlton Dougherty, James R. Dougherty III, Patricia Calhoun Uhr, Ben F. Vaughan, III, individually and as Independent Executor of the Estate of Ben F. Vaughan, Jr., May Dougherty King, Genevieve Vaughan, Bruce Beverly Baxter III 1960 Trust, Carolyn Baxter Pauley, Frances Rachael Carr 1960 Trust, and F. William Carr, Jr. 1960 Trust.
[3] Letter dated April 14, 1988, requesting that the small producer certificate in Docket No. CS72-875 be amended to remove the name of Barron Kidd and instead add the names of his successors-in-interest, Barron Ulmer Kidd, Trustee, and Helen Ulmer Van Atta. Applicant states that Barron Ulmer Kidd is the son of Barron Kidd; that Helen Ulmer Van Atta is the mother of Barron Ulmer Kidd; and that Barron Ulmer Kidd is Trustee for his children Jane de Doliete Kidd, Barron du Pont Kidd, Elizabeth Le Dee Kidd and Ellet de Lacy Kidd under a Qualified Terminable Interest Properties Trust.
[4] Application received March 21, 1988. Filing date is date of receipt of filing fee.

[FR Doc. 88-9603 Filed 4-29-88; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $2,700 obtained as a result of a Consent Order which the DOE entered into with Alemany Chevron Service Center (Alemany), a retailer of motor gasoline located in San Francisco, California and $6,199.19 obtained through a settlement agreement with Lee Garrett Chevron (Garrett), a motor gasoline retailer located in Whittier, CA. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for Refund from the Alemany and Garrett escrow funds must be filed in duplicate and must be received on or before August 1, 1988. All Applications for Refund from these escrow funds should refer to Case Number KEF-0023 for Alemany or KEF-0040 for Garrett and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Matthew E. Paul, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6602.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to settlement

agreements entered into by the DOE and Alemany Chevron Service Center (Alemany) and Lee Garrett Chevron (Garrett) that settled all claims and disputes between the firms and the DOE regarding the firms' compliance with federal price regulations in their sales of motor gasoline during the periods August 1, 1979, through January 31, 1979 for Alemany and August 2, 1979, through August 26, 1980 for Garrett (the audit periods). A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the firms' escrow funds was issued on Februry 23, 1988. 53 FR 7017 (March 4, 1988).

The Decision set forth procedures and standards which the Office of Hearings and Appeals (OHA) of the DOE has formulated to distribute the contents of the escrow accounts pursuant to the settlement agreements. OHA has determined that a portion of the escrow funds should be distributed to firms and individuals that purchased motor gasoline from Alemany and Garrett during the audit periods. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of motor gasoline from either Alemany of Garrett and to demonstrate that it was injured by that firms's alleged regulatory violations. The specific requirements for proving injury are set forth in the following Decision and Order. Applications for Refund will now be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Residual funds in the escrow accounts will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99–509, Title III.

Dated: April 26, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order

April 26, 1988.

Names of Firm: Alemany Chevron Service Center, Lee Garrett Chevron

Dates of Filing: March 28, 1986, June 3, 1986

Case Numbers: KEF–0023, KEF–0040

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. On March 28, 1986, and June 3, 1986, ERA filed Petitions for the Implementation of Special Refund Procedures in connection with funds received from Alemany Chevron Service Center (Alemany) and Lee Garrett Chevron (Garrett).

I. Background

Both firms were "retailers" of motor gasoline as that term was defined in 10 CFR 212.31. Alemany was located in San Francisco, California and Garrett in Whittier, California. DOE audits of the firms' records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. On the basis of an audit of Alemany's operations, the ERA alleged that between August 1, 1979, and January 30, 1980, the firm committed violations of the DOE's pricing regulations with respect to its sales of motor gasoline. As a result of its audit of Garrett, the ERA alleged similar violations for the period August 2, 1979, to August 26, 1980. The period of time covered by these audits is referred to as the "audit periods". In order to settle all claims and disputes between the firms and the DOE regarding the firms' compliance with the Mandatory Petroleum Price and Allocation Regulations during the audit periods, the firms and the DOE entered into two settlement agreements, one on January 11, 1985 and the other on October 1, 1985. Alemany and the DOE entered into a Consent Order which refers to ERA's allegations of regulatory violations, but states that Alemany does not admit committing any such infractions. Under the terms of the Consent Order, Alemany was required to deposit $2,700 into an interest-bearing escrow account for ultimate distribution by the DOE. These consent order monies have been paid in full.

With regard to Garrett, ERA issued a Proposed Remedial Order (PRO) on January 23, 1981. The OHA issued the PRO as a final Remedial Order (RO) on June 15, 1983. The RO required Garrett to remit $8,550.35, plus interest, to the DOE. Garrett did not remit the funds, and subsequently was offered participation in the ERA Administrator's September 1981 Gasoline Retailer Settlement Program. In order to participate in the program, Garrett would be required to remit $4,275.17, plus interest, and a civil penalty of $128.26. Garrett originally refused this offer. The offer, however, was extended again on September 26, 1985, and Garrett accepted at that time. Final payment of these monies has been received.[1] This Decision concerns the distribution of the funds received from Alemany and Garrett.

II. Final Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged or actual regulatory violations, or to ascertain readily the level of injury sustained by such persons. A more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds is set forth in the cases of *Office of Enforcement,* 9 DOE ¶ 82,508 (1981), and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

As in other Subpart V cases, we will use the funds currently in escrow to provide refunds to claimants who demonstrate that they were injured by the firms' alleged or actual regulatory violations during the audit periods. Residual funds in the escrow accounts will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Pub. L. No. 99–509, Title III. *See* 51 FR 43964 (December 5, 1986).

A. Calculation of Refund Amounts

In order to determine the potential refund amounts for applicants in this proceeding, we have adopted a volumetric refund presumption. The volumetric refund presumption assumes that alleged or actual overcharges were spread equally over all gallons of motor gasoline that Alemany and Garrett, respectively, sold during the audit periods.[2]

Under the volumetric method, a claimant that adequately demonstrates injury will be eligible to receive a refund equal to the number of gallons of motor gasoline that it purchased from the firms during the audit periods times a specific volumetric factor for each firm. The volumetric factor is the per gallon refund amount and in this case equals $.00540

[1] Garrett remitted a total of $6,199.19. As of January 31, 1988, the Garrett settlement funds had accrued $912.88 in interest.

[2] Because we realize that the impact on an individual claimant may have been greater than the volumetric amount, we will allow any purchaser to file a refund application based upon a claim that an allocation amount should be used in considering its refund application. *See, e.g.,* Standard Oil Co./Army and Air Force Exchange Service, 12 DOE ¶ 85,015 (1984).

per gallon for purchases from Alemany and $0.01237 per gallon for purchases from Garrett.[3] In addition, successful claimants will receive proportionate shares of the interest that has accrued on the escrow accounts.

B. End-User Presumption of Injury

The assignment of potential refund amounts to claimants is only the first step in the distribution process. We must also determine whether these claimants were forced to absorb the alleged overcharges. As we have done in many prior refund cases, we have adopted a presumption that end users were injured by the firms' alleged or actual pricing violations. This presumption is used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible. Because both firms were retailers of motor gasoline, it is not necessary for us to adopt other injury presumptions, such as reseller and retailer small claims presumptions, which we have used in past proceedings.

As noted above, we presume that end users of Alemany and Garretts' motor gasoline were injured by the alleged or actual overcharges. It is likely that many purchasers of motor gasoline from these firms were individual motorists who were forced to absorb the alleged or actual overcharges involved. Moreover, the firms' other customers, unlike regulated firms in the petroleum industry, generally were not subject to price controls during the audit periods. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. An analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would therefore be beyond the scope of a special refund proceeding. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984), and cases cited therein. Consequently, end users of the firms' motor gasoline will only have to document their purchase volumes from the firms to demonstrate injury.

III. Applications for Refund

We will now accept Applications for Refund from purchasers of motor gasoline sold by Alemany or Garrett during the audit periods. The information each applicant must provide is summarized below.

(1) An applicant must make a conspicuous reference to the firm from whose escrow funds it is seeking a refund—either "Alemany: Case No KEE–0023" or "Garrett: Case No. KEE–0040". An applicant must also provide its present firm name and address, and its firm name and address during the refund period. Individuals applying for refunds should provide their own name and address.

(2) An applicant must provide the name, title, and telephone number of a person who may be contacted for additional information concerning the application.

(3) An applicant must submit a monthly schedule of the number of gallons of motor gasoline that it purchased from the firm from whose escrow funds it is seeking a refund (Alemany or Garrett) during the audit periods.[4]

(4) An applicant must indicate if it was or is in any way affiliated with the firm from whose escrow funds it is seeking a refund (Alemany or Garrett). If so, the applicant must provide an explanation of the nature of its affiliation.

(5) If the applicant's firm has changed ownership since the audit period, the applicant must provide a detailed explanation of the change in ownership as well as the names and addresses of all previous and subsequent owners.

(6) An applicant must indicate whether it or a related firm had filed any other Application for Refund in the proceeding involving the firm from whose escrow funds (Alemany or Garrett) it is seeking a refund. The applicant must also indicate whether it has authorized any other individual(s) to file an Application for a Refund on the applicant's behalf in that proceeding (Alemany or Garrett).

(7) Each applicant must indicate whether it is or has been involved in any DOE enforcement proceedings or private actions filed under § 210 of the Economic Stabilization Act. If these actions have been concluded, the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must inform OHA of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

(8) An applicant must include the following statement signed by the applicant, a responsible official of the firm or authorized person claiming a refund: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the Federal Government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001."

All Applications for Refund should be sent to: Alemany/Garrett Proceedings, Case Nos. KEE–0023, KEE–0040, Office of Hearings and Appeals, Department of Energy, HG–1, 1000 Independence Avenue SW., Washington DC 20585.

Each claimant must file *two copies* of its Application for Refund within 90 days of the date this Decision and Order is published in the **Federal Register.** A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any claimant that believes that its Application for Refund contains confidential information must submit two additional copies of the application from which the confidential information has been deleted, together with a statement specifying why the information is confidential.

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Alemany Chevron Service Center and by Lee Garrett Chevron pursuant to settlement agreements on March 28, 1986 and June 3, 1986 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

George B. Breznay,

Director, Office of Hearings and Appeals.

Date: April 26, 1988.

[FR Doc. 88–9683 Filed 4–29–88; 8:45 am]

BILLING CODE 6450–01–M

[3] These figures are computed by dividing the monies received from the firms by the gallons of motor gasoline sold by the firms during the audit periods. Alemany remitted $2,700 and sold an estimated volume of 500,094 gallons. Garrett remitted $6,199.19 and sold an estimated volume of 501,238 gallons.

As in previous cases, only claims for at least $15 in principal will be processed. This minimum has been adopted because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g.*, Uban Oil Co., 9 DOE at 85,225. *See also* 10 CFR 205.286(b).

[4] Because we will not process claims for less than $15 in principal, *see supra* note 2, an applicant must have purchased at least 2,688 gallons of motor gasoline from Alemany or 1,173 gallons of motor gasoline from Garrett during the audit period in order to receive a refund.

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-140094; FRL-33731]

Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, InterAmerica Research Associates (IRA) of McLean, VA for access to information which has been submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or chemical mixtures may present an unreasonable risk of injury to human health or the environment. New chemical substances, i.e., those not listed on the TSCA Chemical Substances Inventory, are evaluated by EPA under section 5 of TSCA. Existing chemical substances, i.e., those listed on the TSCA Inventory, are evaluated by the Agency under sections 4, 6, and 8 of TSCA. Certain existing chemical substances intended to be exported into foreign countries are required to be reported to EPA under section 12 of TSCA. New and existing chemical substances intended to imported into the United States are evaluated by EPA under section 13 of TSCA. Petitions received by EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 6, or 8 or an order under section 5(e) or 6(b)(2) are evaluated by EPA under section 21 of TSCA.

Under contract no. 68-01-7176, EPA's contractor IRA, 7926 Jones Branch Drive, Suite 1100, McLean, VA, will assist the Office of Compliance Monitoring (OCM) by providing support in the control of TSCA CBI documents within OCM, including the disposition of the CBI materials and associated administrative functions.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract No. 68-01-7176, IRA will require access to CBI submitted to EPA under TSCA to perform successfully the duties specified under the contract. IRA personnel will be given access to all information submitted under sections 4, 5, 6, 8, 12, and 13 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide IRA access to these CBI materials on a need-to-know basis. All access to TSCA CBI under this contract will take place at EPA Headquarters facilities.

Clearance for access to TSCA CBI under this contract is scheduled to expire on September 30, 1988.

IRA personnel will be required to sign non-disclosure agreements, will be briefed on appropriate security procedures and must pass a test on those security procedures before they are permitted access to TSCA CBI.

Dated: April 21, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-9628 Filed 4-29-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

April 25, 1988.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of these submissions may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW, Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4814. Copies of these comments should also be sent to the Commission. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0061
Title: Annual Report of Cable Television Systems:
Schedule 1—Community Unit Data;
Schedule 2—Physical System Data
Form No.: FCC 325
Action: Extension
Respondents: Business (including small business)
Frequency of Response: Annually
Estimated Annual Burden: 38,000 Responses; 49,000 Hours
Needs and Uses: The schedules are preprinted by the Commission containing the most current data on file, and sent to the operators of every operational cable television system who are requested to verify, correct and/or furnish current data regarding their systems. The data is used to maintain computer databases on cable systems for use by FCC and the public.

OMB No.: 3060-0127
Title: Assignment of Authorization
Form No.: FCC 1046
Action: Extension
Respondents: Individuals, State or local governments, business (including small business), and non-profit institutions
Frequency of Response: On occasion
Estimated Annual Burden: 6,000 Responses; 498 Hours
Needs and Uses: Filing is required by applicants in the Private Land Mobile, Microwave, Coast and Ground Radio Services for assignment of an existing authorization. The data is used to determine eligibility and to issue a radio station license.

OMB No.: 3060-0141
Title: Renewal Notice and Certification in the Private Operational Fixed Microwave Radio Service
Form No.: FCC 402-R
Action: Extension
Respondents: Individuals, State or local governments, business (including small business), and non-profit institutions
Frequency of Response: On occasion
Estimated Annual Burden: 2,200 Responses; 367 Hours
Needs and Uses: Filing is required by applicants for renewal of an existing authorization. The data is used to determine eligibility and to issue a radio station license, and for enforcement purposes.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-9665 Filed 4-29-88; 8:45 am]

BILLING CODE 6712-01-M

[Report No. W-39]

Window Notice for the Filing of FM Broadcast Applications

Release: April 22, 1988.

Notice is hereby given that applications for vacant FM broadcast allotment listed below may be submitted for filing during the period beginning April 22, 1988 and ending June 2, 1988 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

Channel—287 A

Soledad.....CA
Chattahoochee.....FL
Jackson.....MN
East Prairie.....MO
Fairbluff [1].....NC
Wilmington [1].....NC
Roanoke.....VA
Walterboro.....SC
Loudon.....TN
Bixby [2].....OK

Channel—287 C2

Selma.....AL
Lake Charles.....LA
Monroe.....LA

Channel—248 A

Talladega.....AL
Hogansville.....GA
Jeffersonville.....GA
Madison.....ME
Hoosick Falls.....NY
Greenfield.....OH
Union City.....OH

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–9666 Filed 4–29–88; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; La Crescent Community Broadcasters et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City/ State	File No.	MM Docket No.
A. Roger Lonnquist and Scott Neader d/b/a La Crescent Community Broadcasters, La Crescent, MN.	BPH–870306KC.....	88–181
B. Gwendolyn M. Gutzel, La Crescent, MN.	BPH–870312MC.....	
C. Kendall Durfey d/b/a Stateline Broadcasting, La Crescent, MN.	BPH–870313MU.....	
D. White Eagle Broadcasting, Inc., La Crescent, MN.	BPH–870313OC.....	
E. Steven B. Courts, La Crescent, MN.	BPH–870313MT [1]	

[1] Previously dismissed.

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Cross-interest, D
2. Comparative, A–D
3. Ultimate, A–D

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–9595 Filed 4–29–88; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Woods Communications Group, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, City/ State	File No.	MM Docket No.
A. Woods Communications Group, Inc, Columbia, LA.	BPCT–870904KJ.....	88–183
B. William L. Cook, II, Columbia, LA.	BPCT–871021KE.....	
C. Love Television Partnership, Columbia, LA.	BPCT–871106KF.....	
D. Columbia TV and Radio, Inc, Columbia, LA.	BPCT–871109KE.....	
E. Pears Broadcasting, Inc, Columbia, LA.	BPCT–871109KF.....	
F. Jimmie V. Giles, Columbia, LA.	BPCT–871110KE.....	
G. Caldwell Broadcasting Limited Partnership, Columbia, LA.	BPCT–871110KH.....	
H. Richard William Wainwright, Columbia, LA.	BPCT–8711110KK.....	
I. KTVE, Inc, Columbia, LA.	BPCT–871110KL.....	
J. Lanford Telecasting Co., Inc, Columbia, LA.	BPCT–871110KM.....	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose heading are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B,D,E,F,H,I,
2. Satellite, J
3. Minimum Separations, A,H
4. Comparative, A,B,C,D,E,F,G,H,I,J
5. Ultimate, A,B,C,D,E,F,G,H,I,J

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW.,

[1] The channels at Fairbluff, NC and Wilmington, NC were shortspaced to a proposal to substitute channel 287C2 for channel 288A at Jacksonville, NC. A petition for reconsideration of the staff action dismissing that proposal is currently pending.

[2] A counter proposal in MM docket 87–475 request substitution of channel 221A at Bixby for this allotment.

Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 88–9667 Filed 4–29–88; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200112

Title: Port of Houston Authority Terminal Agreement

Parties: Port of Houston Authority (Port Authority) Shippers Stevedoring Company (Assignee)

Synopsis: The proposed agreement establishes authority whereby Assignee will perform freight handling services at the Port Authority's Barbours Cut Terminal and Transit Shed Number Two.

By order of the Federal Maritime Commission.

Dated: April 27, 1988.

Joseph C. Polking,

Secretary

[FR Doc. 88–9644 Filed 4–29–88; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Family Bancorp et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 23, 1988.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Family Bancorp,* Haverhill, Massachusetts; to become a bank holding company by acquire 100 percent of the voting shares of The Family Mutual Savings Bank, Haverhill, Massachusetts. Bank engages in Massachusetts Bank Life Insurance.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South La Salle Street, Chicago, Illinois 60690:

1. *Hasten Bancorp,* Indianapolis, Indiana; to acquire 100 percent of the voting shares of Sullivan State Bank, Sullivan, Indiana; First Bank and Trust Company of Caly County, Brazil, Indiana; and Peoples State Bank, Farmersburg, Indiana, and Farmers Banc, Inc., Tipton, Indiana, and thereby indirectly acquire Farmers Loan and Trust Company, Tipton, Indiana.

2. *NBA Holding Company,* Davenport, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Aledo, Aledo, Illinois. Comments on this application must be received by May 25, 1988.

Board of Governors of the Federal Reserve System, April 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–9585 Filed 4–24–88; 8:45 am]

BILLING CODE 6210–01–M

Johnson Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 5, 1988.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Johnson Bancshares, Inc.,* Chatfield, Minnesota; to acquire Northwest Security Agency, Inc., Chatfield, Minnesota, and thereby engage in general insurance activities in a place with a population not exceeding 5,000 and to retain a loan through the acquisition of Agency pursuant to §§ 225.25(8)(iii) and 225.25(b)(1)(iv) of the Board's Regulation Y. These activities will be conducted in Chatfield, Minnesota.

Board of Governors of the Federal Reserve System, April 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-9596 Filed 4-29-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Research Grants on Factors Contributing to the Sequencing of Alcohol and Other Drug Use

AGENCY: National Institute on Alcohol Abuse and Alcoholism, National Institute on Drug Abuse, HHS.

ACTION: Notice of a special program announcement for research grants on factors contributing to the sequencing of alcohol and other drug use.

SUMMARY: The National Institute on Alcohol Abuse and Alcoholism (NIAAA) and the National Institute on Drug Abuse (NIDA) announce the availability of a special program announcement to make Grant Awards for basic and applied research projects concerning factors contributing to the sequencing of alcohol and other drug use. This announcement specifically seeks grant applications supporting research aimed at understanding the factors that contribute to the progression from initial drug and alcohol use to drug and alcohol dependence. This announcement is intended to encourage research proposals which will identify drug sequencing patterns among differing subpopulations of adolescents and to identify the biological, psychological, and social markers of the timing of progression from one class of substances to another. Other areas of research interest include variations by gender, economic and social class, geographic region, urbanization, ethnic groups, and birth cohorts. NIAAA and NIDA urge grant applicants to give added attention to the inclusion of women and minorities in study populations. If minorities and women are not included in a given study, a clear rationale for their exclusion should be provided. Applicants may be funded jointly by both Institutes, or by one Institute, depending on the emphasis of the research project.

Receipt Dates for Applications: February 1, June 1, October 1 of each year as provided by the regular Research Grant Application schedule.

For a Copy of the Announcement Contac: The National Clearinghouse for Alcohol and Drug Information (NCADI), Reference Department, P.O. Box 2345 Rockville, Maryland, 20852. Telephone: (301) 468-2600.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 88-9605 Filed 4-29-88; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 88N-0157]

Drug Export; Genetic Systems HIV Antigen EIA and Genetic Systems HIV Antigen Neutralization Test Kits

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Genetic Systems has filed an application requesting approval for the export of the biological products Genetics Systems HIV Antigen EIA and Genetic Systems HIV Antigen Neutralization Test kits to Australia.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquires concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFN-322), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8095.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Genetic Systems, 3005 First Ave., Seattle, WA 98121, has filed an application requesting approval for the export to Australia of the biological products Genetic Systems HIV Antigen EIA and Genetic Systems HIV Antigen Neutralization Test kits. The Genetic Systems HIV Antigen EIA is an enzyme immunoassay for the detection of HIV core antigen in cell culture specimens, serum, plasma, and cerebrospinal fluid. The Genetic Systems HIV Antigen Neutralization Test is a test for the verification of HIV antigen-reactive samples detected in the Genetic Systems HIV Antigen EIA. The application was received and filed in the Center for Biologics Evaluation and Research on April 19, 1988, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by May 12, 1988, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99-660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: April 21, 1988.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 88-9645 Filed 4-29-88; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Availability of Funds for Demonstration Grants for Health Care Services in the Home

AGENCY: Health Resources and Services Administration HHS.

