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federal register

Monday
October 3, 1983

Announcement

Beginning with this issue, the title, date, volume and number are preprinted on the spine of the **Federal Register** as a convenience to users.

Selected Subjects

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Food Ingredients
Food and Drug Administration

Government Contracts
Immigration and Naturalization Service

Grant Programs—Health
Public Health Service

Hazardous Waste
Environmental Protection Agency

Indians—Enrollment
Indian Affairs Bureau

Milk Marketing Orders
Agricultural Marketing Service

Natural Gas
Federal Energy Regulatory Commission

Organization and Functions (Government Agencies)
Coast Guard

Radio
Federal Communications Commission

Railroads
Interstate Commerce Commission

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Contents

Federal Register
Vol. 48, No. 192
Monday, October 3, 1983

Separate Parts in This Issue

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
Proposed Rules:
1065 45117

8 CFR
103 45093
214 45093
238 45093
248 45093

9 CFR
Proposed Rules:
317 45118
319 45118
381 45118

14 CFR
39 45093
71 (3 documents) 45094, 45095
97 45096
Proposed Rules:
21 45214
61 45214
65 45214
71 45118
107 45214
109 45214
121 45214
131 45214
145 45214

17 CFR
Proposed Rules:
240 45119

18 CFR
271 45097
274 45097

21 CFR
558 45102
Proposed Rules:
182 45121
184 45121

25 CFR
71 45103

38 CFR
Proposed Rules:
21 45123

40 CFR
433 45105
Proposed Rules:
261 45210

41 CFR
Ch. 101 45105

42 CFR
57 45112

46 CFR
160 45113

47 CFR
81 45114
83 45114
87 45114

49 CFR
Proposed Rules:
1039 45137

Rules and Regulations

Federal Register
Vol. 48, No. 192
Monday, October 3, 1983

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 248

Powers and Duties of Service Officers; Availability of Service Records; Change of Nonimmigrant Classification; Denial of Appeal

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Technical amendment.

SUMMARY: For clarification purposes, this document removes a paragraph contained in the supplementary information of a final rule document published on September 13, 1983 (48 FR 41016).

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I St., NW., Washington, D.C. 20536, Telephone: (202) 633-3946.

For clarification purposes, the Service wishes to amend the supplementary information published in a final rule document on September 13, 1983 (48 FR 41016) by removing the 4th paragraph of the third column.

(Secs. 103 and 248 of the I and N Act, as amended; 8 U.S.C. 1103 and 1258)

Dated: September 24, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-26891 Filed 9-30-83; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 214

Powers and Duties of Service Offices; Availability of Records; Nonimmigrant Classes; Temporary Alien Employees

Correction

In the issue of Friday, September 23, 1983, on page 43292, in the third column, a correction to FR Doc. 83-24980 appeared. Two paragraphs of the correction were inaccurate and should have appeared as follows:

* * * * *

"4. On page 41146, in the second column, in (l)(1)(iii)(A), in the eighth line of the paragraph, "service" should read "services".

"5. On page 41146, in the third column, in (l)(1)(iii)(C), in the twelfth line of the paragraph, "identified" should read "identifies"."

BILLING CODE 1505-01-M

8 CFR Part 238

Contracts With Transportation Lines; Republic Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of carriers which have entered into agreements with the Service for the preinspection of their passengers and crews at locations outside the United States by removing the name of Republic Airlines, Inc. This airline has requested termination of the agreement because they expect to cease providing air service to Calgary.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street N.W., Washington, D.C., 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Republic Airlines, Inc. on March 3, 1978 to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public. On October 31, 1983, Republic Airlines will cease providing air service to Calgary.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely removes an air carrier's name on the present listing and is editorial in nature.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

Accordingly, Chapter I of Title 8 of Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

Section 238.4 is amended as follows:

Remove the name "Republic Airlines" under "At Calgary".

(Secs. 103 and 238 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1228))

Dated: September 24, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-26849 Filed 9-30-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-40-AD; Amdt. 39-4655]

Airworthiness Directives; Cessna Models 172M, 172N, 172P, R172K, F172 and FR172 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 83-10-03, Amendment 39-4655 (48 FR 23627, 23628), applicable to Cessna Models 172M, 172N, 172P, R172K, F172 and FR172 airplanes. This correction is

necessary because paragraph (a) inadvertently cited an incorrect date when the AD was published in the Federal Register.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas W. Haig, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of AD 83-10-03, Amendment 39-4655 (48 FR 23627, 23628), applicable to Cessna Models 172M, 172N, 172P, R172K, F172 and FR172 airplanes, the FAA found that paragraph (a) inadvertently cited an incorrect date for Cessna Service Information Letter SE82-38, Revision 1, when the AD was published in the Federal Register. Therefore, action is taken herein to make this correction. Since this action is clarifying in nature, notice and public procedure thereon are not considered necessary.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

In FR Doc. 83-13852 (48 FR 23627, 23628), appearing on page 23628 in the Federal Register of May 26, 1983, make the following correction:

Correct line 7 of paragraph (a), "Revision #1, dated October 29, 1983." to read "Revision #1, dated October 29, 1982."

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Issued in Kansas City, Missouri, on September 21, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-26929 Filed 9-30-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-26]

Designation of Control Zone, Aguadilla, Puerto Rico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a control zone in the vicinity of Borinquen Airport, Aguadilla, Puerto Rico, which will lower the base of controlled airspace in the vicinity of the airport from 700 feet above the surface to the surface. This will provide controlled airspace protection for aircraft operating to and from the airport during Instrument Flight Rule weather conditions.

EFFECTIVE DATE: 0901 GMT, November 24, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Monday, August 8, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a control zone at Aguadilla, Puerto Rico, to provide controlled airspace for aeronautical operations in the vicinity of Borinquen Airport (48 FR 35887). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. All comments received in response to publication were favorable. This amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Aguadilla, Puerto Rico, control zone to accommodate aeronautical activities at Borinquen Airport.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, November 24, 1983, by adding the following:

Aguadilla, PR—[(New)]

Within a 5-mile radius of Borinquen Airport (Lat. 18°29'45"N., Long. 67°08'00"W.); excluding that airspace more than 3 nautical miles from the shoreline. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and time will thereafter be continuously published in the Airport/Facility Directory.