ACTION: Notice of fund availability.

SUMMARY: The Health Resources and Services Administration (HRSA)

announces that applications are being accepted for a program of grants to States to expand health care services in the home to low-income persons who might otherwise require lengthy hospital stays or institutionalization. These grants will be awarded under the provisions of sections 395–397 of the Public Health Service Act, as added by Pub. L. 100–175, the "Older Americans Act Amendments of 1987." Persons eligible for health services in the home are low-income individuals who lack adequate access to these services and are at risk of institutionalization or prolonged hospitalization. Applicants should show that the need for health services in the home to avoid institutionalization or prolonged hospital stays is not being met by existing public or private entities or programs due to the extent of the need, reimbursement policies, or health service delivery patterns.

DATE: All applications must be delivered to the contact designated in this announcement or be postmarked by July 1, 1988, to be considered timely. Any application which does not meet the deadline date will be returned to the State.

ADDRESS: Application kits (Form PHS 5161–1 with revised facesheet DHHS Form 424, as approved by the Office of Management and Budget under control number 0348–0006) may be obtained from, and completed applications should be mailed to, Chief, Special Projects Section, Office of Program Support, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 7A–20, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–1050.

SUPPLEMENTARY INFORMATION: Public Law 100–175 adds a Part K to Title III of the Public Health Service Act, which authorizes the Secretary, acting through the Administrator of HRSA, to award not less than 3, and not more than 5, grants to States, which may not exceed 3 years in duration, for the purpose of assisting grantees in carrying out demonstration projects: (1) To identify low-income individuals who can avoid institutionalization or prolonged hospitalization if skilled medical services or related health services (or both) are provided in the homes of the individuals; (2) to pay the costs of the provision of such services in the homes of such individuals; and (3) to coordinate the provision by public and private entities of such services, and other long-term care services, in the homes of the individuals. Public Law 100–202, the Fiscal Year 1988 Continuing Resolution, provides approximately $4.7 million for such grants. Each grant will be awarded to an agency of State government designated by the Governor of the State to undertake this program and will average $900,000 for a 3-year period. The State governmental agency may award grants or contracts to other entities for the provision of services or other necessary supportive activities. The term "State" includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands.

Grant Requirements

- A grant may not be made to a State unless the State agrees to ensure that at least 25 percent of individuals receiving services are 65 years of age or older.
- A State may not make payments from a grant for any item or service to the extent that payment has been made, or can reasonably be expected to be made, under any State compensation program, under an insurance policy, under any Federal or State health benefits program, or by an entity that provides health services on a prepaid basis. Grant funds may not be used to pay for currently financed public or private health care services.
- Under section 396 of the Public Health Service Act, the amount of Federal grant funds may not exceed 75 percent of the cost of services to be provided by the State for the first year; 65 percent for the second year; and 55 percent for the third year.
- The State must make available non-Federal contributions equal to the remaining costs of providing services. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, or services.
- Amounts provided by the Federal government, or services assisted or subsidized to any significant extent by the Federal government, may not be counted toward the non-Federal contribution requirement.
- No more than 10 percent of the approved grant may be for administrative expenses.

Criteria for Evaluating Applications

A grant may not be made to a State unless the State has submitted an application for the grant. Each application must contain a description of the purposes for which the State expects to expend the grant funds. The description of purposes must include information relating to the programs and activities to be supported and the services to be provided, the number of individuals who will receive services under the grant, a description of intended expenditures, including the average costs of providing services to each individual, and a description of the manner in which the programs and activities will be coordinated with any similar programs and activities of public and private entities.

In its review of applications for grants for the provision of the services and activities under section 395(a) of the Act, HRSA will consider the extent to which an application addresses:

(a) The categories of need identified, including the number of low-income individuals in need of services by each category;

(b) The extent of need not being met within each category;

(c) Adequacy and feasibility of the applicant's proposed program of activities, services, and plans for the coordination and utilization of other resources, including:

- Methodology for identifying low-income individuals who could avoid institutionalization or prolonged hospitalization through the proposed program,
- Extent to which the proposed program identifies the problems of access to health care services in the home.
- Design of the home health delivery system, including:

—Internal coordination among its several components,
—External coordination with similar and complementary programs and activities of public and private entities at both the State and local level,
—Development of an individual patient case management strategy that utilizes existing hospital and community-based health and support systems,
—Strategy for quality assurance,
—Measures and controls for efficiency and cost effectiveness;

(d) Design and adequacy of the plan and methodology for evaluating the results of the demonstration project.

Administration

To receive an award, the applicant must submit an application which demonstrates an ability to follow all administrative requirements contained in the authorizing statute and must submit a Statement of Agreement in which the applicant agrees to comply with the requirements of the statute concerning the provision of matching funds, the provision of specified health services, restrictions on the use of funds

administration of grants, and limitation on administrative expenses.

Other Award Information

This program is considered to be subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs and 45 CFR Part 100.

Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available by DHHS will contain a listing of States which have chosen to set up a review system and will provide a point of contact in the States for that review. Since 60 days are allowed for this review, applicants are advised to discuss projects with and provide copies of their applications to contact points as early as possible. At the latest, an applicant should provide the application to the State for review at the same time it is submitted to Bureau of Health Care Delivery and Assistance.

Catalog of Federal Domestic Assistance: In the OMB Catalog of Federal Domestic Assistance, the Health Care Services in the Home Demonstration Grant Program is listed as Number 13.159.

Dated: April 27, 1988.

David N. Sundwall,

Administrator.

[FR Doc. 88-9604 Filed 4-29-88; 8:45 am]

BILLING CODE 4160-15-M

National Organ Transplant Act; Grants for Organ Procurement Organizations

AGENCY: Health Resources and Services Administration, PHS, DHHS.

ACTION: Notice of availability of grant funds.

SUMMARY: The Bureau of Maternal and Child Health and Resources Development (BMCHRD), Health Resources and Services Administration (HRSA), announces that Fiscal Year (FY) 1988 funds are available for grants for assistance for Organ Procurement Organizations (OPOs). The grants are authorized by sections 371 and 374 of the Public Health Service (PHS) Act. While the authorization of appropriations in section 371 has not been extended explicitly, funds for these grants were appropriated under Pub. L. 100-202.

DATE: In order to receive consideration, grant applications must be received by the close of business July 13, 1988, by Mr. Waddell Avery at the address below. Applications not received by the due date will be returned to the applicant. Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to Mr. Remy Aronoff, Chief, Analysis and Operations Branch, Division of Organ Transplantation, Parklawn Building, Room 9-31, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-7577. Requests for grant application materials and additional information regarding business, administrative or fiscal issues related to the awarding of grants under this notice should be made in writing to Mr. Waddell Avery, Grants Management Officer, Bureau of Maternal and Child Health and Resources Development, Parklawn Building, Room 6-29, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1440. Applicants for grants for OPOs will use Form PHS 5161 with revised face sheet HHS Form 424, approved under OMB Control Number 0348-0006.

SUPPLEMENTARY INFORMATION:

Background

The National Organ Transplant Act, Pub. L. 98-507, amended the PHS Act to authorize the establishment of a program of grants for the planning, establishment, initial operation and expansion of OPOs.

Section 371 and 374 of the PHS Act state that in awarding grants for OPOs the Secretary shall:

1. Take into consideration any recommendations made by the Task Force on Organ Transplantation established under section 101 of the National Organ Transplant Act.

2. Give special consideration to applications which cover geographical areas which are not adequately served by existing OPOs.

3. Give priority to any applicant which has a formal agreement of cooperation with all the transplant centers in its proposed service area.

4. Give special consideration to organizations which met the requirements of a qualified OPO as defined in section 371(b) of the PHS Act before the enactment of Pub. L. 98-507.

5. Not discriminate against an applicant solely because it provides health care services other than those related to organ procurement.

Section 1138 of the Social Security Act provides that for organ procurement costs attributable to an OPO to be reimbursable under Medicare and Medicaid, the OPO must either: (1) Be a qualified OPO under section 371(b) of the PHS Act that is operating under a grant under section 371(a), or (2) have been certified or recertified within the past two years as meeting the standards of section 371(b). The OPO must also meet the other standards of section 1138 and implementing regulations of the Health Care Financing Administration (42 CFR 435.301-308). Section 1138 also states that only one OPO may be designated within the same service area.

Program Objectives

The principal purpose of the grant program is to increase the availability of donor organs in this country by improving the overall organ procurement system. The Task Force on Organ Transplantation recommended that the program emphasize the need to increase substantially the number of organ donors and to encourage innovations which could be readily duplicated for national application. The Task Force recommended the following three priorities for the program:

1. Proposals to consolidate and coordinate organ procurement efforts where multiple programs currently exist.

2. Proposals which would enable the applicant to develop new approaches to improve the efficiency and effectiveness of an existing program so as to increase the number of organ donors within a service area, e.g., community education regarding the process for, and the importance of organ donation.

3. Proposals to expand present efforts to increase the number of organ donors within a service area, e.g., satellite programs and expanding services to serve dispersed rural areas.

Types of Grants

To accomplish the above objectives, the Secretary will award planning, initial operation and expansion grants to eligible applicants consistent with the statute and Task Force recommendations as specified in this Notice. Applications for planning and initial operation grants will be considered for funding only for the purpose of consolidation of multiple programs where such programs currently exist.

Availability of Funds

A total of $1,400,000 is available in FY 1988 for grants for OPOs. Because of the limited funds available and the priorities determined by the Secretary, grant awards will be less than the maximum amount permitted in section 374 of the PHS Act. Limiting the award level will permit the Department to provide assistance to a larger number of organizations.

Planning grants will be for a project period of one year and will not exceed $50,000.

Initial operation grants may be for a project period of up to two years and will not exceed $200,000.

Expansion grants may be for a project period of up to two years and will not exceed $150,000.

Eligible Applicants

Nonprofit entities that are OPOs and have been designated by the Health Care Financing Administration as an OPO under section 1138(b) of the Social Security Act may apply for these grants.

Review and Evaluation Criteria

Grant applications will be evaluated by an objective review committee according to established Bureau procedures. The following criteria will be considered:

—The consistency with the program's objectives and priorities;
—The adequacy of the methods proposed to carry out the project;
—The appropriateness of the work plan and schedule for organizing and completing the project;
—The capability of the organization to complete the project as proposed;
—The adequacy of supporting documentation justifying the proposal;
—The reasonableness of the budget;
—The qualifications of the project director and staff; and
—The plan to continue beyond the grant period the activity or activities intitiated under this grant including plans to secure other funding sources.

Proposed projects also will be evaluated according to the statutory guidelines as described in the Background section of this Notice and the recommendations of the Task Force on Organ Transplantation as described in the Program Objectives section of this Notice. The Secretary will give highest priority to expansion grants demonstrating new or innovative approaches to increasing organ donation and procurement. New or innovative approaches may include, for example, programs for:

—Professional training for physicians and other health professionals designed to promote the concept of organ donation including discussion of criteria for organ and tissue procurement, required request laws and other operative State statutes. Such training should take into consideration the emotional and other needs of potential donors and next of kin, and
—Promoting public awareness of organ donation, including efforts to identify appropriate population groups or geographic areas in need of specially-targeted programs, and to develop such educational programs.

Examples of priority expansion projects are programs for:

—Development of satellite programs which expand services to dispersed rural populations, and
—Formation of groups to coordinate activities of organ and tissue procurement organizations, e.g., establishment of consortia.

Surveys of attitudes toward organ donation should not be proposed unless it is demonstrated that results from similar surveys conducted in other areas are not applicable. Likewise, proposals for development of written and audio-visual materials will not receive funding if similar materials produced elsewhere are usable.

Computerization projects will be given low priority by reviewers unless they demonstrate a new or unique methodology which is of national significance (i.e., the methodology would be of demonstrable assistance to all OPOs and would signify an important advance beyond existing methods).

Technical Assistance Meetings

Two technical assistance meetings will be held for prospective OPO grant applicants. The first meeting will be held on June 8, 1988, from 10:00 a.m. to 5:00 p.m., in Room 9–31 of the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland. The second meeting will be held on June 15, 1988 from 1:00 p.m. to 5:00 p.m., in the East Room of the Stouffer-Madison Hotel, 515 Madison Street, Seattle, Washington.

Allowable Costs

The basis for determining the allowability and allocability of costs charged to PHS grants is set forth in 45 CFR Part 74, Subpart Q. The four separate sets of cost principles prescribed for recipients of grants for OPOs are: Office of Management and Budget (OMB) Circular A–87 for State and local governments; OMB Circular A–21 for institutions of higher education; 45 CFR Part 74, Appendix E for hospitals; and OMB Circular A–122 for nonprofit organizations.

Other Award Information

A successful applicant under this notice will submit reports in accordance with the provisions of the general regulations which apply under 45 CFR Part 74, Subpart J, Monitoring and Reporting of Program Performance.

Executive Order 12372

Grants awarded under this notice are subject to the provisions of Executive Order 12372, as implemented by 45 CFR Part 100, which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages made available under this Notice will contain a listing of States which have chosen to set up such a review sysem and will provide a point of contact in the States for the review. Applicants should promptly contact their States for the review. Applicants should promptly contact their State Single Point of Contact (SPOC) and follow its instructions prior to the submission of an application. The SPOC has 60 days after the application deadline date to submit its review comments.

The OMB Catalogue of Federal Domestic Assistance Number for this program is 13.134.

Dated: March 12, 1988.

David N. Sundwall,

Administrator, HRSA.

[FR Doc. 88–9615 Filed 4–29–88; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

General Clinical Research Centers Committee;

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 15–16, 1988, National Institutes of Health, Conference Room 6, Building 31, 9000 Rockville Pike, Bethesda, MD 20892.

The meeting will be open to the public on June 16 from 1:00 p.m. to 2:30 p.m., during which time there will be comments by the Director, DRR; and an update on the GCRC Program. 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 15, from 9:00 a.m. to 5:00 p.m. and from 8:30 a.m. June 16 to approximately 12:00 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. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B–10, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting and a roster of the Committee members upon request. Dr. Stanley L. Slater, Executive Secretary of the General Clinical Research Centers Review Committee, Building 31, Room 5B–51, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6595, will furnish program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clinical Research, National Institute of Health)

Dated: April 19, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–9672 Filed 4–29–88; 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 Clinical Investigation Review Committee, National Cancer Institute, June 27–28, 1988, at the Historic Inns of Annapolis, 16 Church Circle, Annapolis, MD 21401.

This meeting will be open to the public on June 27 from 8:30 a.m. to 9 a.m. for reports by the Executive Secretary and Chairman of the Cancer Clinical Investigation Review Committee. 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 27, from 9 a.m. to recess; and on June 28 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications and cooperative agreements. These grant applications and cooperative agreements and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the 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.

Dr. Mary Ann Sestili, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 836, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7481) will provide substantive program information upon request.

Dated: April 19, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–9673 Filed 4–29–88; 8:45 am]

BILLING CODE 4140–01–M

National Center for Nursing Research Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Center for Nursing Research Advisory Council, National Center for Nursing Research, June 16–17, 1988, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on June 16, from 9 a.m. to 2:30 p.m. and on June 17 from 8:30 a.m. to adjournment. Agenda items to be discussed will include the NCNR Director's Report, Conference on Nursing Resources and Patient Care Delivery, Functions of the Division of Nursing, Update on the Commission on Nursing, AIDS Expedited Review, Update on President's Commission on AIDS, NCNR Advisory Council Biennial Report to Congress, NCNR Director's Biennial Report, Research Training Trajectory, and NCNR Information Resources.

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 16 from 2:30 p.m. to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting will be open on June 16 immediately following the review of applications, if any policy issues are raised which need further discussion.

Mrs. Ruth K. Aladj, Executive Secretary, National Center for Nursing Research Advisory Council, National Institutes of Health, Building 31A, Room 1E10, Bethesda, Maryland 20892, (301) 496–0472, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: April 19, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–9674 Filed 4–29–88; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Allergy and Infectious Diseases Council; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on May 23–24, 1988 at the National Institutes of Health, Building 31C, Conference Room 10, Bethesda, Maryland 20892.

The meeting will be open to the public on May 23 from approximately 9 a.m. to 9:15 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 4 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussions will include a report by the Director, Division of Research Grants on the percentile system; a report by the Director, NIAID on research dollars; and, the presentation of the NIAID Biennial Council Report by the Director, Extramural Activities Program, NIAID.

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 of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee, NAAIDC Allergy and Immunology Subcommittee and the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately four hours for review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:15 a.m. until approximately 12:30 p.m. on May 23. The meeting of the full Council will be closed from approximately 8:30 a.m. until adjournment on May 24 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. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301–496–7291), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Mircobiology and Infectious Diseases Research, National Institutes of Health.

Dated: April 19, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–9675 Filed 4–29–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Basic Virology, Immunology and Pathogenesis Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on June 1, 1988, at the Hyatt Regency Bethesda, 1 Bethesda Metro Center, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 9 a.m. on June 1 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C and section 10(d) of Pub. L. 92–463, the meeting of the Basic Virology, Immunology and Pathogenesis Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. on June 1, until adjournment. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Olivia T. Preble, Executive Secretary, Basic Virology, Immunology and Pathogenesis Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, Room 753, Bethesda, Maryland 20892, telephone (301–496–8208), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: April 22, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–9676 Filed 4–29–88; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Child Health and Human Development Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, June 6–7, 1988, in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland, and the meeting of the Subcommittee on Planning on June 6 from 8:30 a.m. to 9:30 a.m. in Building 31, Room 2A03.

The Council meeting will be open to the public on June 6 from 9:30 a.m. until 5:00 p.m. The agenda includes a report by the Director, NICHD, and a presentation by the Endocrinology, Nutrition and Growth Branch, Center for Research for Mothers and Children. The meeting will be open on June 7 immediately following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on June 6 from 8:30 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 7 from 8:30 a.m. to completion of the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Linda Hall, Council Secretary, NICHD, Executive Plaza North, Room 520, National Institutes of Health, Bethesda, Maryland 20892, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health.)

Dated: April 19, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–9677 Filed 4–29–88; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–940–08–4520–13; ES–038780, Group 176]

Florida; Filing of Plats

April 26, 1988.

1. The plat, in ten sheets, of the survey of the subdivisions of sections 1, 2, 3, 5, 9, 10, 11, 12, 14 and 15 and the metes-and-bounds survey of certain parcels in sections 2, 3, and 10, Township 16 South, Range 24 East, Tallahassee Meridian, Florida, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on June 10, 1988.

2. The survey was made at the request of the U.S. Forest Service.

3. All inquiries or protests concerning the technical aspects of the survey of subdivisions must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., June 10, 1988.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 88–9627 Filed 4–29–88; 8:45 am]

BILLING CODE 4310–GJ–M

[ES-940-08-4520-13; ES-038779, Group 177]

Florida; Filing of Plats

April 26, 1988.

1. The plat, in six sheets, of the survey of the subdivisions of sections 8, 15, 16, 22, 26 and 27 and the metes-and-bounds survey of certain parcels in sections 8 and 22, Township 17 South, Range 25 East, Tallahassee Meridian, Florida, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on June 10, 1988.

2. The survey was made at the request of the U.S. Forest Service.

3. All inquiries or protests concerning the technical aspects of the survey of subdivisions must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., June 10, 1988.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 88-9630 Filed 4-29-88; 8:45 am]

BILLING CODE 4310-GJ-M

National Park Service

[DES-88-18]

Gates of the Arctic National Park and Preserve, Alaska; Environmental Statement; Public Hearings and Meetings

ACTION: Notice of the holding of public hearings and public meetings; Draft Environmental Impact Statement Wilderness Recommendation Gates of the Arctic National Park and Preserve.

For Gates of the Arctic National Park and Preserve, four alternatives were examined ranging from no action, which means no additional wilderness designation, to designating all lands within the study area as wilderness. Alternative 2, the proposed action excludes a majority, about 69 percent of the study area, from wilderness designation.

In the **Federal Register** of Monday April 11, 1988, Vol. 53, No. 69, page 11916, a notice of tentative dates for public hearings and public meetings was published. Those dates are now finalized as follows:

Two public hearings will be held. One hearing will be held in Anchorage, Alaska, on Monday June 6, 1988, 7:00 p.m., Third Floor Conference Room, Alaska Regional Office, National Park Service, 2525 Gambell Street. Another hearing will be held on Thursday June 9, at 7:00 p.m. in Arlington, Virginia, at the Professional Center, Third Floor Metropolitan Campus of George Mason University, 3401 North Fairfax Drive.

A section 810 review will be conducted as part of the hearings. The public hearings will also provide the opportunity to receive oral and written comments on Wilderness Recommendations for Wrangell-St. Elias National Park and Preserve and Lake Clark National Park and Preserve draft environmental impact statements, which are also on public review.

In addition, 5 public meetings will be held.

Fairbanks: June 7—7:00 p.m., Alaska Public Lands, Information Center, 3rd and Cushman

Allakaket: June 8—2: p.m., City Offices

Coldfoot: June 8—7:00 p.m., Coldfoot Services

Bettles: June 9—2:00 p.m., NPS Ranger Station

Anaktuvuk: June 9—7:00 p.m., Community Center

FOR FURTHER INFORMATION CONTACT: Division of Planning, Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503; phone (907) 257-2654 or the park headquarters at Fairbanks, Alaska, phone (907) 456-0281.

Dated: April 26, 1988.

Approved.

James N. Stewart,

Associate Director, Planning and Development.

[FR Doc. 88-9621 Filed 4-29-88; 8:45 am]

BILLING CODE 4310-70-M

[DES-88-17]

Lake Clark National Park and Preserve, Alaska; Environmental Statement, Public Hearings and Meetings

ACTION: Notice of the holding of public hearings and public meetings; Draft Environmental Impact Statement Wilderness Recommendation Lake Clark National Park and Preserve.

For Lake Clark National Park and Preserve, three alternatives were examined ranging from no action, which means no additional wilderness designation, to designating most lands within the study area as wilderness. Alternative 1, the proposed action and no-action alternative, recommends no study area lands for wilderness designation.

In the **Federal Register** of Friday April 1, 1988, Vol. 53, No. 63, page 10571 and Wednesday, April 20, 1988, Vol. 53, No. 76, page 12996, notices of tentative dates for public hearings and public meetings were published. Those dates are now finalized as follows. Two public hearings will be held. One hearing will be held in Anchorage, Alaska, on Monday, June 6, 1988, 7:00 p.m., Third Floor Conference Room, Alaska Regional Office, National Park Service, 2525 Gambell Street. Another hearing will be held on Thursday, June 9, at 7:00 p.m. in Arlington, Virginia, at the Professional Center, Third Floor, Metropolitan Campus of George Mason University, 3401 North Fairfax Drive.

A section 810 review will be conducted as part of the hearings. The public hearings will also provide the opportunity to receive oral and written comments on Wilderness Recommendations for Wrangell-St. Elias National Park and Preserve and Gates of the Arctic National Park and Preserve draft environmental impact statements, which are also on public review.

In addition, 2 public meetings will be held.

Port Alsworth; June 8—7:00 p.m., NPS Resources Mgt. Office

Kenai; June 14—4:00 p.m. & 7:00 p.m., NPS Office, 405 Overland Avenue

FOR FURTHER INFORMATION CONTACT: Division of Planning, Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503; (907) 257-2654 or the park headquarters at 701 C Street, Box 61, Anchorage, Alaska 99513, phone (907) 271-3751.

Dated: April 26, 1988.

Approved.

James N. Stewart,

Associate Director, Planning and Development.

[FR Doc. 88-9622 Filed 4-29-88; 8:45 am]

BILLING CODE 4310-70-M

[DES-88-20]

Wrangell-St. Elias National Park and Preserve, Alaska; Environmental Statement; Public Hearings and Meetings

ACTION: Notice of the holding of public hearings and public meetings; Draft Environmental Impact Statement Wilderness Recommendation Wrangell-St. Elias National Park and Preserve.

For Wrangell-St. Elias National Park and Preserve, four alternatives were examined ranging from no action, which means no additional wilderness designation, to designating all suitable lands within the study as wilderness. Alternative 2, the proposed action,

recommends about 273,000 acres, or just under 9 percent of the study area lands, for wilderness designation. In addition, about 109,000 acres of existing wilderness would be deleted from wilderness.

In the **Federal Register** of Wednesday, April 20, 1988, Vol. 53, No. 76, pages 12996–12997, a notice of tentative dates for public hearings and public meetings was published. Those dates are now finalized as follows:

Two public hearings will be held. One hearing will be held in Anchorage, Alaska, on Monday, June 6, 1988, 7:00 p.m., Third Floor Conference Room, Alaska Regional Office, National Park Service, 2525 Gambell Street. Another hearing will be held on Thursday June 9, at 7:00 p.m. in Arlington, Virginia, at the Professional Center, Third Floor, Metropolitan Campus of George Mason University, 3401 North Fairfax Drive. A section 810 review will be conducted as part of the hearings. The public hearings will also provide the opportunity to receive oral and written comments on Wilderness Recommendations for the Lake Clark National Park and Preserve and Gates of the Arctic Natioanal Park and Preserve draft environmental impact statements, which are also on public review.

In addition, 8 public meetings will be held.

Fairbanks: June 7—7:00 p.m., Alaska Public Lands, Information Center, 3rd and Cushman
Juneau: June 8—7:00 p.m., Centennial Hall, "Hickel Room"
Yakutat: June 9—6:00 p.m., City Hall
Glennallen: June 13—7:00 p.m., Glennallen High School (Old Building)
Tok: June 14—7:00 p.m., Community Center
McCarthy: June 15—1:00 p.m., McCarthy Lodge
Slana: June 16—7:00 p.m., Slana School
Chitina: June 17—1:00 p.m., Village Hall

FOR FURTHER INFORMATION CONTACT: Division of Planning, Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503; (907) 257–2654 or the park headquarters at Glennallen, Alaska, phone (907) 822–5235.

Date: April 26, 1988.

Approved.

James N. Stewart,

Associate Director, Planning and Development.

[FR Doc. 88–9623 Filed 4–29–88; 8:45 am]

BILLING CODE 4310–70–M

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; 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. 1s10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held Friday, May 20, 1988.

The Commission was reestablished pursuant to Pub. L. 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The meeting will convene at Park Headquarters, Marconi Station, South Wellfleet, Massachusetts at 1:00 p.m. for the following reasons:

Relocation of the Three Sisters
Water Resources Policy
Commercial Use Certificates
Bicycle Trail Study

The meeting is open to the public. It is expected that as many as 15 persons will be able to attend the session in addition to the Commission members.

Interested persons make oral/written presentations to be Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663

Dated: April 28, 1988.

Herbert S. Cables, Jr.,

Regional Director.

[FR Doc. 88–9624 Filed 4–29–88; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31260]

Tuscola and Saginaw Bay Railway Co.; Acquisition and Operation Exemption; Line of CSX Transportation, Inc. Near Clare, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the acquisition and operation by Tuscola and Saginaw Bay Railway Company (TSBY) of 2.6 miles of railroad between milepost 49.4 and milepost 52.0 near Clare, MI, subject to standard labor protective conditions and a historic preservation condition.

DATES: This exemption is effective on May 17, 1988. Petitions for reconsideration must be filed by May 23, 1988.

ADDRESSES: Send pleadings referring to Finance Docket No. 31260 to:

(1) Office of the Secretary; Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Lawrence R. Judd, Tuscola and Saginaw Railway Company, 600 Oakwood Avenue, Owosso, MI 48867

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of a full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call (202) 289–4357/4359 (DC Metropolitan area), assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: April 26, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley. Commissioner Simmons commented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 88–9637 Filed 4–29–88; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 235X)]

CSX Transportation, Inc.; Abandonment Exemption in Putnam County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903 *et seq.*, the abandonment by CSX Transportation, Inc., of 1.2 miles of rail line in Palatka, Putnam County, FL, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial

assistance has been received, this exemption will be effective on June 1, 1988. Petitions to stay must be filed by May 17, 1988. Petitions for reconsideration must be filed by May 27, 1988. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by May 12, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB–55 (Sub-No. 235X) to:

(1) Office of the Secretary: Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Charles M. Rosenberger, 500 Water Street-J150, Jacksonville, FL 32202

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. [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 Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD service (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: April 25, 1988.

By the Commission, Chairman Gradison, Vice Chairman Commissioners Sterrett, Simmons, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88–9638 Filed 4–29–88; 8:45 am]

BILLING CODE 7035–01–M

[1] *See Exemption or Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d (1987), and final rules published at 52 FR 48440 (1987).

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

Date: April 27, 1988.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 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; (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 estimated time it takes each respondent to respond; (6) an estimate of the total public burden hours associated with the collection; and, (7) an indication as to whether section 3504(h) of Pub. L. 96–511 applies. Comments and/or questions regardijng the item(s) contained in this notice should be directed to the OMB reviewer, Mr. Sam Fairchild, on (202) 395–7340 AND to the Department of Justice's Clearance Officer. 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 Department of Justice's Clearance Officer of your intent as soon as possible.

The Department of Justice's Clearance Officer is Larry E. Miesse who can be reached on (202) 633–4312.

New Collection

(1) Telephone interviews concerning H–1 and L–1 nonimmigrant workers
(2) No form number
(3) One time collection
(4) Businesses or other for-profit. Interviews of employers of selected nonimmigrant workers are necessary to obtain wage information on H–1 and L–1 nonimmigrant workers to be used in support of efforts to determine the impact of such workers on the U.S. labor market.
(5) 120 respondents at .5 hours each.
(6) 60 estimated annual public burden hours.
(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

[FR Doc. 88–9640 Filed 4–29–88; 8:45 am]

BILLING CODE 4410–10–M

Drug Enforcement Administration

[Docket No. 87–81]

Chematox Laboratory, Inc., Boulder, CO; Hearing

Notice is hereby given that on November 13, 1987, the Drug Enforcement Administration, Department of Justice, issued to Chematox Laboratory, Inc. an Order to Show Cause as to why the Drug Enforcement Administration should not deny the application for a DEA Certificate of Registration.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Wednesday, May 4, 1988, commencing at 9:00 a.m., at the Federal Mine Safety and Health Review Commission, 333 West Colfax Avenue, Room 400, Denver, Colorado.

Dated: April 26, 1988.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 88–9649 Filed 4–29–88; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts/National Assembly of State Art Agencies/National Assembly of Local Art Agencies Sub-Committee of the National Council on the Arts will be held on May 5, 1988 from 2:30 p.m. to 5:00 p.m., in room 116 of the Wainwright Building, Seventh and Chestnut, St, Louis, MO 63101.

This meeting will be open to the public on a space available basis. The topics for discussion will include Dance/Inter-Arts/State Programs Initiative Seminar, State of the Arts Report, Advocacy Day, Arts in Rural Areas Information Exchange, *Towards Civilization: A Report on Arts Education*, Endowment Panel Process and Cultural Facilities.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

April 26, 1988.

[FR Doc. 88–9582 Filed 4–29–88; 8:45 am]

BILLING CODE 7537–01–M

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Performing Arts/Theater Section) to the National Council on the Arts will be held on May 17–19, 1988 from 9:00 a.m.–5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 17, 1988, from 9:00 a.m.–10:30 a.m., and on May 19, 1988 from 2:00 p.m.–5:30 p.m. for a general program overview and policy discussion.

The remaining sessions of this meeting on May 17, 1988 from 10:30 a.m.–5:30 p.m., and on May 18, 1988 from 9:00 a.m.–5:30 p.m., and on May 19, 1988 from 9:00 a.m.–1:00 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** on February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

April 22, 1988.

[FR Doc. 88–9612 Filed 4–29–88; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–320]

GPU Nuclear Corp.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 70.24, Criticality accident requirements relative to Facility Operating License No. DPR–73, issued to GPU Nuclear Corporation (the licensee), for the Three Mile Island Nuclear Station Unit 2 (TMI–2), located in Londonderry Township, Dauphin County, Pennsylvania. By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11292). The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

Environmental Assessment

Identification of Proposed Action

The action being considered by the Commission is exemption from 70.24 Criticality accident requirements relating to requirements for a monitoring system capable of detecting a criticality. Specifically, 10 CFR 70.24 requires licenses authorized to possess special nuclear material above a minimum quantity to maintain a redundant monitoring system that is capable of detecting a criticality in each area in which such licensed special nuclear material is handled, used or stored. The redundant monitoring systems, using gamma- or neutron sensitive radiation detectors, are required to energize clearly audible alarm signals if accidential criticality occurs. The regulations applicable to TMI–2 further define the sensitivity of the monitoring system and require the licensee to have emergency procedures for the protection of personnel.

The Need for the Proposed Action

TMI–2 is currently in a post-accident, cold shutdown, long-term recovery mode. Exemption from 10 CFR 70.24 is requested after the conclusion of the licensee's current defueling program which will remove greater than 99% of the original core material and preclude the possibility of an inadvertent criticality. Once defueling is completed the reactor building will be entered infrequently by personnel readying the building for long-term storage and for periodic monitoring. Remaining fuel in areas accessible to personnel will be contained in the primary system, with the majority of the material in the reactor vessel. Personnel entering the building will be required to possess radiation survey instruments. Although the amount of special nuclear material will exceed limits of 10 CFR 70.24, the material will be distributed in a number of locations in a configuration that would preclude a criticality.

Furthermore, the building will be unoccupied and personnel entries will occur on an infrequent basis. Personnel that do enter will possess appropriate monitoring equipment that would detect a criticality. Principal quantities of fuel are located in areas that are inaccessible to personnel and well shielded. Maintenance of the current intermediate and source range neutron flux monitors would prove an unnecessary burden and expense on the licensee with no concomitant benefit in terms of achieving the purpose of the requirement.

Environmental Impact of the Proposal Action

The staff have evaluated the proposed exemption and concludes that in light of the curent and future condition of the facility described above, there are no significant radiological or nonradiological impacts to the environment as a result of this action. The proposed exemption removes the specific feature of the Commission's requirement to maintain criticality monitors in areas where special nuclear material above certain amounts is handled, used or stored.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no significant environmental impact associated with the proposed exemption, any alternatives to this action will have either no significant environmental impact or greater environmental impact.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Programmatic Environmental Impact Statement for TMI–2, dated March 1981.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action see the letter from GPUN, Technical Specification Change Request No. 53, dated April 23, 1987 and revised October 26, November 9 and December 4, 1987. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Rockville, Maryland, this 26th day of April 1988.

For the Nuclear Regulatory Commission.

Robert L. Ferguson,

Acting Director, Project Directorate I–4, Division of Reactor Projects I/II.

[FR Doc. 88–9653 Filed 4–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–416]

System Energy Resources, Inc., et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–29 issued to Mississippi Power & Light Company, South Mississippi Electric Power Association and System Energy Resources, Inc. (the licensees) for operation off the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi.

The proposed amendment would change the Technical Specifications (TS) by changing Table 4.8.1.1.2–1, "Diesel Generator Test Schedule" to:

(1) Delete the criterion for using the diesel generator test interval of 14 days.

(2) Change the criterion for using the 7 days test interval from greater than 2 diesel generator test failures in the last 100 valid tests to greater than 4 diesel generator test failures in the last 100 valid tests or greater than 1 diesel generator test failure in the last 20 valid tests.

(3) Change the criterion for using the 31 day test interval from less than or equal to 1 diesel generator test failure in the last 100 valid tests to less than or equal to 4 diesel generator test failures in the last 100 valid tests or less than or equal to 1 diesel generator test failure in the last 20 valid tests.

(4) Add a footnote to state that if increased frequency testing is required due to exceeding 1 diesel generator test failure in the last 20 valid tests, then the increased test frequency shall be maintained until seven consecutive failure free tests have been performed and the number of failures in the last 20 valid tests have been reduced to less than or equal to one.

(5) Delete the portion of the present footnote that states only valid tests conducted after the Operating License issuance date of June 16, 1982 shall be used in the computation of the last 100 valid tests.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By June 1, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to invervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements decribed above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petiitoner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permtted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Ofice of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests

for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated April 8, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Dated at Rockville, Maryland, this 25th day of April 1988.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II–1, Division of Reactor Projects I/II.

[FR Doc. 88–9654 Filed 4–29–88; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF STATE

Advisory Committee on International Intellectual Property; Meeting

The International Copyright Panel of the Department of State's Advisory Committee on International Intellectual Property will meet in open session on Wednesday, May 11, 1988, in Conference Room 1107 of the Department of State. The meeting will begin at 10:00 a.m. and will conclude at 1:00 p.m.

The following topics will be discussed:

1. Summary of UNESCO/WIPO meetings concerning principles of protection for various categories of copyrighted works; Committee of Governmental Experts for the Synthesis of Principles Concerning the Copyright Protection of Various Categories of Works, June 27–July 1

2. Report on the Meeting of the WIPO "Committee of Experts on Measures Against Counterfeiting and Piracy", (Geneva), April 25–28

3. Status Report on implementing legislation for the Berne Convention

4. Miscellaneous Copyright Matters

- Report on status of the proposed Treaty for the protection of integrated circuits
- Report on the meeting of the "Committee of Experts on the Establishment of an International Register of Audiovisual Works", March 7–11

The meeting will be open to the general public. The public attending may, as time permits and subject to the instructions of the chairperson, participate in the discussions or may submit their views in writing to the chairperson prior to, or at the meeting, for later consideration by the Committee.

Members of the public who plan to attend the meeting will be admitted up to the limits of the conference room's capacity. Members of the general public who plan to attend the meeting are requested to provide their name, affiliation, address and phone number to Ms. Bobbi Tinsley, Office of Business Practices, Department of State, telephone (202) 647–1825, prior to May 11, 1988. All attendees to the meeting should use the *Main Entrance* (2201 C Street, NW.) of the Department of State Building.

Dated: April 15, 1988.

Harvey J. Winter,

Executive Secretary.

[FR Doc. 88–9555 Filed 4–29–88; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 22, 1988

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45594

Date Filed: April 21, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 19, 1988.

Description: Application of Aerial Transit Company, pursuant to section 401 of the Act and Subpart Q of the Regulations requests an amendment of its certificate of public convenience and necessity authorizing foreign all-cargo air transportation, permitting service between Miami, Florida on the one hand, and Guatemala City, Guatemala, on the other hand, to be combined with Aerial Transit's Miami-Belize/Honduras/El Salvador-Miami routes.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 88–9650 Filed 4–29–88; 8:45 am]

BILLING CODE 4910–62–M

National Highway Traffic Safety Administration

[Docket No. T84–01; Notice 15]

Passenger Motor Vehicle Theft Data for 1986; Request for Comments

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments.

SUMMARY: The Motor Vehicle Information and Cost Savings Act provides that NHTSA shall publish passenger motor vehicle theft data for review and comment "immediately upon enactment of this title, *and periodically thereafter.*" (Emphasis added). The periodic publication of these theft data does not have any effect on the obligations of regulated parties under the Cost Savings Act. These theft data for years after 1984 serve only to inform the public of the extent of the motor vehicle theft problem.

This notice sets forth data on passenger motor vehicle thefts in 1986 for public review and comment. These data were calculated based on information provided to this agency by the National Crime Information Center (NCIC). These 1986 theft data indicate that vehicle thefts in 1986 increased above the levels recorded in previous years. For example, the median theft rate calculated for 1983/84 was 3.2712 thefts per 1000 vehicles produced. This median theft rate is used in all determinations of whether a car line is a likely high theft line, and subject to the vehicle theft prevention standard. The median theft rate in 1986 was 3.6023 thefts per 1000 vehicles produced, an increase of 10 percent in the median theft rate compared to 1983/84.

DATE: All comments on this notice must be received by NHTSA not later than June 16, 1988.

ADDRESS: Comments should refer to the docket and notice numbers set forth in the heading of this notice, and be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours are 8:00 am to 4:00 pm Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Kurtz, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4808).

SUPPLEMENTARY INFORMATION: NHTSA has promulgated a Federal motor vehicle theft prevention standard at 49 CFR Part 541. This standard applies to cars that are in lines designated as "high theft lines." Whether or not a car line is a high theft line depends on the relationship of the line's actual or likely theft rate to the median theft rate for car lines in 1983 and 1984. Section 603(b)(3) of the Cost Savings Act (15 U.S.C. 2023(b)(3)) sets forth the steps NHTSA had to follow in making its deterination of the median theft rate for 1983 and 1984. The agency followed those steps, published final theft data for 1983 and 1984 car lines, and calculated a median theft rate of 3.2712 per 1000 vehicles produced in those years. *See* 50 FR 46666; November 12, 1985.

Section 603(b)(3) of the Cost Savings act also provides that NHTSA shall "periodically" publish later calendar years' theft data for public review and comment. These publications of theft data for subsequent model years have no effect on the determination of whether a car line is or should be subject to the requirements of the theft prevention standard. The agency believes that the reason Congress directed it to periodically publish theft data for later years was to inform the public, particularly law enforcement groups, automobile manufacturers, and the Congress, of the extent of the vehicle theft problem and the impact, if any, on vehicle thefts of the Federal motor vehicle theft prevention standard.

To accomplish this purpose, this notice sets forth the theft rates for the 157 lines of passenger motor vehicles sold in the United States during the 1986 model year. NHTSA calculated these theft rates based on information provided by the National Crime Information Center (NCIC), a division of the FBI.

These 1986 theft data show an increase in vehicle thefts above the level experienced in 1983/84. For 1983/84, the median theft rate was 3.2712 thefts per 1000 vehicles produced. Exactly 50 percent of the 1983/84 lines had theft rates that exceeded this median theft rate. For 1986, the median theft rate was 3.6023, a 10 percent increase in the median compared to 1983/84. For 1986, 92 of the 157 car lines, or 58.6 percent, exceeded the median theft rate for 1983/84.

In calculating these 1986 theft data, the agency followed the same approach it has used in all previous theft data calculations. Multiple countings of a single vehicle theft could occur if a law enforcement agency computer operator followed incorrect data entry procedures after getting further information about a vehicle already reported as stolen. In these circumstances, operators are supposed to revise an existing theft data entry to reflect new or additional data about the theft, but they sometimes cancel the original theft entry and enter a new theft report. The result of such an action would be that one actual vehicle theft reported to NCIC would be entered into the system more than once. To address this possibility, NHTSA has excluded all duplicate vehicle identification numbers reported as stolen within seven days of each other. This limitation assumes that it is possible that a vehicle might actually be stolen more than once in a calendar year, but that it is highly unlikley a vehicle would be stolen more than once in any particular week.