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

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

Issued in East Point, Georgia, on September 22, 1983.

George E. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-26930 Filed 9-30-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 83-ACE-18]

Alteration of Transition Area, Shenandoah, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Shenandoah, Iowa. The city of Shenandoah, Iowa, has requested that the Shenandoah Municipal Airport be provided with additional instrument approach capability. Therefore, the FAA has developed an instrument approach procedure utilizing the Omaha, Nebraska VORTAC as a navigational aid. A minor alteration to the Shenandoah transition area is required to include this additional instrument approach procedure and to ensure segregation of aircraft utilizing it under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: October 8, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is to alter the Shenandoah, Iowa, transition area.

The alteration is being made due to a request from the city for additional instrument approach capability. The FAA has developed an additional instrument approach procedure utilizing the Omaha, Nebraska VORTAC as a navigational aid. The existing transition area contains more than the necessary airspace needed for the new approach, and the amount of airspace designated as the transition areas is being reduced accordingly. The intended effect of this action is to include the new instrument approach procedure within the Shenandoah, Iowa, transition area in order to ensure segregation of aircraft using this new instrument approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). As a consequence, this amendment is in the interest of safety and is needed to provide this substantive change immediately.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Sec. 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, October 8, 1983, by altering the following transition area:

Shenandoah, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Shenandoah Municipal Airport (Latitude 40°45'15"N, Longitude 92°25'15"W); and within 3 miles each side of the 133° bearing from the Shenandoah NDB (Latitude 40°45'15"N; Longitude 95°25'15"W) extending from the 5-mile radius area to 8.5 miles southeast of the airport; and within 3 miles each side of the Omaha VORTAC 150° radial extending from the 5-mile radius area to 6 miles northwest of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(a)]; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

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

Issued in Kansas City, Missouri, on September 9, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-26031 Filed 9-30-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ACE-11]

Alteration of Transition Area—Vinton, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Vinton, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Vinton Veterans Memorial Airpark, Vinton, Iowa, utilizing a Nondirectional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: November 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, an additional instrument approach procedure to the Vinton Veterans Memorial Airpark, Vinton, Iowa, is being established utilizing an NDB as a navigational aid. The establishment of this new instrument approach procedure, based on this navigation aid, entails alteration of the transition area at Vinton, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 33721 and 33722 of the **Federal Register** dated July 25, 1983, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Vinton, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Sec. 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, November 24, 1983, by altering the following transition area:

Vinton, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Vinton Veterans Memorial Airpark (latitude 42°13'03"N, longitude 92°01'43"W), within 2½ miles each side of the Garrison NDB (latitude 42°13'18"N, longitude 92°01'12"W) 319° bearing, extending from the 5-mile radius area to 7 miles northwest of the airport and within 2 miles each side of the Garrison NDB 103° bearing, extending from the 5-mile radius area to 7 miles east of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69)

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

Issued in Kansas City, Missouri, on September 21, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-26033 Filed 9-30-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 23779; Amdt. No. 1252]

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

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

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

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

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

For Examination

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

For Purchase

Individual SIAP copies may be obtained from:

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

By Subscription

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

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

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

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

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

PART 97—[AMENDED]

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

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

* * * *Effective November 24, 1983*

Alpena, MI—Phelps Collins, VOR Rwy 12 (TAC), Amdt. 10
Alpena, MI—Phelps Collins, VOR Rwy 18, Amdt. 12
Alpena, MI—Phelps Collins, VOR Rwy 36 (TAC), Amdt. 12
East Tawas, MI—Iosco County, VOR-A, Amdt. 3

* * * *Effective November 10, 1983*

Santa Monica, CA—Santa Monica Muni, VOR-A, Amdt. 5
Shenandoah, IA—Shenandoah Muni, VOR/DME Rwy 12, Amdt. Orig.
Independence, KS—Independence Muni, VOR-A, Amdt. 1
Gaylord, MI—Otsego County VOR Rwy 9, Amdt. 5
Gaylord, MI—Otsego County VOR Rwy 27, Amdt. 5
Dexter, MO—Dexter Muni, VOR/DME Rwy 36, Amdt. 3
Charlotte, NC—Charlotte/Douglas Intl, VOR Rwy 5, Amdt. 8, Cancelled
Bennington, VT—Bennington State, VOR-A, Amdt. 7

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

The FAA published an Amendment in Docket No. 23740, Amdt. No. 1250 to Part 97 of the Federal Aviation Regulations (VOL 48 FR No. 172 Page 39913; dated September 2, 1983) under Section 97.25 effective November 24, 1983 which is hereby amended as follows:
San Diego, CA—San Diego Intl-Lindbergh Field, LOC Rwy 27, Orig, change effective date to October 27, 1983

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

* * * *Effective November 24, 1983*

Alpena, MI—Phelps Collins, NDB Rwy 36, Amdt. 5
Rogers City, MI—Presque Isle County, NDB Rwy 27, Amdt. 1

* * * *Effective November 10, 1983*

Brunswick, GA—Malcolm McKinnon, NDB Rwy 4, Amdt. Orig.
Brunswick, GA—Malcolm McKinnon, NDB Rwy 22, Amdt. Orig.
Shenandoah, IA—Shenandoah Muni, NDB Rwy 30, Amdt. 8
Independence, KS—Independence Muni, NDB Rwy 17, Amdt. 1
Independence, KS—Independence Muni, NDB Rwy 35, Amdt. 8
Iola, KS—Allen County, NDB Rwy 35, Amdt. 1
Gaylord, MI—Otsego County, NDB Rwy 9, Amdt. 6
Oxford, MS—University-Oxford, NDB Rwy 9, Amdt. Orig.
Dexter, MO—Dexter Muni, NDB Rwy 36, Amdt. 3
Tahlequah, OK—Tahlequah Muni, NDB Rwy 17, Orig.