Interested persons are invited to submit comments on these data. The agency is particularly interested in comments about the accuracy of the data and the methodology used to calculate theft rates. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered before publication of the final 1986 theft data. Comments on this notice will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 15 U.S.C. 2023; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on April 26, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

BILLING CODE 4910-59-M

TABLE 1

MODEL YEAR 1986 THEFT RATES FOR
CARLINES PRODUCED IN CALENDAR YEAR 1986

	MANUFACTURER	MAKE/MODEL (LINE)	THEFTS 1986	PRODUCTION (MFGR'S) 1986	THEFT RATE (THEFTS/PRODUCT) (1986) (1,000's)
1	GENERAL MOTORS	CHEVROLET CAMARO	5,275	178,870	29.4907
2	GENERAL MOTORS	PONTIAC FIREBIRD	2,789	100,210	27.8316
3	GENERAL MOTORS	CHEVROLET MONTE CARLO	2,139	113,394	18.8634
4	GENERAL MOTORS	BUICK REGAL	1,257	87,064	14.4377
5	TOYOTA	MR2	485	34,084	14.2296
6	GENERAL MOTORS	PONTIAC GRAND PRIX	552	40,386	13.6681
7	GENERAL MOTORS	OLDSMOBILE CUTLASS SUPREME	2,788	208,367	13.3802
8	CHRYSLER CORP.	DODGE CONQUEST	33	2,791	11.8237
9	GENERAL MOTORS	PONTIAC FIERO	863	78,255	11.0280
10	GENERAL MOTORS	CHEVROLET CORVETTE	365	33,355	10.9429
11	MITSUBISHI	TREDIA	106	10,086	10.5096
12	HONDA	PRELUDE	301	30,200	9.9669
13	CHRYSLER CORP.	PLYMOUTH CONQUEST	25	2,653	9.4233
14	VOLKSWAGEN	CABRIOLET	116	12,400	9.3548
15	TOYOTA	COROLLA/COROLLA SPORT	1,616	179,269	9.0144
16	FERRARI	MONDIAL	2	250	8.0000
17	MITSUBISHI	STARION	44	5,532	7.9537
18	GENERAL MOTORS	PONTIAC GRAND AM	1,623	208,098	7.7992
19	NISSAN	300ZX	473	61,354	7.7094
20	GENERAL MOTORS	OLDSMOBILE 98 REGENCY	868	117,110	7.4118
21	MITSUBISHI	GALANT	125	16,949	7.3751
22	CHRYSLER CORP.	CHRYSLER EXECUTIVE SEDAN/LIMOUSINE	1	138	7.2464
23	GENERAL MOTORS	CADILLAC FLEETWOOD BROUGHAM (RWD)	342	47,464	7.2055
24	ROLLS-ROYCE/BENTLEY	CORNICHE/CONTINENTAL	1	140	7.1429
25	GENERAL MOTORS	CADILLAC DEVILLE/LIMO (FWD)	1,148	161,476	7.1093
26	MITSUBISHI	MIRAGE	190	27,204	6.9843
27	FORD MOTOR CO.	LINCOLN TOWN CAR	759	112,964	6.7190
28	PORSCHE	911	50	7,456	6.7060
29	CHRYSLER CORP.	CHRYSLER FIFTH AVENUE/NEWPORT	508	78,417	6.4782
30	MAZDA	626	608	94,126	6.4594
31	CHRYSLER CORP.	DODGE 600	369	59,633	6.1878
32	FORD MOTOR CO.	FORD LTD	414	67,121	6.1680
33	MAZDA	323	487	79,565	6.1208
34	VOLKSWAGEN	SCIROCCO	61	10,122	6.0265
35	TOYOTA	CAMRY	938	157,469	5.9567
36	TOYOTA	CELICA	630	107,223	5.8756
37	CHRYSLER CORP.	DODGE LANCER	303	51,595	5.8727
38	FORD MOTOR CO.	FORD MUSTANG	1,136	198,925	5.7107
39	MITSUBISHI	CORDIA	46	8,146	5.6469
40	GENERAL MOTORS	CHEVROLET IMPALA/CAPRICE	1,159	210,758	5.4992
41	GENERAL MOTORS	BUICK SKYLARK/SOMERSET	711	130,316	5.4560
42	GENERAL MOTORS	PONTIAC SUNBIRD	609	111,702	5.4520
43	FORD MOTOR CO.	MERCURY CAPRI	79	14,569	5.4225
44	GENERAL MOTORS	BUICK ELECTRA	608	112,808	5.3897
45	FORD MOTOR CO.	FORD THUNDERBIRD	817	156,581	5.2177
46	MERCEDES-BENZ	500SEL	45	8,695	5.1754
47	CHRYSLER CORP.	DODGE DAYTONA	227	44,062	5.1518
48	NISSAN	SENTRA	703	138,838	5.0635

	MANUFACTURER	MAKE/MODEL (LINE)	THEFTS 1986	PRODUCTION (MFGR'S) 1986	THEFT RATE (THEFTS/PRODUCT) (1986) (1,000's)
49	FORD MOTOR CO.	MERCURY COUGAR	651	130,019	5.0070
50	FORD MOTOR CO.	MERKUR XR4TI	67	13,553	4.9436
51	GENERAL MOTORS	CHEVROLET CHEVETTE	358	73,237	4.8882
52	MAZDA	GLC	16	3,326	4.8106
53	MAZDA	RX-7	235	50,924	4.6147
54	GENERAL MOTORS	PONTIAC 6000	946	207,661	4.5555
55	CHRYSLER CORP.	LEBARON GTS	329	73,143	4.4980
56	CHRYSLER CORP.	DODGE ARIES	432	97,429	4.4340
57	CHRYSLER CORP.	LASER	161	36,372	4.4265
58	CHRYSLER CORP.	PLYMOUTH HORIZON	219	49,578	4.4173
59	GENERAL MOTORS	PONTIAC BONNEVILLE	177	40,925	4.3250
60	MERCEDES-BENZ	380SL	48	11,111	4.3200
61	GENERAL MOTORS	PONTIAC PARISIENNE	313	72,520	4.3161
62	GENERAL MOTORS	CHEVROLET SPECTRUM	422	98,476	4.2853
63	TOYOTA	CRESSIDA	199	46,688	4.2623
64	GENERAL MOTORS	PONTIAC 1000	91	21,687	4.1961
65	PORSCHE	928	11	2,627	4.1873
66	PORSCHE	944	68	16,300	4.1718
67	MERCEDES-BENZ	560SEC	7	1,687	4.1494
68	CHRYSLER CORP.	DODGE COLT/COLT VISTA	280	67,502	4.1480
69	NISSAN	200 SX	212	51,580	4.1101
70	CHRYSLER CORP.	DODGE OMNI	182	44,526	4.0875
71	GENERAL MOTORS	BUICK RIVIERA	85	21,294	3.9917
72	CHRYSLER CORP.	PLYMOUTH RELIANT	482	122,675	3.9291
73	CHRYSLER CORP.	PLYMOUTH TURISMO	125	32,150	3.8880
74	AUDI	4000/COUPE	73	19,445	3.7542
75	GENERAL MOTORS	CHEVROLET CAVALIER	1,471	396,823	3.7069
76	NISSAN	MAXIMA	257	69,681	3.6882
77	HONDA	ACCORD	540	147,000	3.6735
78	CHRYSLER CORP.	DODGE CHARGER	125	34,095	3.6662
79	FORD MOTOR CO.	MERCURY MARQUIS	93	25,817	3.6023
80	GENERAL MOTORS	OLDSMOBILE CUTLASS CIERA/CRUISER (FWD)	1,245	348,571	3.5717
81	GENERAL MOTORS	CADILLAC CIMARRON	86	24,354	3.5312
82	ALFA ROMEO	SPIDER VELOCE 2000	18	5,106	3.5253
83	CHRYSLER CORP.	CHRYSLER LEBARON/TOWN & COUNTRY	321	91,111	3.5232
84	GENERAL MOTORS	CHEVROLET NOVA	577	167,763	3.4394
85	HYUNDAI	EXCEL	429	127,183	3.3731
86	GENERAL MOTORS	CHEVROLET CELEBRITY	1,360	404,520	3.3620
87	BERTONE	X-1/9	7	2,096	3.3397
88	BMW	3.	185	55,570	3.3291
89	FORD MOTOR CO.	FORD ESCORT	1,342	404,123	3.3208
90	FORD MOTOR CO.	FORD TEMPO	779	235,417	3.3090
91	FORD MOTOR CO.	MERCURY TOPAZ	187	56,620	3.3027
92	NISSAN	PULSAR	213	64,560	3.2993
93	FORD MOTOR CO.	MERCURY LYNX	240	74,589	3.2176
94	AMC/RENAULT	ALLIANCE/ENCORE	252	78,470	3.2114
95	GENERAL MOTORS	BUICK CENTURY	823	257,022	3.2021
96	CHRYSLER CORP.	PLYMOUTH COLT/COLT VISTA	200	62,505	3.1997
97	GENERAL MOTORS	CHEVROLET SPRINT	211	66,290	3.1830

	MANUFACTURER	MAKE/MODEL (LINE)	THEFTS 1986	PRODUCTION (MFGR'S) 1986	THEFT RATE (THEFTS/PRODUCT) (1986) (1,000's)
98	HONDA/ACURA	LEGEND	27	8,500	3.1765
99	CHRYSLER CORP.	PLYMOUTH GRAN FURY	28	8,864	3.1588
100	VOLKSWAGEN	JETTA	290	93,779	3.0924
101	ALFA ROMEO	GTV6	2	660	3.0303
102	CHRYSLER CORP.	PLYMOUTH CARAVELLE	104	34,545	3.0106
103	FORD MOTOR CO.	LINCOLN MARK VII	58	19,329	3.0007
104	VOLKSWAGEN	GOLF/GTI	197	66,039	2.9831
105	JAGUAR	XJ-S	15	5,070	2.9586
106	FORD MOTOR CO.	MERCURY GRAND MARQUIS	297	101,822	2.9169
107	FORD MOTOR CO.	FORD EXP	86	29,573	2.9081
108	GENERAL MOTORS	BUICK SKYHAWK	237	82,155	2.8848
109	CHRYSLER CORP.	CHRYSLER NEW YORKER	147	50,957	2.8848
110	LOTUS	ESPIRT	1	350	2.8571
111	TOYOTA	CELICA SUPRA	73	26,202	2.7860
112	SUBARU	SUBARU	160	59,940	2.6693
113	VOLKSWAGEN	QUANTUM	29	11,074	2.6187
114	MERCEDES-BENZ	190D/E	53	20,459	2.5905
115	BMW	6.	6	2,323	2.5829
116	JAGUAR	XJ	46	17,898	2.5701
117	MERCEDES-BENZ	420SEL	37	14,840	2.4933
118	ISUZU	IMPULSE	36	14,457	2.4901
119	GENERAL MOTORS	OLDSMOBILE DELTA 88/CUSTOM CRUISER	590	238,905	2.4696
120	HONDA	CIVIC	522	212,000	2.4623
121	VOLVO	740/760	136	55,574	2.4472
122	GENERAL MOTORS	BUICK LESABRE	213	89,174	2.3886
123	PEUGEOT	505	31	13,211	2.3465
124	GENERAL MOTORS	OLDSMOBILE FIRENZA	87	37,672	2.3094
125	BMW	7.	14	6,080	2.3026
126	FORD MOTOR CO.	LINCOLN CONTINENTAL	42	18,271	2.2987
127	GENERAL MOTORS	CADILLAC ELDORADO	50	22,059	2.2666
128	GENERAL MOTORS	OLDSMOBILE TORONADO	34	15,102	2.2514
129	AUDI	5000S	103	46,388	2.2204
130	SAAB	900	85	39,085	2.1747
131	GENERAL MOTORS	CADILLAC SEVILLE	36	17,419	2.0667
132	MASERATI	BITURBO	2	973	2.0555
133	CHRYSLER CORP.	DODGE DIPLOMAT	34	16,585	2.0500
134	BMW	5.	41	21,080	1.9450
135	NISSAN	STANZA	99	52,398	1.8894
136	MERCEDES-BENZ	300D/E	43	23,186	1.8546
137	SAAB	9000	15	9,215	1.6278
138	FORD MOTOR CO.	FORD LTD CROWN VICTORIA	135	94,780	1.4244
139	VOLVO	DL/GL	82	59,790	1.3715
140	AUDI	QUATTRO	10	7,716	1.2960
141	HONDA/ACURA	INTEGRA	30	24,000	1.2500
142	SUBARU	XT	51	44,280	1.1518
143	GENERAL MOTORS	OLDSMOBILE CALAIS	128	135,587	0.9440
144	TOYOTA	TERCEL	74	83,749	0.8836
145	FERRARI	TESTAROSSA	0	250	0.0000
146	ROLLS-ROYCE/BENTLEY	SILVER SPIRIT/SILVER SPUR/MULSANNE	0	410	0.0000

	MANUFACTURER	MAKE/MODEL (LINE)	THEFTS 1986	PRODUCTION (MFGR'S) 1986	THEFT RATE (THEFTS/PRODUCT) (1986) (1,000's)
147	ASTON MARTIN	SALOON/VANTAGE/VOLANTE	0	31	0.0000
148	MASERATI	QUATTROPORTE	0	73	0.0000
149	EXCALIBUR	PHAETON/ROADSTER	0	70	0.0000
150	ASTON MARTIN	LAGONDA	0	16	0.0000
151	ISUZU	I-MARK	0	31,201	0.0000
152	SUZUKI	FORSA	0	10,971	0.0000
153	ZIMMER	CLASSIC/ELEGANTE/CABRIOLET	0	170	0.0000
154	ROLLS-ROYCE/BENTLEY	CAMARGUE	0	40	0.0000
155	BITTER GMBH	BITTER SC	0	81	0.0000
156	FERRARI	328	0	600	0.0000
157	TVR	280I	0	225	0.0000

[FR Doc. 88-9583 Filed 4-29-88; 8:45 am]
BILLING CODE 4910-59-C

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 27, 1988.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0143
Form Number: IRS Form 2290
Type of Review: Resubmission
Title: Heavy Vehicle Use Tax Return
Description: Form 2290 is used to compute and report the tax imposed by section 4481 on the highway use of motor vehicles which have a taxable gross weight of at least 55,000 pounds. The information is used to determine whether the taxpayer has paid the correct amount.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Burden: 660,864 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Lois K. Holland,
Departmental Reports, Management Officer.

[FR Doc. 88–9678 Filed 4–29–88; 8:45 am]
BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Advisory Committee on Native American Veterans; Availability of Final Report

Under section 10(d) of Pub. L. 92–463 (Federal Advisory Committee Act) notice is hereby given that the Final Report of the Veterans Administration Advisory Committee on Native American Veterans has been issued.

The Report summarizes the findings and recommendations developed through four national meetings of the Committee. It is available for public inspection at two locations:

Federal Documents Section, Exchange and Gift Division, LM 632, Library of Congress, Washington, DC 20540
and
Veterans Administration, Social Work Service (122), Room 938, 810 Vermont Avenue, NW., Washington, DC 20420

Dated: April 21, 1988.

By direction of the Administrator.

Rosa Maria Fontanez,
Committee Management Officer.

[FR Doc. 88–9600 Filed 4–29–88; 8:45 am]
BILLING CODE 8320–01–M

Privacy Act of 1974; Report of New Matching Program

AGENCY: Veterans Administration.

ACTION: Notice of Matching Program—Veterans Administration Compensation and Pension Records/State and Local Wage, Tax, and Employment Security Records.

SUMMARY: The Veterans Administration (VA) is providing notice that the Department of Veterans Benefits (DVB) is initiating a series of computer matches of VA Compensation and Pension records with state and local wage, tax, and employment security records.

The goals of these matches are to: (1) Detect benefit payments under Title 38, United States Code, to persons who may be ineligible for, or not fully entitled to, veterans benefits; and (2) identify those instances in which it appears that recipients may not have reported all employment and/or income received. These matches will include checks on the eligibility of beneficiaries drawing nonservice-connected pension, and those drawing service-connected compensation with disabilities based on "industrial inadaptability" or "inability to obtain or retain gainful employment."

DATES: It is anticipated that the matches will begin during the third quarter of Fiscal Year 1988 and continue, one state at a time.

ADDRESS: Interested persons may comment on the proposed matches by writing to: Mr. J. Gary Hickman, Assistant Director for Policy and Planning (211), Compensation and Pension Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Mr. J. Gary Hickman, (202) 233–2010.

SUPPLEMENTARY INFORMATION: The full text of the computer matching program report is provided below as required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). Copies of this report have been provided to both Houses of Congress and the Office of Management and Budget.

Approved: April 25, 1988.

Thomas K. Turnage,
Administrator.

Report of Matching Program: Veterans Administration Compensation and Pension Records/State and Local Wage, Tax, and Employment Security Records

A. Authority: Title 38, United States Code, Sections 355, 502(a), 503, 506, 521 and 541.

b. Program Description:

(1) *Purpose:* These matches are designed to identify individuals who may be ineligible for, or not fully entitled to, veterans benefits and identify those instances in which it appears that recipients may not have reported all employment and/or income received.

(2) *Procedures:* The computer matching will be performed by state or local agencies by comparing a magnetic tape file of beneficiary social security numbers from VA compensation and pension files with their wage, tax, or employment security files. The social security numbers of veterans' spouses, if available from individual VA compensation and pension files, also will be supplied for matching. In those pension programs known as Improved Pension and section 306 Pension, the income of a veteran's spouse must be considered in determining entitlement to benefits, and in Improved Pension the spouse's income also is a factor in determining the rate payable. The state or local agencies will send the VA a magnetic tape file containing names, social security numbers, wage and employment histories, and identification of employers for all match hits. In this computer matching program, a "hit" is defined as the identification of an individual in the records that are being matched or compared with each other and results when any VA-provided social security number matches a social security number recorded in the state or local file being matched. When it is necessary to verify the identity of beneficiaries who appear in State or local files, the VA may furnish additional identifying data such as dated of birth, place of birth, sex, etc. In accordance with Title 38, United States Code, the names available to state or

local agencies except in connection with a proceeding for the collection of a debt owed to the United States and resulting from the receipt of VA benefits.

Hits resulting from these matches will be treated as follows: The DVB, through a series of computer edits, first will verify against VA records the identity of the persons listed as hits and then review the information obtained through the match. If the review indicates that information provided to the VA in applying for a benefit may not have been accurate, or that a change in a beneficiary's eligibility may have occurred that has not been reported to the VA, the information and the identity of the person involved will be referred to the VA regional office of jurisdication for adjudicative review and determination of a need for follow-up action. Employers or other knowledgeable sources may be contacted in the verification process. A reduction, suspension, or termination of benefit payments may ensue when the circumstances warrant and after due process has been afforded to the beneficiary. Action to recover overpayments also may be taken. When there are reasonable grounds to believe that there has been a violation of criminal law, the matter will be referred to the VA Office of Inspector General (OIG) for investigation and prosecutive consideration.

For the purposes of these matches, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

C. *Records to be Matched:* Social security numbers extracted from the following system of records will be matched with state and local wage, tax, and employment security records:

Compensation, Pension, and Education Records-VA (58VA21/22) as set forth on page 789 of the **Federal Register** publication Privacy Act Issuances, 1985 Compilation, Vol. V, and amended at 51 FR 24782 (July 8, 1986); 51 FR 25141 (July 10, 1986); 51 FR 28289 (August 6, 1986); and 52 FR 4078 (February 9, 1987). The disclosure of information from this system of records, for the purpose of the matching program, is permitted by a published routine use.

d. *Period of Match:* It is anticipated that the matches will begin during the third quarter of Fiscal Year 1988 and continue, one state at a time. The schedule and order of the remaining matches will depend on current workload, available resources, and other factors and, therefore, cannot be projected. These matches may be repeated on a cyclical or intermittent basis.

e. *Safeguards:* Records used in the matches and data generated as a result will be safeguarded from unauthorized disclosure. Access will be limited to those persons who have a need for the information in order to conduct the matches or followup actions. All of the material will be stored in locked containers when not in use. Prior to releasing any information from the VA system of records to a state or local agency, DVB will obtain a written agreement from the agency specifying that the social security number file will remain the property of, and will be returned to, the VA upon completion of the match; that it will be used and accessed only to match the files previously agreed to; that it will not be used to extract information concerning "non-hit" individuals for any purpose; and that it will not be duplicated or disseminated within or outside the matching agency unless authorized in writing by DVB.

f. *Retention and Disposition:* Records not resulting in "hits" will be destroyed by burning, shredding, or electronic erasing within three months of the completion of the individual match. Records resulting in "hits" will be retained by either the Office of Information Systems and Telecommunications or DVB until the completion of any necessary administrative or legal actions and will then be disposed of in accordance with approved records control schedules and/or approved disposition authority from the Archivist of the United States.

g. *States and Other Geographical Entities to be Included in the Match:* The following states and other geographical entities have indicated willingness to participate in the matches and will be included as scheduling permits:

Alabama	Missouri
Delaware	New Jersey
Idaho	Pennsylvania
Kansas	Virginia
Maine	Connecticut
Mississippi	Colorado
New Hamsphire	Hawaii
Oklahoma	Iowa
Texas	Louisiana
Wisconsin	Minnesota
Arizona	Montana
Florida	North Carolina
Indiana	South Dakota
Kentucky	Washington
Maryland	

Additional states and geographical entities may be added when DVB receives their agreement to participate. At the present time it is contemplated that Arizona, New Jersey, North Carolina, and Oklahoma will be the first states to participate in a match conducted by the Department of Veterans Benefits.

[FR Doc. 88-9643 Filed 4-29-88; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 84
Monday, May 2, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 2, 1988:

A closed meeting will be held on Tuesday, May 3, 1988, at 10:00 a.m. An open meeting will be held on Thursday, May 5, 1988, at 10:00 a.m. An open meeting will be held on Thursday, May 5, 1988, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10) permit consideration of the scheduled matters at a closed meeting.

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 3, 1988, at 10:00 a.m., will be:

Institution of administrative proceeding of an enforcement nature.

Formal orders of investigation.

The subject matter of the open meeting scheduled for Thursday, May 5, 1988, at 10:00 a.m., will be:

1. Consideration of whether to delegate authority to the Office of General Counsel to grant or deny requests for non-expert factual staff testimony and the production of documents pursuant to subpoenas issued in private litigation, unless the information is privileged. For further information, please contact Jeri Cohen at (202) 272–2453.

2. Consideration of a proposed rule change submitted by the National Association of Securities Dealers ("NASD") that would provide prcedures for the NASD to halt its members' trading in NASDAQ securities pending dissemination of material information from the issuer and to halt over-the-counter ("OTC") trading in exchange-listed securities, so-called "third-market trading," when the primary market for the security halts trading pending material news dissemination. For further information, please contact Christine A. Sakach at (202) 272–2418.

3. Consideration of whether to grant Government Securities Clearing Corporation's application for registration as a clearing agency under Section 17A of the Securities Exchange Act of 1934 and Rule 17Ab2–1(c) thereunder. For further information, please contact Jonathan Kallman at (202) 272–2402 or Ester Saverson, Jr. at (202) 272–2826.