* * * *Effective October 27, 1983*

Leesburg, VA—Leesburg Muni/Godfrey Field, NDB Rwy 35, Orig.

The FAA published an Amendment in Docket No. 23740, Amdt. No. 1250 to Part 97 of the Federal Aviation Regulations (Vol 48 FR No. 172 Page 39913; dated September 2, 1983) under § 97.27 effective November 24, 1983, which is hereby amended as follows:

San Diego, CA—San Diego Intl-Lindbergh Field, NDB-B Amdt. 3, change effective date of cancellation to October 27, 1983.
San Diego, CA—San Diego Intl-Lindbergh Field, NDB Rwy 27, Orig., Change effective date to October 27, 1983.

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

* * * *Effective November 24, 1983*

Alpena, MI—Phelps Collins, ILS Rwy 36, Amdt. 7

* * * *Effective November 10, 1983*

North Kingstown, RI—Quonset State, ILS Rwy 16, Amdt. 1

* * * *Effective October 27, 1983*

Atlanta, GA—The William B. Hartsfield Atlanta Intl, ILS Rwy 26, Amdt. 15
Houston, TX—Houston Intercontinental, ILS Rwy 8, Amdt. 13
Houston, TX—William P. Hobby, ILS Rwy 4 Amdt. 33

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

* * * *Effective November 10, 1983*

Orlando, FL—Orlando Executive, RADAR-1, Amdt. 19
Eliot, ME—Littlebrook Air Park, RADAR-1, Amdt. 1

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

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

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

Issued in Washington, D.C. on 30 September 1983.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 83-26928 Filed 9-30-83; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271 and 274

[Docket Nos. RM80-50-003, RM80-50-004, and RM80-50-005]

High-Cost Natural Gas; Production Enhancement Procedures

Issued: September 26, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Amendment to Final Rule and Order Granting Rehearing in Part and Denying Rehearing in Part.

SUMMARY: The Federal Energy Regulatory Commission is granting in part and denying in part petitions for rehearing of Order No. 107. Order No. 107 established an incentive maximum lawful price under section 107 of the Natural Gas Policy Act (NGPA) for natural gas produced from wells on which production enhancement work has been performed. The final rule limited the incentive price to intrastate natural gas subject to section 105 of the NGPA. The major issue raised by the petitions for rehearing of Order 107 relates to extending the rule to natural gas subject to NGPA sections 104 and 106. The Commission is granting rehearing on this issue and extending the production enhancement incentive price to qualifying natural gas subject to sections 104 and 106. The Commission denies rehearing on all other issues raised in the petitions for rehearing.

EFFECTIVE DATE: November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Rulemaking and Legislative Analysis Section, Office of General Counsel, 825 North Capitol Street NE., Room 8602-A, Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is granting in part and denying in part petitions for rehearing of Order No. 107.[1]. Order No. 107 established an incentive maximum lawful price under section 107 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3317 (Supp. V 1981), for natural gas produced from wells on which production enhancement work has been performed. The final rule limited the incentive price to intrastate natural gas subject to section 105 of the NGPA. The major issue raised by the petitions for rehearing relates to extending the rule to natural gas subject to NGPA section 104 (natural gas committed or dedicated to interstate commerce on November 8, 1978) and section 106 (gas sold under interstate and instrastate rollover contracts). The Commission is granting rehearing on this issue and extending the production enhancement incentive price to qualifying natural gas subject to sections 104 and 106. The Commission is denying rehearing on all other issues raised in the petitions for rehearing.

II. Background

Under section 107 of the NGPA, the Commission has the legal authority to set an incentive price for categories of high-cost natural gas provided two statutory findings are made. First, section 107(c)(5) requires the Commission to find that the gas is "produced under such * * * conditions as the Commission determines to present extraordinary risks or costs." Second, section 107(b) requires the Commission to find that the prescribed incentive maximum lawful price is "necessary to provide reasonable incentives for the production of such high-cost natural gas." [2]

[1] High-Cost Natural Gas: Production Enhancement Procedures, Order No. 107, Docket No. RM80-50, 45 FR 77412 (1980).

[2] "Such special ceiling prices are not intended by the conferees to be cost-based in nature and do not require cost justification." H.R. Rept. No. 1752, 95th Cong., 2d Sess. 88 (1978).

Shortly after the enactment of the NGPA, the Commission sought comments on potential categories of high-cost, high-risk gas and the incentive prices necessary to produce such gas.[3] Several commenters suggested an incentive price for natural gas produced from wells on which certain types of production enhancement work had been completed.[4]

A. The Production Enhancement Rule

Based upon these comments, the Commission issued a notice of proposed rulemaking to establish an incentive price for gas from wells on which specified production enhancement work has been performed.[5] The Commission proposed an incentive price to encourage continued production from economically marginal wells producing intrastate gas subject to ceiling prices under section 105 of the NGPA. However, the notice requested comment on whether the rule should be expanded to include natural gas subject to NGPA sections 104 and 106 (hereinafter "interstate gas"[6]).

In Order No. 107, the Commission adopted a final rule which limited the application of the production enhancement incentive price[7] to gas subject to section 105 of the NGPA for two reasons. First, the Commission indicated that it would not extend the rule to gas subject to sections 104 and 106 because there was a

lack of sufficient information respecting the economic impact of the proposed rule on the natural gas industry and consumers and our inability to elicit enough information during the comment period to permit us to predict the exact nature and extent of the impact

* * *

45 FR 77422.

The second reason related to the different regulatory environments in which prices were established for interstate and intrastate gas. The Commission declined to establish additional production incentives for gas priced under sections 104 or 106(a) because price inadequacies for these sections are due to ratemaking methods used under the Natural Gas Act and were taken into account by parties contracting in that "regulatory environment". The Commission noted that these price inadequacies could be remedied by either a special relief rulemaking or a new just and reasonable rate proceeding pursuant to sections 104(b)(2) and 106(c) of the NGPA.[8]