4. Consideration of whether to request Congress to consider a legislative proposal designed to increase international cooperation in securities law enforcement. The proposal would amend the Securities Exchange Act of 1934, the Investment Company Act of 1940 and the Investment Advisers Act of 1940. The amendments would: (1) Authorize the Commission to compel testimony and production of evidence in investigations of violations of foreign securities laws when requested to do so by foreign securities authorities; (2) authorize the Commission to withhold from disclosure under the Freedom of Information Act confidential documents furnished to the Commission by foreign securities officials; (3) grant the Commission explicit rulemaking authority to permit access to its files by persons, both domestic and foreign, engaged in securities law enforcement and oversight; and (4) authorize the Commission to impose sanctions or restrictions on the activities of securities professionals on the basis of a finding of misconduct in a foreign country. For further information, please contact Michael Mann at (202) 272–2309 or Thomas Riesenberg at (202) 272–3088.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bernard Black at (202) 272–2149.

Jonathan G. Katz,

Secretary.

April 27, 1988.

[FR Doc. 88–9711 Filed 4–28–88; 12:32 pm]

BILLING CODE 8010–01–M

Federal Register

Monday
May 2, 1988

Part II

Federal Retirement Thrift Investment Board

5 CFR Part 1645
Allocation of Earnings; Interim Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1645

Allocation of Earnings

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing in Part 1645 of 5 CFR interim regulations concerning allocation of earnings of the three funds in which assets of the Thrift Savings Fund may be invested. These are the Government Securities Investment Fund (G Fund), the Common Stock Index Investment Fund (C Fund), and the Fixed Income Investment Fund (F Fund). These regulations are required by the Federal Employees' Retirement System Act of 1986 (Pub. L. 99–335). They describe the way in which earnings are allocated to participants of the Thrift Savings Plan.

DATES: Interim rules are effective February 1, 1988; comments must be received on or before June 1, 1988.

ADDRESS: Comments may be sent to: James B. Petrick, Federal Retirement Thrift Investment Board, 805 Fifteenth Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: James B. Petrick (202) 523–6367.

SUPPLEMENTARY INFORMATION: Part 1645 describes the process for determining and allocating earnings for each of the three Investment Funds—the G Fund, the C Fund, and the F Fund—to individual accounts of participants in the Thrift Savings Plan.

G Fund earnings have been allocated to individual accounts since May 1, 1987, but two events caused changes in the allocation process as of February 1, 1988. First, legislation was enacted (Pub. L. 100–238, January 8, 1988) that required administrative expenses to be charged against earnings on all types of contributions, rather than only against employer contributions. Second, the C and F Funds first became available on January 1, 1988. As a result, the allocation of earnings, beginning as of February 1, 1988, was required to encompass these funds as well as the G Fund.

Section 1645.1 contains the definitions used in this part.

Section 1645.2 states that contributions will be posted to individual accounts on the day those contributions are processed by the Board's recordkeeper. Contributions are placed in participants' accounts according to Investment Fund and source; that is, they are designated as G Fund employee contributions, C Fund employee contributions, F Fund employee contributions, G Fund employer basic contributions, or G Fund employer matching contributions. Until 1993, no employer contributions can be invested in the C or F Funds.

Section 1645.3 describes the method for calculating net earnings for the three Investment Funds. It sets forth the various components of earnings: (1) Interest on investment of G Fund money, including C and F Fund money which is invested in the G Fund on a short-term basis; (2) interest on other short-term investments, primarily C and F Fund money invested in a short-term investment fund by the Funds' investment managers; (3) other income, such as dividends or interest; and (4) capital gain or loss, which is the change in market value of the investment, net of transaction costs, during the valuation period. The total of these components is then reduced by the portion of administrative expenses charged against the particular Investment Fund for that valuation period, as calculated under the rules set forth in section 1645.4. Not all of the elements in this calculation are relevant to each of the Investment Funds. For example, there are no transaction costs resulting from investment of the G Fund.

Section 1645.4 describes the method for assessing a portion of the monthly accrued administrative expenses against the earnings of each Investment Fund. First, accrued expenses that are attributable only to the C or F Funds (such as the investment managers' fees) are charged solely to that Fund. Second, the remaining monthly accrued administrative expenses are reduced by forfeitures processed during that month. The remaining amount is then assessed on a *pro rata* basis against each Investment Fund, based on the respective balances of each fund on the last day of the prior valuation period.

Section 1645.5 describes the calculation of the bases used for determining each account's proper share of earnings. For each individual account, the basis is: (1) The amount attributable to that source of contribution within each Investment Fund which was in the account at the end of the last valuation period; plus (2) earnings on that source of contribution in that Investment Fund which were allocated to the account for the last valuation period (these earnings are posted as of the first day of the current valuation period); plus (3) all amounts in the account that were transferred into that Fund as of the first day of the current valuation period; plus (4) one-half of all contributions and participant loan repayments to the account relating to that source in that Investment Fund which were made during the current valuation period; minus (5) one-half of error adjustments to the account (error adjustments are always negative, since positive error adjustments are treated as contributions); minus (6) amounts transferred out of that Investment Fund in the account as of the first day of the current valuation period; minus (7) loans made from the account under the participant loan program; and minus (8) other withdrawals from the account during the current valuation period. Using one-half of an element such as contributions permits that element to be a factor in allocating earnings, no matter when it occurred during the valuation period.

Contributions and related interest for the retroactive one percent contribution for FERS employees for the 1984–1986 period are counted in full when determining the basis for allocating earnings on employer basic contributions.

The total of each of the different bases for all individual accounts is then computed to yield the fund basis for each source of contributions in each Investment Fund.

Section 1645.6 sets forth the allocation process with respect to each individual account. The amount allocated to each account is the total net earnings for each source of contributions in each Investment Fund, divided by the fund basis for that source of contributions in that Investment Fund, times the individual account basis for that source of contributions in that Investment Fund. Residual amounts which result from eliminating fractions of a cent from this calculation will be posted to undistributed earnings accounts for that source and that Investment Fund. These remain invested (if positive) and will be allocated the next month.

Section 1645.7 states that earnings will be posted to individual accounts as of the first calendar day of each month.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only internal Board procedures for allocating earnings.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Pursuant to 5 U.S.C. 553 (b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these interim regulations effective in less than 30 days. As a result of the implementation of the C and F Funds and the passage of Pub. L. 100–238 (January 8, 1988), earnings are being allocated to participant accounts under these rules as of February 1, 1988.

List of Subjects in 5 CFR Part 1645

Employee benefit plans, Government employees, Retirement, Pensions.

Federal Retirement Thrift Investment Board.

Francis X. Cavanaugh,

Executive Director.

Title 5 of the Code of Federal Regulations is amended to add Part 1645 to Chapter VI to read as follows:

PART 1645—ALLOCATION OF EARNINGS

Sec.

Authority: 5 U.S.C. 8439(a)(3) and 5 U.S.C. 8474.

§ 1645.1 Definitions.

As used in this part, the following terms have the following meanings:

"Accrued" means accounted for during a valuation period, whether or not actually paid or received during that period.

"Administrative expenses" means the expenses authorized by 5 U.S.C. 8437(c)(3).

"Allocation" means any *pro rata* distribution of amounts.

"Allocation date" means the first day of each calendar month.

"Basis" means the portion of an account or Investment Fund upon which the allocation of earnings is based.

"Board" means the Federal Retirement Thrift Investment Board established pursuant to 5 U.S.C. 8472.

"C Fund" means the Common Stock Index Investment Fund established pursuant to 5 U.S.C. 8438(b)(1)(C).

"Employee contributions" means any contributions made pursuant to 5 U.S.C. 8432(a) or 5 U.S.C. 8351(a).

"Employer basic contributions" means any contributions made pursuant to 5 U.S.C. 8432(c)(1) or 5 U.S.C. 8432(c)(3).

"Employer contributions" means employer basic contributions and employer matching contributions.

"Employer matching contributions" means any contributions made pursuant to 5 U.S.C. 8432(c)(2).

"F Fund" means the Fixed Income Investment Fund established pursuant to 5 U.S.C. 8438(b)(1)(B).

"Forfeitures" means any amounts forfeited pursuant to 5 U.S.C. 8432(g)(2).

"G Fund" means the Government Securities Investment Fund established pursuant to 5 U.S.C. 8438(b)(1)(A).

"Individual account" means the account established for a participant in the Thrift Savings Fund pursuant to 5 U.S.C. 8439(a)(2).

"Investment Fund" means the G Fund, the F Fund, or the C Fund.

"Posting" means the process of crediting or debiting amounts to an individual account.

"Recordkeeper" means the organization designated by the Board as the Thrift Savings Plan's recordkeeper.

"Source" means the origin of any one of the three types of contributions that are made to the Fund on behalf of participants—employee contributions, employer basic contributions, or employer matching contributions.

"Thrift Savings Fund" or "Fund" means the Fund described in 5 U.S.C. 8437.

"Valuation period" means the calendar month during which earnings accrue prior to allocation.

§ 1645.2 Posting of receipts.

Employer and employee contributions and loan repayments will be posted by source and by Investment Fund to the appropriate individual account on the day they are processed by the recordkeeper.

§ 1645.3 Calculation of net earnings for each Investment Fund.

(a) For each valuation period, net earnings will be calculated separately for each Investment Fund.

(b) Net earnings for each Investment Fund will equal:

(1) The sum of the following items, if any, accrued during the current valuation period:

(i) Interest on money of that Investment Fund which is invested with the G Fund;

(ii) Interest on other short-term investments of the Investment Fund;

(iii) Income (such as dividends and interest) on other investments of the Investment Fund; and

(iv) Capital gain or loss on investments of the Investment Fund, net of transaction costs.

(2) Minus the accrued administrative expenses of the Investment Fund, determined in accordance with § 1645.4.

(c) The net earnings for each Investment Fund resulting from paragraph (b) of this section will be adjusted by residual net earnings from the previous valuation period for that Investment Fund, as described in § 1645.6(b), to produce the earnings available for allocation to the participant accounts in the respective Investment Fund for the current valuation period.

§ 1645.4 Administrative expenses attributable to each Investment Fund.

A portion of administrative expenses accrued during each valuation period will be charged to each Investment Fund. The Investment Funds' respective portions will be determined as follows:

(a) Investment managers' fees and other accrued administrative expenses attributable only to the C or F Fund will be charged to the C or F Fund, respectively;

(b) All other accrued administrative expenses will be reduced by forfeitures that the recordkeeper has processed during the valuation period;

(c) The amount of accrued administrative expenses not covered by forfeitures under paragraph (b) of this section will be charged on a *pro rata* basis to the Investment Funds, based on the respective Investment Fund balances on the last day of the prior valuation period.

§ 1645.5 Basis for allocation of earnings.

(a) *Individual account basis.* Except for the amounts described in paragraph (b) of this section, on the earnings allocation date, the individual account basis for each source of contributions in each Investment Fund equals:

(1) The portion of the individual account that is attributable to the respective source of contributions in that Investment Fund as of the close of business on the last day of the previous valuation period; plus

(2) All earnings allocated to the respective source of contributions in the individual account and in that Investment Fund as of the previous allocation date; plus

(3) All amounts in the individual account transferred into that Investment Fund from another Investment Fund as of the previous allocation date; plus

(4) One-half of contributions posted to the individual account during the current valuation period (except for

contributions referred to in paragraph (b) of this section); plus

(5) One-half of all loan repayments posted to the individual account during the current valuation period; minus

(6) All amounts in the individual account transferred out of an Investment Fund to another Investment Fund as of the previous allocation date; minus

(7) One-half of all error correction adjustments made to the respective source of contributions in the individual account and in the respective Investment Fund during the current valuation period; minus

(8) Any loans or withdrawals paid from the individual account in the current valuation period.

(b) *Inclusion of retroactive contributions.* The individual account basis for employer basic contributions will also include all amounts attributable to retroactive contributions that are made to the individual account pursuant to 5 U.S.C. 8432(c)(3) and that are processed by the recordkeeper during the current valuation period.

(c) *Computation of Fund Basis.* For each valuation period, the Fund Basis of each source of contributions in each Investment Fund will be the total of all individual account bases for that source of contributions in each Investment Fund, calculated as described in paragraphs (a) and (b) of this section.

§ 1645.6 Earnings allocation for individual accounts.

(a) *Computation of earnings for each individual account.* Earnings for each source of contributions for each Investment Fund will be allocated to each individual account separately. The total net earnings for each source of contributions in each Investment Fund (as computed under § 1645.3) will be divided by the Fund Basis for that source of contributions in that Investment Fund (as computed under § 1645.5(c)). The resulting number (the "allocation factor" for that source) will be multiplied by the individual account basis for the respective source of contributions in that Investment Fund (as computed under § 1645.5(a)), to determine the individual account earnings for the valuation period attributable to that source of contributions in that Investment Fund. The earnings of the individual account for each source of contributions in each Investment Fund, when added together, will constitute the earnings for that individual account during the valuation period.

(b) *Residual net earnings.* Amounts allocated to individual accounts may not exceed the total amount of earnings available to be allocated. To avoid allocating excessive amounts, computation of earnings for individual accounts described in subsection (a) of this section will not include fractions of a cent. Residual net earnings attributable to unallocated fractions of a cent will be allocated with the earnings for the following valuation period.

§ 1645.7 Posting of earnings to individual accounts.

For each source of contributions for each Investment Fund, the amount of earnings computed for each individual account in a valuation period, as described in § 1645.6, will be posted to the individual account as of the first day of the next valuation period.

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May 2, 1988

Part III

Environmental Protection Agency

40 CFR Part 253

Guideline for Federal Procurement of Retread Tires; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 253

[SWH-FRL 3295-3]

Guideline For Federal Procurement of Retread Tires

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing a guideline for Federal procurement of retread tires. The guideline would implement section 6002(e) of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), which requires EPA (1) to designate items which can be produced with recovered materials and (2) to prepare guidelines to assist procuring agencies in complying with the requirements of section 6002. Once EPA has designated a procurement item, section 6002 requires that any procuring agency using appropriated Federal funds to procure that item must purchase such items containing the highest percentage of recovered materials practicable.

This guideline designates tires as a product for which the procurement requirements of section 6002 apply. The guideline also contains recommendations for implementing the section 6002 procurement requirements as well as the requirements for revising specifications.

DATE: EPA will accept public comments on this proposed guideline until June 1, 1988.

ADDRESS: Comments on this proposed guideline should be addressed to the EPA RCRA Docket Clerk, Office of Solid Waste, WH-562, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments should identify the docket number, which is F-88-PRTP-FFFFF.

The public docket is available for viewing in Room LG-100, U.S. EPA, 401 M Street SW., Washington, DC, from 9:00 AM to 4:00 PM, Monday through Friday, excluding holidays. To review docket materials, the public must make an appointment by calling (202) 475-9327. Materials may be copied from any regulatory docket at a cost of 15 cents per page. Copying totaling less than $15 is free.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free, at (800) 424-9346 or at (202) 382-3000. For technical information, contact William Sanjour, Office of Solid Waste, WH-563, U.S. EPA, 401 M Street SW., Washington, DC 20460, telephone: (202) 382-4502.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority

This guideline is proposed under the authority of sections 2002(a) and 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a) and 6962.

II. Introduction

A. Purpose and Scope

The Environmental Protection Agency (EPA) is proposing today one in a series of guidelines designed to encourage the use of products containing materials recovered from the solid waste stream. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA or the Act), as amended, 42 U.S.C. 6962, states that if a Federal, State, or local procuring agency uses appropriated Federal funds to procure certain designated items, such items must be composed of the highest percentage of recovered materials practicable. EPA is required to designate these items and to prepare guidelines to assist procuring agencies in complying with the requirements of section 6002.

EPA issued the first of these guidelines, for cement and concrete containing fly ash, on January 28, 1983 (48 FR 4230; 40 CFR Part 249). EPA issued a second guideline, for paper and paper products containing recovered materials, on October 6, 1987 (52 FR 37293; 40 CFR Part 250). EPA concurrently proposed minimum recovered materials content standards for paper and paper products; these standards are being finalized. A third guideline, for asphalt materials containing ground tire rubber, was proposed on February 20, 1986 (51 FR 6202). A fourth guideline, for engine lubricating oils, hydraulic fluids, and gear oils containing re-refined oils, was proposed on October 19, 1987 (52 FR 38838); this guideline is being finalized. Today's proposed guideline applies to procurement of tires.

This preamble describes the requirements of section 6002, explains the basis for designating tires as a procurement item subject to section 6002, and discusses the provisions of the proposed guideline. It also provides information regarding the price, availability, and performance of retread tires.

B. Requirements of Section 6002

Section 6002 of RCRA, "Federal Procurement," directs all procuring agencies using appropriated Federal funds to procure items composed of the highest percentage of recovered materials practicable, considering competition, availability, technical performance, and cost. Two factors trigger this requirement. First, EPA must designate the items to which this requirement applies. Second, the requirement only applies when the purchase price of the item exceeds $10,000 or when the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was $10,000 or more.

Section 6002(c) requires procuring agencies to obtain from suppliers an estimate of and certification regarding the percentage of recovered materials contained in their products.

Federal agencies responsible for drafting or reviewing specifications for procurement items were required under section 6002(d)(1) to review and revise the specifications by May 8, 1986, in order to eliminate both exclusions of recovered materials and requirements that items be manufactured from virgin materials. In addition, within one year after the date of publication of a

procurement guideline by EPA, the Federal agencies must revise their specifications to require the use of recovered materials in such items to the maximum extent possible without jeopardizing the intended end use of the item.

Section 501 of the Hazardous and Solid Waste Amendments of 1984 added paragraph (i) to section 6002 of RCRA. This provision requires procuring agencies to establish an affirmative procurement program for purchasing items designated by EPA. The program must assure that items composed of recovered materials will be purchased to the maximum extent practicable, be consistent with applicable provisions of Federal procurement law, and contain at least four elements:

(1) A recovered materials preference program;

(2) An agency promotion program;

(3) A program for requiring estimates, certification, and verification of recovered material content; and

(4) Annual review and monitoring of the effectiveness of the procurement program.

Under section 6002(e), EPA is required to issue guidelines for use by procuring agencies in complying with the requirements of section 6002. The EPA guidelines must designate those items which can be produced with recovered materials and whose procurement by procuring agencies will fulfill the objectives of section 6002. They also must provide recommendations for procurement practices and information on availability, relative price, and performance.

Section 6002 is designed to promote materials conservation and thereby to reduce the quantity of materials in the solid waste stream. By using products containing recovered materials, Federal procurement can demonstrate their technical and economic viability. Because state and local governments and private purchasers often follow the Federal lead, Federal procurement of products containing reclaimed materials is expected to result in increased procurement of them by these other groups as well.

C. Rationale for Selecting Tires for a Procurement Guideline

In the preamble to the fly ash guideline, EPA established criteria for the selection of procurement items for which guidelines will be prepared. however, section 6002(e) of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984, specifically directs the EPA Administrator to issue procurement guidelines for tires. The portion of the Conference Committee report describing the amendments to section 6002 explains that the term "tires" includes "the use of retreaded tires." [H.R. 2867 Conference Report, p. 1, Cong. Rec. H11138 (October 3, 1984)]. Since Congress already has selected tires as an appropriate subject for a procurement guideline, it is not necessary for EPA to determine that tires are an appropriate subject for a guideline or to demonstrate that tires satisfy the EPA criteria.

D. Background Information on Tire Retreading

The retreading industry was started in the 1910s. Today there are approximately 2,600 retreading plants in the United States. They retread tires for aircraft (commercial and military), agricultural equipment, automobiles, light- and heavy-duty trucks, buses (school and mass transportation), off-road vehicles (i.e., earthmovers, graders, loaders, and dozers) and racing cars.

Tire retreading is the application of a new tread to a worn tire. The tire retreading process involves the following steps:

- Inspection and selection of tires suitable for retreading
- Removal of the old tire tread through a buffing process
- Repair of the tire casing, if necessary
- Application of rubber cement
- Application of a new tread
- Curing
- Inspection of the retreaded tire.

There are two methods for applying a new tread: the mold-cured process, in which an uncured rubber tread is applied, and the pre-cured process, in which a pre-cured, pre-molded rubber tread is applied.

During the mold-cured process, uncured (i.e., nonvulcanized) rubber is applied to the tire. The tire then is placed in a mold to form the tread pattern, the tire is internally pressurized, and the mold is heated. The combination of heat and air pressure applied for an appropriate period of time vulcanizes the rubber and bonds it to the tire body.

During the pre-cure process, a thin layer of uncured rubber (the bonding layer) is applied to the tire body. The pre-cured, pre-molded rubber tread is applied over the bonding layer. The tire is then placed in an autoclave to bond the tread to the tire body, Again, the combination of heat and air pressure applied over time vulcanizes the bonding layer and bonds it and the tread to the tire body.

A properly retreaded tire can provide the same mileage as a new tire, thus substantially extending a tire's useful life. Tires also can be retreaded multiple times. Truck tires, for example, are often retreaded two or three times.

E. Current Retread Tire Procurement Procedures

Procuring agencies can procure either a service—tire retreading—or a product—retread tires. Agencies currently use different methods for procuring retreading services than for procuring retreads as a product. These approaches are described below.

1. Procurement of Services

The General Services Administration (GSA) awards contracts for tire retreading services. Retreading contracts are awarded by the GSA regional offices. The regional offices then issue a supply schedule, Federal Supply Schedule No. 753II, Tire Retreading and Repairing, identifying the vendors of tire retreading services within the GSA region. The individual Federal agencies [1] can bring their tires to these vendors for retreading. The vendor retreads the tire and returns it to the procuring agency. If the tire is not retreadable (e.g., the casing is damaged), the vendor returns it to the agency for disposal.

Vendors retread tires in accordance with GSA Specification ZZ–T–441, which details the retreading procedures to be followed, including inspection of the worn tire casing for suitability for retreading, and inspection of the finished product. It applies to both the mold-cured and pre-cured retreading processes and to tire repairs. It covers four groups of tires: (1) Passenger car and cycles, (2) light truck and high speed industrial, (3) truck, bus and trailer, and (4) special service (including military, agricultural, off-highway, and slow speed industrial).

The specification also requires that the retreader receive a mandatory pre-award facility certification of approval. According to the specification, there are two acceptable approaches that a retreader may use to have his facility certified. First, a GSA inspector can perform the retreading facility inspection. Second, the retreader can provide evidence that within the previous 12 months the facility has received an approved certification from a nationally recognized retread tire trade association, such as the National Tire Dealers and Retreaders Association or the American Retreaders Association.

[1] The Department of Defense uses Schedule No. 753II for retreading of tactical equipment and heavy-duty truck tires, as well as for administrative and light-duty vehicle tires.

With the exception of the Department of Defense, very few Federal government agencies have central motor pools to maintain and repair vehicles. Nor are tires stockpiled in Federal government warehouses or depots. Instead, replacement tires are obtained from the commerical marketplace. Individual vehicle operators, in conjunction with GSA's Fleet Management, thus decide whether to procure a new tire or a tire retreading service for the worn tires on the operator's vehicle. There are no criteria for the vehicle operators to use in making the decision to procure a new tire or a tire retreading service, nor does GSA monitor procuring agencies' use of the retreading contracts. Note that if the retreading service is used, the vehicle operator is provided with his original casing with a new tread, unless the casing cannot be retreaded, in which case it is returned.

The State of Vermont also procures retreading services (for truck and aircraft tires). The state's specification identifies the retreading process to be used (mold-cured), retread size, and tread design. It requires that the retreader use the state's casings. The state invites bids to supply retreading services in accordance with the specification and awards one-year contracts with two options to renew.

Vermont has a central motor pool which warehouses replacement parts, including a mix of new and retreaded tires. The motor pool staff are trained in tire inspection procedures. Each tire casing is inspected to determine whether it can be retreaded; if it is suitable for retreading, it is sent to the contract retreader. Vehicle operators receive replacement tires, although not necessarily their old tire casings.

2. Procurement of Products

GSA is the lead agency for purposes of Federal tire procurement. GSA's tire specification, ZZ–T–381, is specific to new tires containing virgin or recovered rubber. GSA prepares a schedule (the Federal Supply Schedule) identifying the types and sizes of tires required by Federal agencies and awards national contracts to vendors of these tires.These vendors are then identified on the supply schedule (Federal Supply Schedule No. 26II, Pneumatic Tires and Inner Tubes). The Individual Federal agencies procure tires directly from these vendors using purchase orders. All Federal agencies, including the Defense Department, use the GSA supply schedule for automobile and truck tires. (DOD awards its own contracts for procurement of tires for tactical equipment, heavy-duty trucks, and airplanes.)

When retread tires are purchased as products by procuring agencies other than Federal agencies, they generally are purchased through open competition. The procuring agency invites bids from both vendors of new tires and vendors of retread tires. The contract is awarded to the lowest-priced responsible bidder.

For example, the Virginia Highways and Transportation Department (VHTD) purchases truck tires in this manner. VHTD has developed a performance specification for truck tires which specifies tire size and performance standards. It is neutral in that it applies to both new and retread tires. It requires the contractor to guarantee an average mileage and to submit a performance bond. The price of each tire is divided by the guaranteed mileage to obtain a guaranteed cost per mile. If the tire does not perform for the guaranteed mileage, the cost per mile is used to adjust the price of the tire. The difference between the actual tire price and the adjusted price is the amount the contractor must reimburse the VHTD. Both vendors of new tires and vendors of retreads can and have submitted bids to VHTD, and retreaders have received contract awards.

III. Proposed Guideline

This portion of the preamble explains each section of the proposed guideline.

A. Purpose and Scope

The purpose of this guideline is (1) to designate tires as an item subject to the procurement requirements of section 6002 of RCRA and (2) to recommend procedures for complying with section 6002.

This guideline applies to purchases of the following types of tires: passenger care tires, light- and heavy-duty truck tires, high speed industrial tires, bus tires, and special service tires (including Military, agricultural, off-the-road, and slow speed industrial). It does not apply to airplane tires. Because Federal agencies that procure airplane tires already use retreads extensively, EPA believes that designating airplane tires will not result in increased use of retreaded airplane tires. (Information on airplane tire retreading is available in the docket.) In addition, EPA believes that when Congress directed EPA to issue a procurement guideline for tires, it intended EPA to focus on automobile, truck, and other vehicle tires because they are a significant solid waste problem; the bulk of the tires in the solid waste stream are automobile tires and, to a lesser extent, truck and other vehicle tires. Because airplane tires are not a significant solid waste problem, EPA believes that Congress did not intend for EPA to address them in this guideline. EPA requests comments on its decision not to include airplane tires in this guideline.

B. Applicability

Many of the requirements of section 6002 apply to "procuring agencies," which is defined by RCRA section 1004(17) as "any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract." Under section 6002(a), the procurement requirements apply to any purchase by a procuring agency of an item costing $10,000 or more or when the procuring agency purchased $10,000 worth of the item or of a functionally equivalent item during the preceding fiscal year. Both direct and indirect purchases are covered.

1. Direct Purchases

This guideline applies to tire purchases made directly by a procuring agency or by a government contractor for use in government vehicles and equipment. Direct purchases by a contractor would include purchases for maintaining a government fleet.[2]

The guideline does *not* apply, however, to direct purchases for use in new equipment to be supplied by a contractor (e.g., new automobiles). Under the Federal Acquisition Regulation (FAR), Federal procuring agencies are required to purchase commercial products and use commercial distribution systems whenever such products or systems adequately meet the government's needs. (See FAR § 11.002). New vehicles are purchased in accordance with this requirement. Since new vehicle manufacturers are required by National Highway Traffic and Safety Administration (NHTSA) regulations (49 CFR 571.110 and 571.120) to use new tires, the vehicles purchased by Federal procuring agencies will have new tires installed on them. Requiring retread tires would be contrary both to the NHTSA regulations and the FAR, and thus contrary to the requirement of RCRA section 6002(i)(1) that procuring

[2] The term "government fleet" does not refer to vehicles owned by the contractor but rather to vehicles owned by a government agency and operated or maintained on behalf of the agency by the contractor.

agencies must comply with applicable Federal laws.

2. Indirect Purchases

The definition of "procuring agency" in RCRA section 1004(17) makes it clear that the requirements of section 6002 apply to "indirect purchases," i.e., purchases by a State or local agency or its contractors using appropriated Federal funds. Thus, the guideline applies to tire purchases meeting the $10,000 threshold made by States and their localities or their contractors, subcontractors, grantees, or other persons which are funded by grants, loans, or other forms of disbursements of monies from Federal agencies. However, the guideline does not apply to such purchases if they are unrelated to or incidental to the Federal funding, i.e., not the direct result of the grant, loan, or funds disbursement. An example of a tire purchase unrelated or incidental to Federal funding is where a contractor purchases tires for equipment under a grant for construction of a public works project. The tire purchases would not be subject to the requirements in section 6002 or this guideline, even though some of the grant funds supporting the contract might be used to finance the purchases.

EPA solicits comments on whether this guideline should be revised to exempt block grants from the section 6002 procurement requirements because it generally may not be possible to account separately for block grant funds from non-Federal funds. EPA also solicits comments on whether this guideline should be revised to exempt block grants only when it is not possible to account separately for such funds.

3. The $10,000 Threshold

The procurement requirements of section 6002(a) apply when the purchase price of an item exceeds $10,000 or when the quantity of such items or of "functionally equivalent" items purchased during the preceding fiscal year was $10,000 or more. In calculating whether the $10,000 threshold has been reached, EPA intends that procuring agencies consider all types of tires to be functionally equivalent items. When determining if the $10,000 threshold has been reached, procuring agencies should tally the cost of all tires purchased, rather than each size or category of tire (e.g., truck tires, automobile tires) purchased. EPA believes that restricting the applicability of section 6002 to purchases based upon a narrow definition of functional equivalency would limit the effectiveness of the proposed guideline in meeting the objectives of RCRA, because an agency may purchase less than $10,000 of each size or category of tire. EPA recommended a similar approach in the proposed guideline for re-refined oil, 52 FR 38843 (October 19, 1987).

EPA notes that the FAR contains a $25,000 small procurement provision, 48 CFR Part 13. This provision should not be confused with the $10,000 threshold because their purposes are different. The $10,000 threshold determines when the affirmative procurement provisions of RCRA section 6002 apply, whereas the $25,000 threshold triggers small procurement procedures. Procuring agencies must use the $10,000 threshold when determining the applicability of RCRA section 6002 and today's proposed guideline.

C. Definitions

Most of the definitions used in this procurement guideline are the same as used in RCRA itself.

For purposes of this guideline, the term "retread tires" means a worn automobile, truck, or other vehicle tire whose tread has been replaced.

Section 6002(c) requires procuring agencies to procure items composed of the highest percentage of recovered materials *practicable*, and section 6002(i) requires procuring agencies to develop programs to assure that recovered materials are purchased to the maximum extent *practicable* (emphasis added). EPA has defined "practicable" in the final paper guideline, 52 FR 37297 (October 6, 1987), and is including the definition in today's guideline as well.

EPA's definition of "practicable" combines the dictionary definition with certain statutory criteria for determining practicability. The dictionary definition of practicable is "capable of being used," and EPA believes that congress intended the term to be defined in this way. Congress also provided four criteria for determining the maximum amount practicable: (1) Performance in accordance with applicable specifications, (2) availability at a reasonable price, (3) availability within a reasonable period of time, and (4) maintenance of a satisfactory level of competition. EPA's definition of practicable incorporates these criteria.

D. Requirements vs. Recommendations

RCRA section 6002 requires procuring agencies and contracting officers to perform certain activities, such as revising specifications for procurement items. It also requires EPA to prepare "guidelines for the use of procuring agencies in complying with" section 6002. EPA has incorporated the section 6002 requirements into the guidelines for the benefit of procuring agencies. As a result, the guidelines contain two types of provisions: requirements (mandated by Congress in section 6002) and recommendations (EPA's guidance for complying with the requirements of section 6002). As used in this guideline, the verbs "shall" and "must" indicate section 6002 requirements, while verbs such as "recommend," "should," and "suggest" indicate recommendations for complying with those requirements.

Procuring agencies are required to comply with the requirements of section 6002, whereas EPA's recommendations for meeting those statutory requirements are advisory in nature. Procuring agencies may choose to use other approaches which satisfy the section 6002 requirements. However, EPA believes that if a procuring agency chooses to follow EPA's recommendations, that agency will be in compliance with the section 6002 requirements.

E. Specifications

1. Federal Agencies

RCRA section 6002(d) contains two requirements for revising specifications for procurement items. As discussed above, Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies were required to revise their specifications by May 8, 1986 to eliminate exclusions of recovered materials and requirements that items be manufactured from virgin materials [section 6002(d)(1)]. Second, within one year after the date of publication of a guideline as a final rule, Federal agencies must assure that their specifications require the use of recovered materials (in this case, recovered rubber and retread tires) to the maximum extent possible without jeopardizing the intended end use of the item [section 6002(d)(2)]. EPA believes that this second requirement is more extensive than the first requirement. Simply eliminating discriminatory provisions, as required by section 6002(d)(1), is not sufficient to meet all of the obligations of section 6002(d). EPA believes, however, that compliance with the affirmative procurement requirements of section 6002(i) fulfills the section 6002(d)(2) requirements because an affirmative procurement program should result in procurement to the maximum extent practicable.

In meeting the first specification revision requirement in the context of tires, the specification must provide that reclaimed rubber may be used in the basic compounds used in tire

construction. In addition, if a procuring agency chooses to implement the case-by-case approach as described below, the specification should apply both to new tires and to retread tires. Thus, GSA would be required to revise its specification for new tires, ZZ–T–381, so that it applies both to new tires and to retreads.

2. Procuring Agencies

EPA believes that the second specification revision requirement also applies to non-Federal procuring agencies which procure tires with appropriated Federal funds. Unless their specifications are revised to require the use of retread tires, these agencies will be unable to implement the affirmative procurement requirements of RCRA section 6002(c)(1) and (i). For this reason, § 253.10(b) of the proposed guideline provides that all *procuring agencies* (rather than "Federal agencies" as provided in the Act) must assure that their specifications require the use of retread tires to the maximum extent possible without jeopardizing the intended use of the item.

Under section 6002(d)(2), specifications need not be revised if the agency determines that, for technical reasons, a product containing recovered materials will jeopardize the end use of the product.[3] Such determinations should be documented and made within one year of the promulgation of a final guideline. (See § 253.11 of the proposed guideline.) If the agency subsequently issues a restrictive specification, the basis for the restriction must be documented when the specification is issued.

F. Affirmative Procurement Program

RCRA section 6602(i) requires procuring agencies to adopt an affirmative procurement program to ensure that retread tires are purchased to the maximum extend practicable. The program must contain four elements: (1) A recovered materials preference program; (2) a promotion program; (3) procedures for estimation, certification, and verification of recovered materials content; and (4) procedures for annual review and monitoring of the program's effectiveness. The program must be established within one year of the date of publication of this guideline as a final rule.

[3] For example, Draft Army Regulation (AR) 750–36, which contains the Army's policy and procedures for use of retread tires, excludes use of retreads on the front wheels of buses and on emergency vehicles and heavy-lift vehicles. The regulation conforms to RCRA section 6002(d)(2) because it maximizes the use of retreads without jeopardizing the intended end use of the item.

The following sections explain EPA's recommendations for each element of the affirmative procurement program.

1. Recovered Materials Preference Program

Under section 6002(i)(3), procuring agencies have three options for implementing the preference program. They can employ a case-by-case approach, adopt minimum content standards, or choose an approach that is substantially equivalent to the preceding approaches. In general, the minimum content standard approach is appropriate when the quantity of recovered material used can vary. For example, the quantity of recycled paper used in manufacturing paper and paper products can be varied. In the case of retread tires, where the recovered material is the used tire casing, the quantity of recovered material used does not vary. For this reason, minimum content standards are inapplicable to retread tire procurement, and EPA only considered the other two approaches.

As discussed in section II.E. of this preamble, procuring agencies currently procure either a product—retreads—or a service—tire retreading. Procurement of tire retreading services falls within the "substantially equivalent alternative" category of procurement options provided by RCRA section 6002(i). Procurement of retread tires as a product falls within the case-by-case procurement option and may be used only by a non-Federal procuring agency until such time as GSA issues a specification for retread tires or revises ZZ–T–381 to include retreads. EPA believes that both approaches can be used, with certain procedural modifications, to satisfy the requirements of section 6002. These modified approaches are discussed below.

As discussed in the final paper guideline, 52 FR 37298–37299 (October 6, 1987), section 6002(i) also requires that any affirmative procurement program be consistent with applicable provisions of Federal procurement law. From time to time, Congres has established preferential procurement programs in order to attain socioeconomic goals. Among those are the Small Business, Labor Surplus Area, and Minority Business procurement programs. EPA considered applying either or both of the mechanisms used in those programs—price preferences and set-asides—to this guideline. A price preference allows the procuring agency to pay a higher price, if necessary, for a specified product from preferred vendors. A set-aside requires the procuring agency to award a certain percentage of its contracts to preferred vendors of a product regardless of price. Price preferences and set-aside are currently being used in some state programs for the procurement of paper and paper products containing recovered materials. Four states are currently using price preference programs in which products containing recovered materials may cost from 5 to 10 percent more than virgin materials. Two states have set-aside programs for paper and paper products. These states report that they successfully procure products containing recovered materials.

EPA has considered recommending these programs at the Federal level. However, in the case of existing Federal preferential procurement programs that allow a price preference or set-aside, the Agency found that each had been established under explicit statutory authority or a specific Executive Order. Neither the statutory language nor the legislative history of section 6002 seems, however, to contemplate the adoption of either price preference or set-asides, and doing so would conflict with existing Federal procurement regulations. Therefore, rather than recommending price preferences or set-asides, EPA is recommending that procuring agencies use the procurement mechanisms provided in RCRA section 6002(i)(3).

EPA noted in the final paper guideline that it believed that a case-by-case program might not satisfy the section 6002(i) requirement for an affirmative procurement program because it would only award contracts to the product containing a higher percentage of recovered materials in the event of a tie. [See 52 FR 37299, 27302 (October 6, 1987).] EPA made similar statements in the preamble to the proposed re-refined lubricating oils guideline, 52 FR 38844 (October 19, 1987).

EPA believes that a case-by-case approach will satisfy the section 6002(i) requirements for retread tires because retread tires will likely be less expensive to procure than new tires for comparable performance levels. (Information on the relative price of retread and new tires will be available in the docket.)

a. *Procurement of Services.* While GSA prepares tire specifications and awards contracts to tire vendors, the individual Federal operator, in conjunction with GSA's Fleet Management, decides whether to purchase retreading services or to buy a new tire.[4]

[4] Draft Army Regulation 750–36 establishes a policy for maximizing the use of retread tires on

Continued

Except for Department of Defense activities, the agencies do not maintain records on procurement of new tires or tire retreading services. EPA believes that recordkeeping is necessary to obtain information on cost savings, performance of retreads, and use of tire retreading contracts. Therefore, EPA recommends that agencies procuring retreading services institute a practice of monitoring the procurement of retreading services by agency subgroups or individuals by requiring them to record their decisions to procure new tires and tire retreading services. The record should identify the type and quantity of tires procured, the purchase price per tire, whether retreading services were procured, the cost of the retreading services, and, if new tires are procured, the reasons for not retreading. Section 253.21(b)(1) contains this requirement.

b. *Procurement of Products.* As explained in Section II.E.2 of this preamble, procuring agencies purchasing retreads as products can solicit bids from both vendors of new tires and vendors of retreads. The decision to purchase retreads is made on a case-by-case basis, and the contract is awarded to the lowest-priced responsible bidder. EPA believes that this approach should include a preference for retread tires in the event that tie bids are received from a vendor of retreads and a vendor of new tires, all other factors (e.g., availability) being equal. Section 253.21(b)(2) of the guideline recommends that procuring agencies adopt such a preference.

As discussed in the proposed paper guideline, 50 FR 14080–14081 (April 9, 1985), and the final paper guideline, 52 FR 37301–37302 (October 6, 1987), the legislative history of Section 6002 indicates that bids for items containing recovered materials should be given preference only if they are equal to, or less than, bids for the comparable virgin materials product.

2. Promotion Program

The second requirement of the affirmative procurement program is a promotional effort by procuring agencies. The proposed guideline recommends several methods for procuring agencies to use for disseminating information about their preference programs, such as placing statements in invitations to bid, discussing the program at bidders' conferences, and informing industry trade associations about the program.

3. Estimates, Certification, and Verification

The third requirement of the affirmative procurement program set forth in section 6002(i) concerns estimates, certification, and verification. Many questions have been raised about the certification and estimation of recovered material content, such as when they should be provided, who is to provide them, how the information is to be obtained, and how it is to be verified. To clarify this subject, it is necessary to review the requirements of the law.

RCRA sections 6002(c)(3)(B) and 6002(i)(2)(C) require that after the effective date of an EPA guideline, contracting officers must require vendors who supply Federal procuring agencies with items covered by the guideline to provide an *estimate* of the total percentage of recovered materials contained in the items. EPA believes that this requirement is for the purpose of gathering statistical information on price, recovered materials content, and availability, and applies regardless of whether the procurement solicitation specifies that recovered materials can or must be used.

In the case of tires, procuring agencies purchase a product containing recovered tire casings, or contract for a retreading service for government casings, rather than purchasing a product containing a certain percentage of recovered materials. The statistical information that procuring agencies need to obtain, therefore, is the number of retread tires to be supplied by the vendor. The vendor must supply this data. EPA is recommending that procuring agencies retain these data for three years.

RCRA section 6002(i)(2)(C) provides that contracting officers must require vendors to supply certifications of recovered materials content, where appropriate. EPA believes that *written* certifications are inappropriate for retread tire procurement because retreaders already use another certification procedure which is required by Department of Transportation regulations. Newly retreaded tires are inspected to determine that they are free of defects and that they comply with Federal Motor Vehicle Safety Standards. Tires passing the retreaders' inspection are certified by stamping the retreading plant's identification number and the symbol DOT on the sidewall. The identification number indicates that the plant is a retreading operation. This is in accordance with section 114 of the National Traffic and Motor Vehicle Safety Act of 1966, 49 CFR 571.117 and 574.5. Imposition of a separate, additional certification for each tire or batch of tires would be duplicative and would only prove to be an unnecessary burden on the retreaders and the procuring agency.

Section 6002(i) also requires procuring agencies to establish reasonable procedures to verify the estimates and certification. For retread tires, verification will be relatively easy because the certification number stamped on the sidewall of the tire identifies the tire as a retread. Procuring agencies need only to spot check these numbers to verify that a retread tire has been supplied.

4. Annual Review and Monitoring

The fourth requirement of the affirmative procurement program is an annual review and monitoring of the effectiveness of the program. EPA recommends that the review include an estimate of the number of retread tires purchased during the year, assessment of the effectiveness of the agency preference program, and an assessment of remaining barriers to procurement of retread tires.

IV. Price, Competition, Availability, and Performance

Section 6002(c)(1) of RCRA provides that a procuring agency may decide not to purchase an item designated by EPA if it determines that (1) the item is available only at an unreasonable price, (2) a satisfactory level of competition cannot be maintained, (3) the item is not reasonably available within a reasonable period of time, or (4) the item fails to meet the applicable specifications. EPA has considered the effect of these limitations on retread tire procurement and made the following determinations.

A. Price

Section 6002 provides that a procuring agency may not purchase a designated item if the price is "unreasonable." Commenters on several of the procurement guidelines stated that a "reasonable price" includes price preferences. However, as EPA stated in the paper guideline, 52 FR 37298–37299 (October 6, 1987), RCRA section 6002 does not provide explicit authority to EPA to authorize or recommend payment of a price preference or to create a set-aside. Therefore, unless an agency has an independent authority to provide a price preference or to create a set-aside, EPA proposes that a price is "unreasonable" if it is greater than the price of a competing product made of virgin material.

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vehicles and aircraft. AR 750–36 sets goals for tire retreading and requires that automotive, commercial, tactical, and off-the road tires be retreaded to the extent that it is economical and practical.

B. Competition and Availability

EPA believes that there will be a satisfactory level of competition and availability of retread tires. Currently, there is an abundant supply of worn tires in the waste stream that are candidates for retreading, and there are approximately 2,600 retreading plants located across the country. Therefore, there should be a satisfactory level of competition and availability.