By contrast, gas subject to section 105 was not federally regulated prior to the enactment of the NGPA; only state law or contractual provisions limited renegotiation of the price for intrastate gas to take account of costs attributable to production enhancement work. Under section 105 of the NGPA, however, Congress "froze" intrastate contract prices and did not provide a specific repricing mechanism. The Commission reasoned that it was only necessary to extend the incentive price to gas subject to section 105 since price inadequacies under section 105 "derive from a different regulatory context," than did price inadequacies under sections 104 and 106(a).[9]

B. The Petitions for Rehearing

Petitions for rehearing were filed by Indicated Producers, the Railroad Commission of Texas (Texas), and Inexco Oil Company which adopted the Indicated Producers' filing.[10] Briefly stated, petitioners requested the following changes in the rule on rehearing:

1. Extending the production enhancement rule to gas subject to sections 104 and 106;
2. Eliminating the renegotiated contract price requirement because it is both unnecessary and in excess of the Commission's authority under section 107;
3. Eliminating the continuing regulation requirement under § 271.704(a)(3) because it is beyond the Commission's authority;
4. Eliminating several filing requirements in § 274.205(f), including the requirement that a jurisdictional agency find that a reasonable basis exists for the production enhancement work, and the itemized cost statement requirement, because they are unnecessary and burdensome;
5. Establishing a separate incentive price for wells whose production is enhanced by use of inert gas injection;
6. Changing the requirement that the application include a "detailed description" of the production enhancement techniques; and
7. Eliminating the requirement that a jurisdictional agency make findings on contractual matters.

Both Indicated Producers and Texas contend that the rationale supporting production enhancement incentives for section 105 gas supports the inclusion of sections 104 and 106 gas in the incentive pricing category. Indicated Producers argue that extension of the incentive price is "necessary" under section 107 because the costs and risks are the same for gas subject to section 104 or 106 as for gas subject to section 105. Moreover, Indicated Producers claim the Commission's failure to include section 104 and section 106(a) gas in the incentive price category erroneously discriminates between interstate and intrastate gas producers. Indicated Producers allege that the distinction between the interstate and intrastate markets is contrary to the Congressional intent to eliminate disparities between those markets. In addition, if the purpose of section 107 is to encourage investment not already made, that purpose applies to gas subject to sections 104 and 106 just as it applies to section 105 gas.

Indicated Producers also challenge the Commission's belief that other methods are available to provide incentives to increase production of flowing interstate

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[3] Notice of Inquiry, Ceiling Prices, High-Cost Natural Gas, Docket No. RM79-44, issued June 13, 1979, 44 FR 34511 (1979). Shortly after the Notice of Inquiry was issued, the Sun Gas Company filed a petition for a rulemaking requesting that the Commission "determin[e] whether natural gas production achieved as a result of supply enhancement procedures should be classified as 'high-cost natural gas' pursuant to Section 107(c)(5) of the NGPA * * *." Petition for Rulemaking, Sun Gas Company, Docket No. RM81-41, filed February 27, 1980. This Order on Rehearing essentially grants the type of relief requested by Sun's petition for rulemaking. Accordingly, the Commission will by separate order deny Sun's petition since it is duplicative of the relief granted in this Order and it is therefore, unnecessary to institute a rulemaking in response to that petition.

[4] *See, e.g.*, Comments of Sun Gas, July 16, 1979; Note, *Regulatory Opportunity and Statutory Ambiguity in the Search for High-Cost Natural Gas*, 57 Tex. L. Rev. 641 (1978-1979), filed as a comment, July 16, 1979.

[5] Notice of Proposed Rulemaking, High-Cost Natural Gas: Production Enhancement Procedures, Docket No. RM80-50, issued July 28, 1980, 45 FR 51219 (1980).

[6] While gas subject to section 106(b) is intrastate rollover gas, the Commission will, for purposes of convenience, refer to gas subject to sections 104 and 106 as "interstate gas."

[7] The incentive price cannot exceed the lesser of the NGPA section 109 maximum lawful price or the renegotiated contract price. In order to insure that the incentive price was "necessary" for a particular well (*see* section 107(b)), the Commission required a "unit cost cap" calculation. Sales of qualifying gas are eligible for the incentive price only to the extent that the projected increase in revenue, attributable solely to the projected increase in units of gas production [does] * * * not exceed a price per MMBtu equal to 200 percent of the maximum lawful price allowed for conventional, onshore development (i.e., the section 103 maximum lawful price) for the month in which the development occurs.

Order No. 107, 45 FR 77421 at 77427 (1980).

[8] *Id.* at 77422.

[9] *Id.* at 77421-22.

[10] Application for Rehearing of Inexco Oil Company, Docket No. RM80-50-004, filed December 15, 1980; Application of Indicated Producers for Rehearing of Order No. 107, Docket No. RM80-50-003, filed December 12, 1980; Motion for Rehearing on Behalf of the Railroad Commission of Texas, Docket No. RM80-50-005, filed December 15, 1980. While referred to variously as Applications, Motions or Petitions, the Commission will refer to these documents generically as "petitions for rehearing."

gas and interstate rollover contract gas. They suggest that although a new just and reasonable rate proceeding might be necessary to increase the ceiling prices of gas subject to sections 104, 106 or 109,[11] there is also a need to encourage production enhancement work on wells producing section 104 and 106 gas either in the absence of or during the pendency of such a proceeding.

Further, the producers claim that special relief-type measures will not result in the risk-taking and new investment which Congress intended section 107 to encourage and that only incentives which are known and available prior to making the investment, such as those under section 107, can serve this purpose. The producers contend that cost-based special relief measures are no substitute for the incentives Congress provided in section 107, and that special relief is more appropriate "where investments have already occurred and the venture has proved to be uneconomic at the otherwise applicable rate."

Indicated Producers also argue that excluding intrastate rollover gas (section 106(b)) from incentive treatment is "especially illogical." Noting that Order No. 107 amended the regulations to provide for the continued collection of the incentive price once a qualified intrastate contract rolls over,[12] Indicated Producers argue that the rationale for encouraging production enhancement is identical both before and after rollover. They conclude that no reason exists to discourage production enhancement work after rollover has occurred.