C. Performance

As discussed elsewhere in this preamble, GSA's retread tire specification requires that retreaders have their production facilities certified either by GSA or by a nationally recognized retreader association. Once the plant is certified, it is periodically recertified to ensure that it is maintaining satisfactory operating procedures. In addition, newly retreaded tires are inspected by the retreader to determine that they are free of defects and that they comply with Federal Motor Vehicle Safety Standards. Therefore, performance is assured, so it should not be a reason for procuring agencies to decline purchasing retread tires.

V. Implementation

Different parts of section 6002 refer to different dates by which procuring agencies must have completed or initiated a required activity: (1) May 8, 1986 (i.e., 18 months after enactment of HSWA), (2) one year after the date of publication of an EPA guideline, and (3) the date specified in an EPA guideline. As a result, there is some confusion with respect to which activities must be completed or initiated by each date. This section of the preamble explains these deadlines.

First, under section 6002(d)(1), Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items must eliminate from such specifications any exclusion of recovered materials and any requirements that items be manufactured from virgin materials. This activity was to be completed by May 8, 1986.

Second, procuring agencies must assure that their specifications for procurement items designated by EPA require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item [section 6002(d)(2)]. In addition, procuring agencies must develop an affirmative procurement program for purchasing items designated by EPA, in this instance, retread tires [section 6002(i)(1)]. Both of these activities must be completed within one year after the date of publication of this guideline as a final rule.

Third, procuring agencies which procure items designated by EPA must begin procurement of such items containing the highest percentage of recovered materials practicable [section 6002(c)(1)]. In addition, contracting officers must require vendors to submit estimates and certifications of recovered materials content [section 6002(c)(3)]. Both of these activities must begin after the date specified by EPA in the applicable guideline.

EPA believes that procuring agencies should begin to procure retread tires as soon as the specification revisions have been completed and the affirmative procurement programs have been developed. Since these latter activities must be completed within one year after publication of this guideline as a final rule, affirmative procurement should begin no later than one year from publication as well. Section 253.26 specifies this implementation date.

EPA expects cooperation from affected procuring agencies in implementing this guideline. Under section 6002(g) of RCRA, the Office of Federal Procurement Policy (OFPP), in cooperation with EPA, is responsible for overseeing implementation of the requirements of section 6002 and for coordinating it with other Federal procurement policies. OFPP is required to report to Congress on actions taken by Federal agencies to implement section 6002.

VI. Regulatory Analyses

A. Executive Order No. 12291

Under Executive Order No. 12291, EPA must determine whether a regulation is major or nonmajor. The proposed guideline is not a major rule because it is unlikely 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Increased usage of retread tires and tire retreading services addressed by this guideline is not expected to produce recurring annual effects of $100 million or more on the economy. The Federal Procurement Data Center reported Federal tire purchases of $39,400,000 for 1985, which represented less than 1/3 of 1 percent of the estimated tire production for the year. The majority of DOD tire procurements are for specialty, heavy-truck, and military equipment vehicles. DOD actively procures retreading services for this equipment already. The impact of this guideline would, therefore, involve the GSA schedule purchases of other agencies. The 1986 GSA tire procurements were approximately $4,000,000. If *all* of these new replacement tires were replaced by using retreading services, the economic effect would be less than 10 percent of the $100 million criteria of Executive Order No. 12291.

An expanded potential market for retread tires by increased government procurement is not expected to increase costs of retreading services or prices of retread tires. The retread tire industry is currently characterized by intense cost competitiveness and excess production capacity. Therefore, an increase in prices for retreading services will be expected to result in market share losses and decreased profits. Increased prices to government agencies may similarly mean loss of that market share.

The current goal of the declining retreading industry is to increase net profits through the reduction of operating expenses. Simply increasing sales will not increase net profits in this industry.

In conclusion, the proposed guideline by itself will have neither adverse effects nor be significantly advantageous in terms of competitiveness, employment levels, capitalization, productivity or innovation in this industry.

This proposed rule was submitted to the Office of Management and Budget for review as required by Executive Order No. 12291.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency publishes a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, small governmental jurisdictions), unless the Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

As described in the background document prepared for this guideline, the economic impact on both small businesses and small governmental

jurisdictions is expected to be in some cases, negligible and in other instances, beneficial, because there will be no net change in the number of small businesses supplying tires to procuring agencies and most small government jurisdictions use non-Federal funds to procure tires. An extremely limited number of business and governmental entities are affected at all by the guideline. Therefore, the proposed guideline is not expected to have significant eonomic impact on a substantial number of small entities. As a result, the guideline does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 253

Government procurement, Recycling, Resource recovery, Retreading, Tires.

Dated: April 25, 1988.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations by adding a new Part 253 reading as follows:

PART 253—GUIDELINE FOR FEDERAL PROCUREMENT OF RETREAD TIRES

Subpart A—General

Sec.

Subpart B—Specifications

Subpart C—Affirmative Procurement Program

Authority: 42 U.S.C. 6912(a) and 6962.

Subpart A—General

§ 253.1 Purpose.

(a) The purpose of this guideline is to assist procuring agencies in complying with the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA or the Act), as amended, 42 U.S.C. 6962, as that section applies to procurement of tires.

(b) This guideline contains recommendations for use in implementing the requirements of section 6002, including revision of specifications and development of an affirmative procurement program.

(c) The Agency believes that adherence to the recommendations in the guideline constitutes compliance with section 6002. However, procuring agencies may adopt other types of procurement programs consistent with section 6002.

§ 253.2 Designation.

EPA designated tires as items which are or can be produced with recovered materials (i.e., used tire casings) and whose procurement by procuring agencies will carry out the objectives of section 6002 of RCRA.

§ 253.3 Applicability.

(a) This guideline applies to all procuring agencies and to all procurement actions involving tires, when the purchase price exceeds $10,000, or where the quantity of such items or of functionally equivalent items purchased during the preceding fiscal year was $10,000 or more.

(b) The term "procurement actions" includes purchases made directly by a procuring agency and purchases made by any person directly in support of work being performed for a procuring agency (e.g., by a contractor).

(c) This guideline does not apply to purchases which are not the direct result of a contract, grant, loan, funds disbursement, or agreement with a procuring agency.

(d) This guideline does not apply to:

(1) Purchases of tires for use in new equipment to be supplied to a procuring agency, such as new vehicles, or

(2) Purchases of tires which are not the direct result of a contract, grant, loan, funds disbursement, or agreement with a procuring agency.

(3) Purchases of tires for use on airplanes.

(e) For purposes of determining when the $10,000 threshold has been reached, EPA recommends that procuring agencies consider all sizes and types (e.g., truck, automobile) of tires to be functionally equivalent items.

§ 253.4 Definitions.

As used in this guideline:

"Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.*

"Federal agency" means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

"Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, Federal agency, State, municipality, commission, political subdivision of a State, or any interstate body.

"Practicable" means capable of being used consistent with: performance in accordance with applicable specifications, availability at a reasonable price, availability within a reasonable period of time, and maintenance of a satisfactory level of competition.

"Procurement item" means any device, good, substance, material, product, or other item, whether real or personal property, which is the subject of any purchase, barter, or other exchange made to procure such item.

"Procuring agency" means any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract.

"Retread tire" means a worn automobile, truck, or other vehicle tire whose tread has been replaced.

"Specification" means a description of the technical requirements for a material, product, or service that includes the criteria for determining whether these requirements are met. In general, specifications are in the form of written commercial designations, industry standards, and other descriptive references.

"Tire" means the following types of tires: passenger car tires, light- and heavy-duty truck tires, high speed industrial tires, bus tires, and special service tires (including Military, agricultural, off-the-road, and slow speed industrial).

Subpart B—Specifications

§ 253.10 Revisions.

(a) By May 8, 1986, Federal agencies were required to eliminate from their specifications any exclusion of retread tires and any requirement that tires be manufactured from virgin materials unless there is a technical basis for such exclusion or requirement.

(b) Within one year after the date of publication of this guideline, each procuring agency must assure that its specifications require the use of retread tires to the maximum extent possible without jeopardizing the intended end use of these items.

§ 253.11 Exclusions.

Notwithstanding the requirements of § 253.10, agencies need not revise

sepcifications to require the use of retread tires if it can be determined that for a particular end use, for technical reasons, retread tires will not meet reasonable performance standards. Any such determinations should be documented by the agency and be based on technical performance information.

Subpart C—Affirmative Procurement Program

§ 253.20 General.

Within one year after the date of publication of this guideline as a final rule, each procuring agency which procures tires using appropriate Federal funds must establish an affirmative procurement program for procuring retread tires. The program must meet the requirements of section 6002(i) of RCRA, including the establishment of a preference program; a promotion program; procedures for estimation and verification; and procedures for conducting an annual review of the affirmative procurement program. This subpart provides recommendations for implementing section 6002(i).

§ 253.21 Preference program.

(a) RCRA section 6002(i)(3) requires procuring agencies to establish a preference program for procurement of retread tires consisting of one of the following:

(1) A policy of awarding contracts, on a case-by-case basis, to vendors offering retread tires or tire retreading services, subject to the limitations based on competition, availability, performance, and price described in section 6002(c)(1)(A)–(C) of RCRA and paragraph (c) of this section, or

(2) A substantially equivalent alternative to paragraph (a)(1) of this section.

(b) EPA recommends that procuring agencies implement one of the following procurement approaches in order to satisfy the requirements of RCRA section 6002(i):

(1) *Procurement of Tire Retreadng Services (Substantially Equivalent Alternative).* Under this approach, procuring agencies procure tire retreading services, such as from persons identified on the U.S. General Services Administration's Federal Supply Schedules. Procuring agencies must record the following information for each procurement of new tires and tire retreading services:

(i) type and quantity of tires,

(ii) whether new tires or retreading services were procured,

(iii) cost per tire, and

(iv) if new tires are procured, the reason for not procuring retreadng services.

(2) *Procurement of Retreads as a Product (Case-by-Case Approach).* Under this approach, procuring agencies procure retread tires through open competition between vendors of new tires and vendors of retreads. Procuring agencies must provide a preference for retread tires in the event that identical low bids are submitted by a vendor of new tires and a vendor of retreads, all other factors (i.e., availability, technical performance) being equal.

(c) The requirements in paragraph (a) of this section and the recommendations in paragraph (b) of this section, are subject to the following limitations provided in section 6002(c)(1) of the RCRA:

(1) Maintenance of a satisfactorily level of competition.

(2) Availability within a reasonable period of time;

(3) Ability to meet the specifications in the invitation for bids;

(4) Availability at a reasonable price.

(d) Procuring agencies should make determinations regarding competition, availability, and price in accordance with applicable provisions of the Federal Aviation (FAR) and other applicable Federal law.

§ 253.22 Promotion program.

Procuring agencies must develop a promotion program to promote the preference program. EPA recommends that procuring agencies use the following methods, at a minimum, to promote their preference programs:

(a) Place a statement in procurement invitations in the *Commerce Business Daily* describing the preference program.

(b) Describe the preference programs in tire procurement solicitations or invitations to bid.

(c) Discuss the preference program at bidder's conferences.

(d) Inform industry trade associations about the preference program.

§ 253.23 Estimates and verification

(a) Contracting officers must require vendors who supply tires to procuring agencies to estimate the number of retread tires to be supplied. EPA recommends that procuring agencies retain these estimates for three years.

(b) Procuring agencies must establish reasonable procedures to verify the estimates. EPA recommends that procuring agencies randomly check the numbers stamped on tire sidewalls to verify that retread tires have been supplied.

§ 253.24 Annual review and monitoring.

Each procuring agency must conduct an annual review and monitoring of the effectiveness of its affirmative procurement program. EPA recommends that the annual review include the following items:

(a) An estimate of the number of retread tires purchased.

(b) An assessment of the effectiveness of the preference program.

(c) An assessment of remaining barriers to procurement of retread tires to determine whether they are internal (e.g., resistance to use) or external (e.g., unavailability) barriers.

§ 253.25 Implementation.

(a) Federal agencies were required to review and revise their specifications, as set forth in § 253.10(a), by May 8, 1986.

(b) Procuring agencies are required to revise their specifications as set forth in § 253.10(b), and to establish affirmative procurement programs, as set forth in Subpart C, within one year of the date of publication of this guideline as a final rule.

(c) Procuring agencies must begin procurement of retread tires, in compliance with this guideline, one year from the date of publication of this guideline as a final rule.

[FR Doc. 88–9629 Filed 4–29–88; 8:45 am]

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Federal Register

Monday
May 2, 1988

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Areas; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-28]

Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at Evansville Dress Regional Airport, IN; Laughlin Air Force Base (AFB), TX; Midland Regional Airport, TX; Portland International Jetport, ME; and Springfield Capital Airport, IL. Each location is an airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, June 2, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Gill, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Currently, the FAA has designated 104 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On November 25, 1987, the FAA proposed to designate ARSA's at Evansville Dress Regional Airport, IN; Laughlin Air Force Base (AFB), TX; Midland Regional Airport, TX; Portland International Jetport, ME; and Springfield Capital Airport, IL (52 FR 45292). This rule designates ARSA's at these airports. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held informal airspace meetings for each of these proposed airports.

Discussion of Comments

The FAA received 17 comments on the proposed ARSA's. Two of the commenters were in favor of all locations and the remaining commenters offered objections or recommendations to one or all of the sites.

The Soaring Society of America (SSA) submitted a number of objections to the basic ARSA program. Comments objecting to the ARSA program were considered during the rulemaking for the ARSA rule which was published in the **Federal Register** on March 6, 1985 (50 FR 9252).

In addition, the SSA and a few other commenters objected on the basis that a related rulemaking, specifically Notice 88-2, Docket 25531, had invalidated the Regulatory Evaluation and Regulatory Flexibility Determination and therefore the FAA should suspend all rulemaking action on candidate ARSA sites not adopted by December 31, 1987. The FAA does not agree. Any impact Notice 88-2 may have on ARSA locations will not take place until after the effective date of that rule. The cost of implementing the proposed Notice 88-2, therefore, is a cost of that rule and not a cost of this action or any prior rulemaking effort. Hence, the FAA finds that the Regulatory Evaluation and Regulatory Flexibility Determination continue to be valid.

Evansville, IN

The FAA received one written comment offering recommendations for the Evansville ARSA. The commenter first suggested that there appeared to be an error in the cutout for Skylane Airport. The FAA agrees and has made a modification to the Skylane cutout to allow pilots to arrive/depart Skylane without entering the ARSA if they so desire. This rule reflects those changes.

The same commenter suggested that the floor in half of the 5-10-mile area should be raised to 2,000 feet mean sea level (MSL) or about 1,600 feet above ground level (AGL) to allow pilots enough room to fly over the tops of antennas. The FAA does not agree. The FAA has found that pilots do not routinely overfly antennas at low altitudes, but will instead choose to fly around the antennas. The pilots could choose to overfly by simply establishing two-way radio with Air Traffic and flying through the ARSA. The FAA finds a need to know of all aircraft operating at these critical altitudes in this near proximity to the airport.

This same commenter submitted two suggestions which are outside the purview of this rulemaking action.

Laughlin Air Force Base (AFB), TX

The only comment received was at the Informal Airspace Meeting where the U.S. Border Patrol stated that they supported establishment of the ARSA but were concerned about the 5-10-mile area overlying the Rio Grande River where they routinely fly. They felt the shelf over the river was going to cause aircraft to fly low avoiding the ARSA over the river. The FAA does not find that compression will be a problem. Pilots may overfly the ARSA at a relatively low altitude or circumnavigate the ARSA. Experience has shown that most pilots will choose to avoid flying under the ARSA unless they wish to operate at an airport in that area. The FAA is sensitive to the concerns of the U.S. Border Patrol and intends to closely monitor the traffic situation. If traffic compression develops to a degree significant enough to cause an adverse impact on the Border Patrol mission, the FAA will work with the appropriate parties to find a solution.

Midland, TX

The FAA received 12 comments addressing the Midland proposal. Three commenters supported the proposal, and the remainder wrote in objection while offering some recommended alterations. All but two of the objections concerned sailplane activity in the area and stated that their favorite airports would be

under the 5–10-mile area. These commenters offered recommended alterations to the ARSA cutting one or all of these airports out. The airports included are Odessa/Schlemeyer, Bates Field, Midland Airpark and Sky Ranch.

The FAA carefully considered these comments and decided that although we were unable to comply with their desires for a cutout at each of these airports, we would raise the altitude of the floor in these areas to make access easier. The FAA decided to subdivide the 5–10-mile area and establish floors at an altitude that will allow pilots to operate to at least 500 feet above normal traffic pattern altitude at each of these airports and still remain clear of the ARSA. Providing the requested cutouts would preclude the FAA form having knowledge of aircraft operating at critical altitudes in close proximity to Midland International Airport. The local facility manager is prepared to negotiate with the users to establish local agreements, which will provide further relief. This rule reflects the floor alterations stated above.

Some of the commenters expressed concerns about antennas underlying the 5–10-mile area, specifically addressing two towers that were over 1,000 feet AGL. Raising the floor in the 5–10-mile area may alleviate these concerns. The FAA maintains that pilots do not routinely overfly obstacles at low altitudes but instead choose to circumnavigate.

One commenter suggested that the altitudes of two approaches were not wholly contained in the ARSA. The same commenter suggested that the floor of the 5–10-mile area should be lowered or the instrument procedure changed to wholly contain them within the ARSA.

The FAA finds that the instrument approach procedures fall outside the purview of this rulemaking action. The ARSA program does not provide for containment of instrument approach procedures. The FAA finds no need to lower the floor of the 5–10-mile area for this purpose.

Another commenter referred to existing TRSA's and the ARSA's as "Areas of Fear." Young pilots soon learn to avoid these areas to avoid embarrassment, so stated the commenter. The FAA disagrees. The ARSA program only requires the establishment of two-way radio communication prior to entering the ARSA. This is no more than is currently required to enter an Airport Traffic Area (ATA). The major objective of the ARSA program is to eliminate the unknown from the ARSA airspace. The high percentage of TRSA participation cited by this commenter, 95 to 98 percent, is an excellent indication of user satisfaction with the services provided and should ensure a smooth transition from TRSA to ARSA.

A few commenters suggested that the Midland ARSA would have an adverse effect on the soaring activities at Eagle Nest Airport. The FAA finds that this airport is located about eight miles south of the ARSA boundary and that normal towing and soaring operations should not be impacted by the ARSA. The FAA, however, is prepared to negotiate a local agreement if it is determined to be necessary.

The operator of Sky West Airport wrote in objection stating that the ARSA would have a negative impact on their use of an aerobatic training area. The FAA learned that this "aerobatic box" expired on March 31, 1988, and that the users are now negotiating with FAA for renewal. A local agreement is being developed to allow this operation to continue.

Portland, ME

Three commenters wrote in objection to the proposed ARSA for Portland, ME. One of the commenters had several statements/questions. This commenter had two concerns that will be addressed here. The remainder of this commenter's concerns were questions of clarification about ARSA procedures, which are outside the scope of this rulemaking action and will not be addressed here. The first concern about this proposal was that the ARSA effective date should be the same as the sectional charting date for that area. The FAA concurs and in fact the sectional charting date is coincidental with the planned effective date of this ARSA.

In addition, this commenter was concerned about safety in the ARSA due to a perceived reduction in separation standards. The commenter stated he did not understand how reducing separation from 1½ miles in the TRSA to target resolution in the ARSA improved safety. The FAA finds that the ARSA has several improved safety features over existing TRSA's. First, the FAA has knowledge of all aircraft operating in the ARSA, because communication is mandatory, whereas in the TRSA, participation was voluntary. Second, target separation is only one of the methods of providing separation, the rest are unchanged. Target separation does not reduce separation as much as it may seem. The original 1½ miles nearly exist when you consider how wide a target is and how much room must be between targets to ensure separation. Therefore, the FAA finds that safety has been greatly enhanced and, in addition, standardization of types of airspace has enhanced the safety issue by providing predictability.

Another commenter wrote in objection stating that he did not see any reason to change anything that was already working well. Specifically, the commenter was concerned that pilots would be intimidated from entering the ARSA, that the ARSA would encourage low level flight beneath the shelf and that the ARSA includes too rigid procedures. The FAA finds that the only requirement on the part of the pilot is to establish two-way radio prior to entering the ARSA. This is no more than is now required of pilots to enter an ATA. Additionally, pilots will not routinely choose to operate beneath the shelf. They will instead overfly the top of the ARSA, which is only 4,000 feet AGL, or circumnavigate. The only additional requirement is that pilots now must establish two-way radio communication prior to entering the ARSA. The FAA will continue to use the same methods for separating and sequencing traffic. The FAA, therefore believes that knowledge of all aircraft in this close proximity to the airport and at these critical altitudes is imperative when traffic reaches certain levels. The ARSA will provide this knowledge and a degree of safety that we believe to be mandatory.

The last commenter objected to the ARSA because there wasn't enough traffic to warrant one, and, secondly, because of Portland's strategic location, a large number of pilots traverse the area enroute or are sightseeing. He stated that a large portion of these use the coast for navigation and would be adversely affected by the ARSA. The FAA disagrees. First, Portland qualifies for an ARSA not only based on the National Airspace Review criteria but also on the follow-on criteria. The follow-on criteria established a level of activity or passenger emplanements at which the FAA finds it imperative for the sake of safety to know of all aircraft operating within this area.

Second, the FAA has not found that pilots must alter their operating practice simply to avoid the ARSA. As stated above, pilots may overfly the ARSA or simply establish two-way radio with the appropriate air traffic facility and fly through the ARSA. The ARSA program is not designed to prohibit any type of operation but simply to provide the air traffic facility with knowledge of all aircraft operating in this area.

Springfield, IL

Two commenters wrote objecting to the proposed ARSA for Springfield. One

of the commenters submitted a petition with 69 signatures. This petition, among other things, stated that the ARSA would reduce safety by providing no lateral separation. The FAA does not agree. The separation standards used, for the most part, in a TRSA are retained and used in the ARSA. The only change, is that the 1½ mile standard currently used in a TRSA is deleted in favor of target separation. Target separation does not reduce separation as much as it may seem. The original 1½ miles nearly exist when you consider how wide a target is and how much room must be between targets to ensure separation. The FAA, therefore, finds that safety is enhanced by having knowledge of all aircraft operating in this area, not reduced.