Texas challenges the narrow scope of the production enhancement incentive price on two general bases. First, Texas argues that the certainty of the production enhancement incentive price would better stimulate production of gas subject to sections 104 and 106. Second, Texas notes that producers in the interstate market and those with intrastate rollover contracts need the same incentives to perform production enhancement which Order No. 107 made available for section 105 intrastate producers.

C. Request for Additional Comment

In order to assist it in evaluating these issues, the Commission requested additional comments on whether the production enhancement rule should be applied to interstate gas subject to section 104 and interstate and intrastate rollover gas subject to section 106. 48 FR at 4802 (Feb. 3, 1983). Specifically, the Commission sought comments on whether natural gas subject to these categories is produced under such conditions that present extraordinary risks or costs and whether an incentive maximum lawful price is necessary to provide reasonable incentives for the production of such gas. In addition, the Commission sought information, which it lacked at the time it issued Order No. 107, to assess the economic impact that extending the rule to such gas would have on the natural gas industry and its consumers.

The Commission received eighteen comments in response to its request, five from natural gas producers, six from natural gas pipelines, two from distributors, four from state commissions, and one from a federal agency. In general, the comments were about evenly divided between those favoring and those opposing the proposal to extend the production enhancement incentive price to interstate natural gas.

III. Discussion

The Commission is granting in part and denying in part the petitions for rehearing of Order No. 107. The Commission grants the petitions on the issue of extending the production enhancement procedures to natural gas subject to sections 104 and 106. The Commission denies the petitions on all other issues.

A. Interstate Gas

After considering the information submitted in response to the Commission's notice and reevaluating the policy considerations discussed in the final rule, the Commission is extending the production enhancement incentive price to interstate gas. Additional information submitted as a result of its request for additional comments now satisfies the Commission that it has sufficient information on which to base its decision extending the production enhancement rule to interstate gas. Similarly, the Commission no longer views the policy concerns raised in the final rule as barriers to including interstate gas in the production enhancement rule. Accordingly, the Commission is amending its regulations in § 271.704 to include gas subject to NGPA sections 104 and 106 as categories of gas that are eligible for the production enhancement incentive price.

Section 107 of the NGPA requires that the Commission make two findings prior to establishing an incentive price for any category of natural gas. The gas must be produced under conditions that present "extraordinary risks or costs," and the incentive price must be "necessary to provide reasonable incentives." The Commission believes its decision to extend the production enhancement procedures to interstate gas is consistent with the NGPA statutory requirements and is supported by sound policy considerations.

First, the Commission has determined that interstate gas that qualifies under the production enhancement rule will be produced under conditions that present "extraordinary costs." The Commission noted in the final production enhancement rule, regarding gas subject to section 105, that

> [t]ypical production enhancement operations such as re-entries, recompletions, or the addition of compression are not commonly regarded as presenting extraordinary risks or costs. In certain circumstances, however, cost becomes extraordinary because it cannot be recouped at the otherwise applicable section 105 price or because it is so high in relation to the price under the contract that the producer simply will not undertake the production enhancement operation in the absence of an incentive price.

45 FR at 77422.

The Commission believes that this reasoning applies with equal force to natural gas subject to sections 104 or 106. The current price of natural gas subject to section 104 ranges from about $0.29 per MMBtu to about $2.33 per MMBtu for the month of September 1983. *See* 18 CFR 271.101 (1983). Based on the comments and the Commission's experience in reviewing the costs of using production enhancement techniques, further investment in production enhancement work qualifying under the Commission's regulations may not be economical at all but the highest of these prices. Accordingly, the Commission believes that gas that qualifies under this rule will present "extraordinary costs" in relation to the maximum lawful price that could be charged for such gas.

The Commission also believes that the incentive price is "necessary to provide reasonable incentives" to produce gas that qualifies under this rule. With regard to the impact on reserves, several producers offered specific instances in which wells are or would be abandoned because the cost of producing the gas is not justified by the maximum lawful price that could be charged for that gas. One producer group submitted a study that showed that reserves from wells operated by ten producers could be increased by 366 Bcf or 44 percent of the reserves otherwise available from these

[11] Section 109(b)(2), like sections 104(b)(2) and 106(c), gives the Commission authority to increase the ceiling price for gas subject to that section if such increased ceiling is just and reasonable within the meaning of the Natural Gas Act.

[12] *See* § 271.602(c) of the Commission's regulations.

wells. Similarly, one state commission offers data showing that the production enhancement incentive price for intrastate gas (section 105) has been successful in generating additional intrastate reserves. The Commission believes that these comments are additional support for the intuitive notions that gas reserves will be abandoned if the costs of production exceed the price, and that more gas will be produced if an incentive price is available.

Additionally, there is no logical reason to believe that interstate gas is less apt than intrastate gas to need the type of production enhancement work that is encouraged by this rule. Many commenters noted that such a distinction makes little sense from the standpoint of a producer who cannot recover the costs of performing needed production enhancement work on a well to efficiently capture its reserves. Indeed, one commenter noted that interstate wells might have a greater need for the incentive price since they are typically older wells whose prices are generally lower than the price of intrastate wells. While it is true, as the Commission noted in Order No. 107, that the price of interstate and intrastate gas derived from different regulatory schemes, the Commission believes that this is not dispositive of whether it is necessary to encourage the development of reserves, at a price lower than that of new reserves, that might otherwise be abandoned.

The Commission agrees with the comment of one state commission, however, that not all production enhancement work on interstate wells involves extraordinary costs or requires incentive prices for production. In the final rule regarding intrastate gas, the Commission therefore carefully prescribed both substantive qualification standards and procedural safeguards to ensure that the incentive price will be granted to only that gas for which it is "necessary" to provide a "reasonable" incentive. The following is a list of these standards and safeguards:

1. The producer is required to "renegotiate" the price of the gas with the purchaser.

2. The price for gas produced from a production enhancement well cannot exceed the section 109 price.

3. Using a formula to arrive at the hypothetical unit price of the production increase, the producer cannot receive more than 200 percent of the section 103 price for the incremental production.

4. The producer must submit an itemized cost statement.

5. The producer must file a sworn statement indicating, among other things, that the production enhancement work is necessary and reasonably expected to enhance production, the maximum lawful price does not provide an adequate incentive for the performance of the work, and that without the incentive price the work would not be performed.

6. The producer must file a sworn statement *by the purchaser* of the gas that there is a reasonable basis for the producer's statement.

7. The appropriate jurisdictional agency must, among other things, find that there is a reasonable basis to conclude that the price is necessary as a reasonable incentive and that the production enhancement would not be performed but for the price.

The Commission believes that these same qualifications should apply to interstate gas and is, therefore, adopting them.

While not disputing that the incentive price would encourage additional production, several commenters argued that current reserves are sufficient to satisfy existing demand, or even that there is a surplus of existing reserves. These commenters argue, therefore, that the Commission should not encourage the production of additional reserves. The Commission does not agree with these comments. By definition, all gas subject to this rule will have a willing buyer. A producer can only qualify for an incentive price under this rule if the purchaser agrees to renegotiate the contract under which the gas would be sold. If there is no market for the gas, presumably the purchaser would not agree to renegotiate the contract. Thus, the Commission does not believe this rule will contribute to the current surplus of gas. Moreover, this rule will allow producers and purchasers to renegotiate contracts in light of long term projections of the need for additional natural gas reserves, thereby increasing the long term supply of gas and utilizing pipeline and production facilities that are already in place.

Several commenters also argue that granting the incentive price for interstate gas would contribute to higher gas prices. These commenters argue further that higher prices would exacerbate the "take-or-pay" exposure of pipelines, causing consumers with dual capacity to switch from gas to oil and causing the remaining gas consumers to absorb a larger share of the pipelines' fixed costs. As noted above, however, a pipeline must agree to renegotiate contracts with a producer before an incentive price will be permitted. A pipeline will not renegotiate its contracts if it does not have sufficient demand to absorb the new supply. Thus, the Commission believes that this rule will not contribute to the current disorder in the market.

Second, the price of gas that qualifies under the production enhancement rule will usually be lower than the maximum lawful price for new gas. The incentive price allowed for gas produced from a well on which production enhancement work has been performed cannot exceed the section 109 price, which is currently $2.33 per MMBtu (September 1983). The price for categories of new gas is $3.50 per MMBtu (section 102) and $2.81 per MMBtu (section 103), and the price for deregulated gas is reported to be much higher in some cases. The Commission believes it should encourage the production of reserves that would be sold at a price that is lower than the price of the gas with which it will compete.[13]

Third, the Commission believes that it is inconsistent with the intent of the NGPA to distinguish between intrastate and interstate gas for the purpose of the production enhancement incentive price. In 1978, the NGPA for the first time brought the price of intrastate gas under federal control. The legislative history shows that one of Congress' primary concerns was with the dual pricing market that had developed between federally regulated interstate gas and intrastate gas not subject to federal regulation that might or might not be regulated by a state. One of the primary purposes of the NGPA was to minimize, if not eliminate, the problems created by this dual market. The Commission believes that, consistent with this congressional objective, the production enhancement incentive price should apply equally to both intrastate and interstate gas.

In distinguishing between intrastate and interstate gas, some commenters argue that both section 104 and section 106 contain provisions allowing the Commission to raise the maximum lawful price of gas subject to these categories, "if such price is * * * just and reasonable within the meaning of the Natural Gas Act." 15 U.S.C. 3314(b)(2), 3316(c), and 3319(b)(2) (Supp. V 1981). These commenters argue that producers of interstate gas could apply for a special rate under sections 104 and

[13] The Commission recognizes that the unit price attributable to the incremental reserves produced as a result of this rule can be as high as $5.58 per MMBtu (200% of the section 103 price). The Commission notes that it has issued a notice of proposed rulemaking that would limit the unit price of these incremental reserves to the imputed commodity value of the gas. Limitation on Incentive Prices for High-Cost Gas to Commodity Values, 48 FR 7469 (Feb. 22, 1983) (Docket No. RM82-32).

106, whereas producers of section 105 intrastate gas cannot. Thus, it is argued that the Commission would be justified in providing a production enhancement incentive price for intrastate gas but not for interstate gas.

The Commission disagrees. First, the Commission believes that special relief procedures serve a different function than the incentive pricing program.[14] Special relief procedures as they have been traditionally interpreted are intended to provide economic relief after the fact, that is, after the producer undertook to develop and produce gas. As noted in the Conference Report,[15] the section 107 incentive price was intended to provide an incentive *in advance* of drilling activity to encourage production where it may not have been economically feasible.

The Commission believes that extending the production enhancement incentive price to interstate gas is preferable to using the potential special relief alternative in other respects as well.[16] Special relief, at least as it was administered under the NGA,[17] was granted on a cost justified case-by-case basis, involving extensive time-consuming and cumbersome fact-finding procedures. The production enhancement program, on the other hand, is more efficient, easily administerable, and involves more timely decisionmaking. Accordingly, the Commission believes that the production enhancement alternative is the preferable approach to the problem of establishing a price for interstate gas that balances recovery of reserves that might otherwise be abandoned with a price that is below the price of new gas.

In the notice requesting additional comments, the Commission requested comment on the date on which production enhancement work performed on interstate wells would qualify for the incentive price. 48 FR at 4,802. Several commenters supported the Commission's analysis in the notice, arguing that an incentive was not needed for production enhancement work performed prior to a decision to include interstate gas in the production enhancement rule. One commenter urged the Commission to allow the production enhancement incentive price to apply to work performed since the petitions for rehearing were filed on December 11, 1980. The Commission does not, however, believe that producers could have reasonably anticipated that the Commission would extend the production enhancement rule to interstate gas from the date the petitions for rehearing were filed. The Commission therefore is adopting, as the qualification date, the date on which the Commission issues this order to extend the production enhancement incentive price to interstate gas. The Commission believes that the incentive price was not necessary for any production enhancement work performed on an interstate well prior to the issuance of this order on rehearing.