This same commenter stated that the ARSA would increase controller workload by expanding the radius of service ten (10) additional miles in all directions. The FAA is frankly puzzled by this statement. First, the ARSA is only a slight lateral increase over the existing TRSA and a reduction in altitude. If the commenter is referring to the ATA, the ARSA would be an increase of five miles in all directions, and the ATA is not a radar service area. We assume that the commenter is including the ARSA outer area which is not regulatory airspace. The size of the ARSA regulatory airspace has been kept at a very modest size to provide for the greatest degree of safety while providing the pilots with the greatest possible amount of operating flexibility. The FAA finds that the ARSA size has been optimum in most situations, and the increased requirement of communication has not resulted in an unmanageable workload for the controllers but has increased safety.

Both commenters stated that the ARSA would increase the high cost of flight training by forcing students further from the airport before beginning any exercises. The FAA finds that the ARSA rule made provisions for these types of situations. The local facility manager is prepared to negotiate local agreements with operators where it is believed that the ARSA will have an adverse impact. The FAA has found that these agreements work very well, not only for the operator, but for the FAA in maintaining the degree of safety it desires.

One commenter also stated that the ARSA was going to force transiting pilots and pilots inbound/outbound to airports underlying the 5–10-mile shelf into flying below the tops of two antennas located to the east under the 5–10-mile shelf. The FAA finds that pilots routinely choose to circumnavigate around obstacles at low altitudes; however, they may choose to overfly at a higher altitude simply by establishing two-way radio with the air traffic facility. Transiting pilots do not routinely choose to operate beneath the shelf of the 5–10-mile area. The FAA has found that these pilots will either circumnavigate or fly over the top of the ARSA which is only 4,000 feet AGL.

The last commenter suggested that the TRSA works reasonably well because of cooperation between pilots and controllers and enjoys high participation. He expected this would be impacted negatively by the imposition of the ARSA. The FAA does not agree. The FAA has found that a high degree of participation is generally indicative of an easy transition to an ARSA.

Regulatory Evaluation

Those comments that addressed information presented in the Regulatory Evaluation of the notice have been discussed above. The Regulatory Evaluation discussed in the NPRM, as clarified by the "Discussion of Comments" cotained in the preamble to the final rule, contitutes the Regulatory Evaluation of the final rule. Both documents have been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of both the efficiency improvement resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and the efficiency gains will be realized from the start. Other sites anticipate that delay problems will occur in the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the ARSA sites established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of these ARSA sites will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million for each accident prevented.

For these reasons, FAA expects that the ARSA sites established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in radar services and radio communication with ATC is voluntary, operations at airports inside the core might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding some satellite airports located within the 5-mile ring to avoid adversely impacting their operations, and in other cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to eliminate virtually any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities

through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates an ARSA at Evansville Dress Regional Airport, IN; Laughlin Air Force Base (AFB), TX; Midland Regional Airport, TX; Portland International Jetport, ME; and Springfield Capital Airport, IL. Each location designated is an airport at which a nonregulatory TSA is currently in effect. Establishment of these ARSA's will require the pilots maintain two-way radio communication with ATC while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation Safety, Airport Radar Service Areas.

Adoption of the Amendment

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

§ 71.501 [Amended]

2. § 71.501 is amended as follows:

Evansville Dress Regional Airport, IN [New]

That airspace extending upward from the surface to and including 4,500 feet MSL within a 5-mile radius of the Evansville Dress Regional Airport (lat. 38°02'17"N., long. 87°31'50"W.) excluding that airspace beginning where the Pocket City 057° radial crosses the 5-mile ring, thence northeast via the 57° radial to intercept a 1¼-mile radius of the Skylane Airport (lat. 38°01'00"N., long. 87°35'50"W.), thence counterclockwise via the 1¼-mile radius to the 360° bearing from the Skylane Airport, thence due west to the 5-mile ring extending upward from the surface to 1,600 feet MSL; and that airspace within a 10-mile radius of the airport extending upward from 1,600 feet MSL to and including 4,500 feet MSL. This airport radar service area is effective during the specific days and hours of operation of the Evansville Tower and Approach Control Facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Laughlin AFB, TX [New]

That airspace extending upward from the surface to and including 5,100 feet MSL within a 5-mile radius of Laughlin AFB (lat. 29°21'35"N., long. 100°46'35"W.), and that airspace extending upward from 2,500 feet MSL to and including 5,100 feet MSL within a 10-mile radius of Laughlin AFB. This airport radar service area (ARSA) excludes that airspace in Mexico. This ARSA is effective during the specific days and hours of operation of the Laughlin Tower and Approach Control Facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Midland International Airport, TX [New]

That airspace extending upward from the surface to and including 6,900 feet MSL within a 5-mile radius of the Midland International Airport (lat. 31°56'33"N., long. 102°12'06"W.), and that airspace within a 10-mile radius of the airport from the 029° bearing from the airport, clockwise to the 209° bearing from the airport, extending upward from 4,400 feet MSL to and including 6,900 feet MSL; and that airspace within a 10-mile radius of the airport from the 209° bearing from the airport, clockwise to the 279° bearing from the airport, extending upward from 4,600 feet MSL to and including 6,900 feet MSL; and that airspace within a 10-mile radius of the airport from the 279° bearing from the airport, clockwise to the 029° bearing from the airport, extending upward from 4,200 feet MSL to and including 6,900 feet MSL. This airport radar service area is effective during the specific days and hours of operation of the Midland Tower and Approach Control Facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Portland International Jetport, ME [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Portland International Jetport (lat. 43°38'46"N., long. 70°18'33"W.), and that airspace extending upward from 1,500 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the airport. This airport radar service area is effective during the specific days and hours of operation of the Portland Tower and Approach Control Facility as established in advanced by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Springfield Capital Airport, IL [New]

That airspace extending upward from the surface to and including 4,600 feet MSL within a 5-mile radius of the Capital Airport (lat. 39°50'37"N., long. 89°40'38"W.), and that airspace exending upward from 1,800 feet MSL to and including 4,600 feet MSL within a 10-mile radius of the airport. This airport radar service area is effective during the specific days and hours of operation of the Springfield Tower and Approach Control Facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in Washington, DC, on April 27, 1988.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88–9656 Filed 4–29–88; 8:45 am]

BILLING CODE 4910–13–M

federal register

Monday
May 2, 1988

Part V

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Part 11

Horse Protection; Interim Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 11

[Docket No. 88-079]

Horse Protection; Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Horse Protection Regulations to remove a 16-ounce limit on horseshoes used on horses other than yearlings, and the prohibition of certain weights used on horses other than yearlings. Additionally, we are reinstating certain restrictions on the placement of lead and other weights on horses. We are requesting comments concerning how to restrict the use of weights, including horseshoes. This action is necessary to enable us to develop adequate information on how the weight on horses' feet should be limited. We are also removing a 6-ounce weight limit on boots used to protect horses. This action is warranted to allow the use of certain boots weighing more than 6 ounces that are used to protect horses.

DATE: This interim rule is effective April 28, 1988. Consideration will be given only to comments postmarked or received on or before June 27, 1988.

ADDRESSES: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC, 20090-6464. Please state that your comments refer to Docket No. 88-079. Comments received may be inspected at room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. R.L. Crawford, Animal Care Staff, VS, APHIS, USDA, Room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7833.

SUPPLEMENTARY INFORMATION:

Background Information

On April 26, 1988, we published an interim rule in the **Federal Register** (FR 53 14778-14782) that amended the Horse Protection regulations in 9 CFR Part 11 (referred to below as the regulations) to prohibit and restrict certain devices and practices to prevent the soring of horses. Among other things, we established a 16-ounce weight limit on horseshoes used on all horses, prohibited the use of weights on all horses, and establisehd a 6-ounce weight limit on boots used on horses. In this interim rule, we are removing those weight limits, and are requesting comments on the most appropriate limits on the use of weights, including horseshoes.

Horseshoes and Other Weights

The restrictions and prohibitions we established regarding horseshoes and other weights in our April 26 interim rule were based on findings, discussed in that interim rule, that indicated that weights added to a horse's foot may cause inflammation. In promulgating the interim rule, we prohibited the use of weights and established a 16-ounce weight limit for horseshoes, applicable to all horses. However, since the publication of that interim rule, considerable information has been generated regarding the appropriateness of the prohibition and of the 16-ounce weight limit. Although the comments and information received to date are not exhaustive, and although they contain certain conflicting opinions, it is clear to us that additional information needs to be compiled concerning appropriate limits on the use of weights on horses' feet and on the weight of horseshoes.

We have received a comment in the form of a recommendation that was approved by representatives of a significant number of horse industry organizations, and by representatives of the American Horse Protection Association (AHPA), that suggests that we remove the prohibition on the use of certain weights and the 16-ounce limit on the weight of horseshoes—except with regard to yearling horses, reinstate prior restrictions on the placement of weights, and request comments regarding these issues. In addition to the AHPA, the recommendation was approved by, among others, represenatives of the American Saddlebred Horse Association, the United Professional Horsemen's Association, the National Show Horse Registry, the American Horse Council, the American Farriers Association, the California State Horsemen's Association, the Walking Horse Trainers Association, the Kentucky Walking Horse Association, the Racking Horse Breeders Association, the Friends of the Show Horse Association, the American Morgan Horse Association, the International Arabian Horse Association, the Wild Horse Sanctuary—California, Equines Ltd., and the Wild Horse Alliance.

Additional information we have received suggests that a 16-ounce limit may not be appropriate, and indeed may be inappropriate, for some horses. It appears, for example, that the 16-ounce limit may be inappropriate for large horses, such as draft horses, and for other breeds of horses.

We are therfore removing the prohibition of certain weights and the 16-ounce weight limit on horseshoes used on horses other than yearling horses.

We are requesting comments concerning necessary limits on the use of weights, including horseshoes, both to prevent soring and to accommodate the needs of different breeds and sizes of horses.

For yearling horses, a prohibition on the use of any weights and a 16-ounce limit on horseshoes was in effect prior to the publication of the April 26 interim rule. These restrictions were removed only because we established a rule applicable to all horses. Because we are removing the across-the-board restrictions, it is necessary to again establish the 16-ounce limit and the prohibition of weights for yearlings to protect them from soring. Additionally, we are reinstating certain restrictions on the placement of weights on horses' feet.

Weight Limits on Boots

In our April 26 interim rule, we limited the weight of all boots used on horses to 6 ounces. Based on information we have received, however—including the recommendation discussed above—we believe that certain protective boots that weigh more than 6 ounces will not lead to soring. Therefore, we are removing the 6-ounce weight limit on soft rubber or soft leather bell boots and on quarter boots used as protective devices.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency situation exists, which warrants publication of this interim rule without prior notice and opportunity for public comment.

On April 26, 1988, we published an interim rule in the **Federal Register**. Information we have received since that date has indicated to us that the restrictions established in that rule may not be appropriate to all breeds and sizes of horses. Because it is possible that limiting some horses to a 16-ounce shoe may be inappropriate, and may possibly affect large horses, such as draft horses, adversely, it is necessary that we remove this weight limit as soon as possible, until more information regarding this subject can be gathered. We also need further information concerning necessary limitations on the use of other weights on horses' feet. Additionally, the April 26 interim rule limited the weight of all boots, including

protective boots, to 6 ounces. However, information we have received since that date has indicated that some protective boots weigh more than 6 ounces. To allow use of these protective boots, it is necessary that we remove the weight restriction on these boots as soon as possible.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 for making this interim rule effective upon signature. We will consider comments postmarked or received on or before June 27, 1988. Any amendments we make to this interim rule as a result of these comments will be published in the Federal Register as soon as possible following the close of the comment period.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this interim rule in conformance with Executive Order 12291 and Departmental Regulation 1512–1, and have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The changes to the regulations made by this interim rule will affect all horses equally, and will allow continued equitable competition among show horses.

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 11

Animal welfare, Horses, Humane animal handling, Soring of horses.

PART 11—HORSE PROTECTION REGULATIONS

Accordingly, 9 CFR Part 11 is amended as follows:

1. The authority citation for Part 11 continues to read as follows:

Authority: 15 U.S.C. 1823, 1824, 1825, and 1828; 44 U.S.C. 3506.

2. Section 11.2 is amended by revising paragraphs (b)(7) and (b)(9) and by adding new paragraph (b)(19) to read as follows:

§ 11.2 Prohibitions concerning exhibitors.

* * * * *

(b) * * *

(7)(i) Boots, collars, or any other devices, with protrusions or swellings, or rigid, rough, or sharp edges, seams or any other abrasive or abusive surface that may contact a horse's leg; and

(ii) Boots, collars, or any other devices that weigh more than 6 ounces, except for soft rubber or soft leather bell boots and quarter boots that are used as protective devices.

* * * * *

(9) Any weight on yearling horses, except a keg or similar conventional horseshoe, and any horseshoe on yearling horses that weighs more than 16 ounces.

* * * * *

(19) Lead or other weights attached to the outside of the hoof wall, the pad, or on the outside surface of the horseshoe.

* * * * *

Done in Washington, DC this 28th day of April 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–9805 Filed 4–29–88; 9:47 am]

BILLING CODE 3410–34–M

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Federal Register
Vol. 53, No. 84
Monday, May 2, 1988

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Index, finding aids & general information	523-5227
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Index, finding aids & general information	523-5227
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Additional information	523-5230

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FEDERAL REGISTER PAGES AND DATES, MAY

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List April 29, 1986

CFR CHECKLIST

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4	14.00	Jan. 1, 1988
5 Parts:		
1–699	14.00	Jan. 1, 1988
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1200–End, 6 (6 Reserved)	11.00	Jan. 1, 1988
7 Parts:		
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210–299	22.00	Jan. 1, 1987
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400–699	15.00	Jan. 1, 1987
700–899	22.00	Jan. 1, 1988
900–999	26.00	Jan. 1, 1988
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1060–1119	12.00	Jan. 1, 1988
1120–1199	11.00	Jan. 1, 1988
1200–1499	17.00	Jan. 1, 1988
1500–1899	9.50	Jan. 1, 1988
1900–1939	11.00	Jan. 1, 1988
1940–1949	21.00	Jan. 1, 1988
1945–End	26.00	Jan. 1, 1987
2000–End	6.50	Jan. 1, 1988
8	11.00	Jan. 1, 1988
9 Parts:		
1–199	19.00	Jan. 1, 1988
200–End	17.00	Jan. 1, 1988
10 Parts:		
*0–50	18.00	Jan. 1, 1988
51–199	14.00	Jan. 1, 1988
200–399	13.00	[2] Jan. 1, 1987
400–499	13.00	Jan. 1, 1988
500–End	24.00	Jan. 1, 1988
11	10.00	July 1, 1988
12 Parts:		
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220–299	14.00	Jan. 1, 1988
*300–499	13.00	Jan. 1, 1988
500–End	27.00	Jan. 1, 1987
600–End	12.00	Jan. 1, 1988
*13	20.00	Jan. 1, 1988
14 Parts:		
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60–139	19.00	Jan. 1, 1988
140–199	9.50	Jan. 1, 1988
200–1199	20.00	Jan. 1, 1988
1200–End	11.00	Jan. 1, 1987
15 Parts:		
0–299	10.00	Jan. 1, 1988
300–399	20.00	Jan. 1, 1987
400–End	14.00	Jan. 1, 1988
16 Parts:		
0–149	12.00	Jan. 1, 1988
150–999	13.00	Jan. 1, 1988
1000–End	19.00	Jan. 1, 1988
17 Parts:		
1–199	14.00	Apr. 1, 1987
200–239	14.00	Apr. 1, 1987
240–End	19.00	Apr. 1, 1987
18 Parts:		
1–149	15.00	Apr. 1, 1987
150–279	14.00	Apr. 1, 1987
280–399	13.00	Apr. 1, 1987
400–End	8.50	Apr. 1, 1987
19 Parts:		
1–199	27.00	Apr. 1, 1987
200–End	5.50	Apr. 1, 1987
20 Parts:		
1–399	12.00	Apr. 1, 1987
400–499	23.00	Apr. 1, 1987
500–End	24.00	Apr. 1, 1987
21 Parts:		
1–99	12.00	Apr. 1, 1987
100–169	14.00	Apr. 1, 1987
170–199	16.00	Apr. 1, 1987
200–299	5.50	Apr. 1, 1987
300–499	26.00	Apr. 1, 1987
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600–799	7.00	Apr. 1, 1987
800–1299	13.00	Apr. 1, 1987
1300–End	6.00	Apr. 1, 1987
22 Parts:		
1–299	19.00	Apr. 1, 1987
300–End	13.00	Apr. 1, 1987
23	16.00	Apr. 1, 1987
24 Parts:		
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200–499	26.00	Apr. 1, 1987
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§§ 1.1401–End	20.00	Apr. 1, 1987
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50–299	14.00	Apr. 1, 1987
300–499	15.00	Apr. 1, 1987
500–599	8.00	[3] Apr. 1, 1980
600–End	6.00	Apr. 1, 1987
27 Parts:		
1–199	21.00	Apr. 1, 1987
200–End	13.00	Apr. 1, 1987
28	23 00	July 1, 1987

Title	Price	Revision Date
29 Parts:		
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500–899	24.00	July 1, 1987
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1926	10.00	July 1, 1987
1927–End	23.00	July 1, 1987
30 Parts:		
0–199	20.00	July 1, 1987
200–699	8.50	July 1, 1987
700–End	18.00	July 1, 1987
31 Parts:		
0–199	12.00	July 1, 1987
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33 Parts:		
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34 Parts:		
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1987. The CFR volume issued January 1, 1987, should be retained.

[3] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1987. The CFR volume issued as of July 1, 1986, should be retained.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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May 4	May 19	June 3	June 20	July 5	August 2
May 5	May 20	June 6	June 20	July 5	August 3
May 6	May 23	June 6	June 20	July 5	August 4
May 9	May 24	June 8	June 23	July 8	August 8
May 10	May 25	June 9	June 24	July 11	August 8
May 11	May 26	June 10	June 27	July 11	August 9
May 12	May 27	June 13	June 27	July 11	August 10
May 13	May 31	June 13	June 27	July 12	August 11
May 16	May 31	June 15	June 30	July 15	August 15
May 17	June 1	June 16	July 1	July 18	August 15
May 18	June 2	June 17	July 5	July 18	August 16
May 19	June 3	June 20	July 5	July 18	August 17
May 20	June 6	June 20	July 5	July 19	August 18
May 23	June 7	June 22	July 7	July 22	August 22
May 24	June 8	June 23	July 8	July 25	August 22
May 25	June 9	June 24	July 11	July 25	August 23
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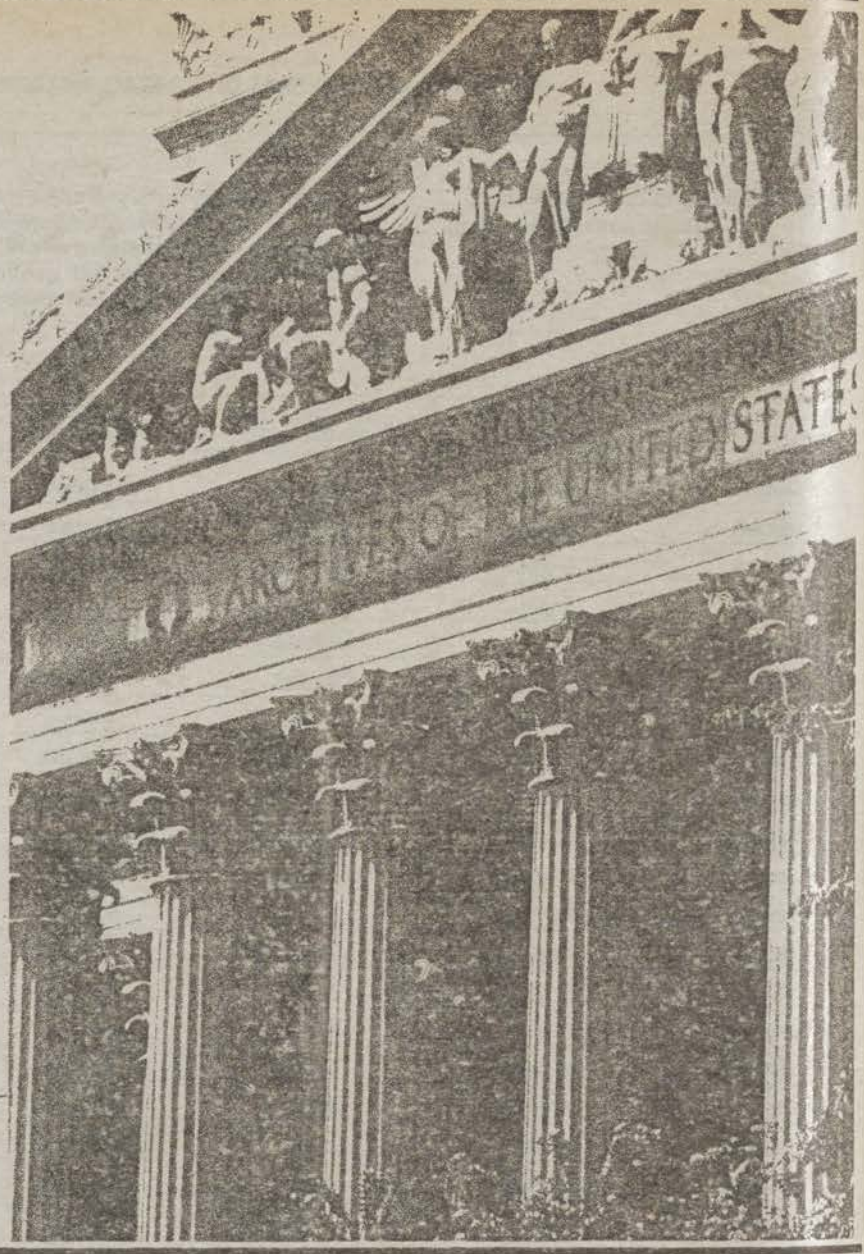

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