B. Other Issues on Rehearing

The petitions for rehearing also requested that the Commission make other, more minor changes on rehearing to the production enhancement rule. The Commission denies rehearing on these other issues for the reasons stated below and in the final rule.

First, Indicated Producers requested that the Commission eliminate the renegotiated contract price requirement because it is both unnecessary and in excess of the Commission's authority under section 107. On the other hand, six pipelines and one state commission called for the retention of the requirement. As noted above, the renegotiated contract requirement is necessary for two reasons. First, it is one way to ensure that gas that qualifies for the production enhancement incentive price meets the requirement for section 107 of the NGPA that the incentive price is "necessary to provide reasonable incentives." Second, it prevents gas from being produced in situations where it may not be marketable. As to the question of legal authority, the Commission also notes that the renegotiated contract requirement was upheld, for tight formation gas, as a valid exercise of the Commission's authority in *Pennzoil Company* v. *FERC*, 671 F.2d 119 (Former 5th Cir. 1982).

Second, Indicated Producers challenge the itemized cost statement requirement and the requirement that a jurisdictional agency find that a reasonable basis exists for the production enhancement work. The Commission believes, however, that both of these requirements are necessary to ensure that gas that would qualify under the production enhancement incentive price rule would meet the statutory requirements of section 107. The above requirements help demonstrate that the incentive price is both necessary and reasonable.

Third, the Texas Railroad Commission argues that the requirement that an applicant for an incentive price provide a "detailed statement describing the production enhancement work" is confusing the causes applicants to submit unnecessary technical discussions of the work performed. The word "detailed" should not be read to require such a technical report. It was not the intention of the Commission to require a major technical report, but merely a sufficiently detailed description of the work performed so that the jurisdictional agency and the Commission would be assured that the technique used is one of the techniques adopted by the Commission.

Fourth, the Texas Railroad Commission also claims that the jurisdictional agencies should not be required to make findings related to contractural matters—whether the gas is subject to sections 104, 105, or 106 and whether a renegotiated contract price is applicable—for gas for which a production enhancement application is made. The Commission believes, however, that these findings are critical to determining whether the gas qualifies for the production enhancement incentive price, and therefore, it is necessary that jurisdictional agencies make findings as to these matters.

Fifth, Indicated Producers argue that the Commission erred in providing that the incentive price paid under this rule will not cause the elimination of price controls under section 121(a)(3) of the NGPA. Under section 121(a)(3), intrastate gas that would be sold for $1.00 per Mcf or less on December 31, 1984, will not be deregulated on January 1, 1985. The final rule provided that the incentive price allowed for production enhancement work could not be used for purposes of determining whether the gas were deregulated. If the gas would otherwise have been deregulated without the incentive price then it would be deregulated on January 1, 1985, and if it would not have been, then it will not be deregulated even though it would exceed $1.00 per Mcf if the incentive price were included.

Indicated Producers claim that the Commission lacks authority to impose such a requirement. The Commission disagrees. The Commission does not believe that it was Congress' intent to deregulate gas that was priced higher

[14] While sections 104(b)(2), 106(c), and 109(b)(2) provide the Commission with statutory authority to establish at a minimum a special relief program, the Commission notes that the authority under these sections may extend much further. Impact of the NGPA on Current and Projected Natural Gas Markets, 47 FR 19157 (May 4, 1982) (Docket RM82-26).

[15] H.R. Rep. No. 1752, 95th Cong. 2d Sess. 88 (1978).

[16] The Commission notes that it has not yet established generic procedures for granting a special relief rate under the NGPA. *See* three notices of proposed rulemaking in Docket No. RM79-67 (Special Relief), 44 FR 49468 (Aug. 23, 1979), 45 FR 5312 (Jan. 23, 1980), and 45 FR 31744 (May 14, 1980).

[17] See 18 CFR 2.75, 2.76 and 2.77 (1983).

than $1.00 per Mcf on January 1, 1985, purely by virtue of an incentive price rule rather than by virtue of the price that would control under the contract in place at the time that Congress passed the NGPA. Congress intended to maintain an intrastate gas cushion that would not be deregulated on January 1, 1985. The Commission believes that allowing deregulation of such gas by reference to a price that was not the result of a contract in existence when the NGPA was enacted, but rather was due to a regulation promulgated by the Commission and corresponding contract amendments, would significantly alter the results of deregulation envisioned by Congress.

Lastly, Indicated Producers also request that the Commission establish a separate incentive price for wells whose production is enhanced by the use of inert gas injection. Inert gas injection is presently one of the ten techniques that can be used by a producer to enhance the production of a well and to qualify under this production enhancement rule. For the reasons stated in the final rule, the Commission does not believe that such a special, higher incentive price for inert gas production is warranted for this technique.

IV. Effective Date

The amendments to the Commission's regulations made in this order on rehearing will be effective on November 2, 1983.

List of Subjects

18 CFR Part 271

Continental shelf, Natural gas, Wage and price controls.

18 CFR Part 274

Natural gas, Wage and price controls.

In consideration of the foregoing, the Commission is amending Parts 271 and 274, Subchapter H, Chapter I, Title 18, CFR, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

1. In § 271.704, paragraphs (c)(1)(i) and (c)(1)(ii) are revised to read as follows:

§ 271.704 Qualified production enhancement gas.

* * * * *

(c) * * *

(1) * * *

(i) Which is produced.

(A) For wells or zones for which a maximum lawful price prescribed by Subpart E of Part 271 applies (but for this section):

(*1*) From a well on which production enhancement work (other than production enhancement work described in paragraph (d)(3) of this section) was commenced on or after May 29, 1980; or

(*2*) From a zone that is perforated in accordance with paragraph (d)(3) of this section on or after May 29, 1980;

(B) For wells or zones for which a maximum lawful price prescribed by Subpart D or F of Part 271 applies (but for this section):

(*1*) From a well on which production enhancement work (other than production enhancement work described in paragraph (d)(3) of this section) was commenced on or after [insert date on which order on rehearing is issued]; or

(*2*) From a zone that is perforated in accordance with paragraph (d)(3) of this section on or after September 26, 1983.

(ii) For which a maximum lawful price prescribed by Subparts D, E, or F of Part 271 applies (but for this section):

* * * * *

PART 274—[AMENDED]

2. In § 274.205, paragraph (f)(7)(iv) is revised to read as follows:

§ 274.205 High-Cost Natural Gas.

* * * * *

(f) * * *

(7) * * *

(iv) The production enhancement work was not commenced before:

(A) May 29, 1980, for wells otherwise subject to the maximum lawful price prescribed by Subpart E of Part 271; or

(B) September 26, 1983, for wells otherwise subject to the maximum lawful price prescribed by Subparts D and F of Part 271.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V. 1981); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V. 1981))

[FR Doc. 83-26789 Filed 9-30-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Carl S. Akey, Inc., providing for use of 8- or 20-gram-per-pound lincomycin premixes to be used for the manufacture of complete swine feeds. The supplemental application provides an additional claim for use in the reduction of severity of swine mycoplasmal pneumonia.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Carl S. Akey, Inc., P.O. Box 607, Lewisburg, OH 45338, filed a supplement to NADA 132–657 which provides for use of 8- or 20-gram-per-pound lincomycin premixes to make complete swine feeds. The supplemental application provides for an additional claim for use in the reduction of severity of swine mycoplasmal pneumonia. The firm currently holds an approval for use of such premixes in swine feed for the control and treatment of swine dysentery. Based on the data and information submitted, the supplement is approved and the regulations are amended to reflect the approval. The basis of approval of this supplement is discussed in the freedom of information summary referred to below.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25. 24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is

amended in § 558.325 by revising paragraph (b)(5) and by adding new paragraph (b)(15), to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(b) * * *

(5) Premix levels of 8 and 20 grams per pound have been granted to Nos. 017255, 043733, and 050639 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2)(i), (ii), and (iii) of this section.

* * * * *

(15) Premix levels of 8 and 20 grams per pound have been granted to No. 017790 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2) of this section.

* * * * *

Effective date. September 30, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 26, 1983.

Richard A. Carnevale,

Acting Deputy Associate Director for Scientific Evaluation.

[FR Doc. 83-26685 Filed 9-30-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 71

Preparation of a Roll To Serve as the Basis for the Distribution of Judgment Funds Awarded Certain Warm Springs Indians

September 2, 1983.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule to revise the regulations governing the preparation of a roll of certain Warm Springs Indians to serve as the basis for the distribution of judgment funds awarded by the Indian Claims Commission in Docket 198. This Part has been redesignated from 25 CFR Part 431. The regulations were originally promulgated under a Secretarial judgment plan prepared pursuant to the Indian Judgment Funds Act of October 19, 1973. The plan was judicially invalidated on procedural grounds and legislation was subsequently enacted on January 8, 1983, to authorize the use and distribution of the judgment funds. This revision is to amend the regulations to provide for the preparation of a roll to serve as the basis for the distribution of the judgment funds in Docket 198 under the provisions of the Act of January 8, 1983.

EFFECTIVE DATE: The revision will become effective on November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Merritt E. Youngdeer, Superintendent, Warm Springs Agency, Bureau of Indian Affairs, Warm Springs, Oregon 97761, telephone number: FTS 420-1332, Commercial: (503) 553-1121.

SUPPLEMENTARY INFORMATION: The Indian Claims Commission in Docket 198 approved a proposed compromise settlement on October 17, 1973, and entered a final award in favor of the Confederated Tribes of the Warm Springs Reservation of Oregon. Funds to cover the award were appropriated by Congress. A Secretarial judgment plan for the use and distribution of the funds was prepared and submitted to Congress under the provisions of the Indian Judgment Funds Act of October 19, 1973, 87 Stat. 466, and became effective on October 10, 1974. Under the Secretarial judgment plan regulations were promulgated to govern the preparation of a roll of eligible beneficiaries of the award. However, on August 6, 1979, in the case titled *Gold v. Confederated Tribes of the Warm Springs*, 478 F. Supp. 190 (D. OR. 1979), the U.S. District Court enjoined the Secretary from distributing the funds according to the plan and directed him to submit legislation providing for the distribution of the funds. The Court rendered no decision regarding the merits of the judgment plan but concluded that the plan was invalid because of failure to follow procedures required by the Indian Judgment Funds Act and implementing regulations, including timely submittal of the plan to Congress. The government decided not to appeal the decision and the judgment of the District Court became final.

On January 8, 1983, legislation was enacted to provide for the distribution of the judgment funds that had been the subject of the October 10, 1974, Secretarial judgment plan. The 1983 Act directs the Secretary to prepare a roll of eligible beneficiaries. Members of the Confederated Tribes who have shared in the distribution to the Malheur Paiutes under the provisions of the Act approved August 20, 1964 (78 Stat. 563), a distribution pursuant to any other judgment under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), are precluded from sharing in the judgment funds under the legislation as they were under the Secretarial judgment plan. In addition to members of the Confederated Tribes born on or before and living on the date of the Act, who otherwise meet the requirements, the 1983 Act provides for the inclusion on the roll of members of the Confederated Tribes, who are now deceased, but who qualified under the Secretarial judgment plan. Consequently, the regulations contained in this Part are basically only being amended to reflect the change of authority for the regulations and the addition of a new class of eligible beneficiaries. There are no significant changes being made that will affect the procedures with which individuals must comply. However, a number of other changes of an administrative nature are being made to the regulations and are, thus, the reason for revising the Part in its entirety.

The Superintendent of the Warm Springs Agency will be the lead official of this Bureau in the preparation of the roll of eligible beneficiaries rather than the Portland Area Director as was the case when the regulations were originally promulgated. Several changes are being made to effect this change. The qualifications for enrollment are being changed to reflect the requirements contained in the 1983 Act. In addition under the revised regulations, in order to provide notice to all potentially eligible participants, the Superintendent will mail a notice to all enrolled members of the Confederated Tribes, who were living on January 8, 1983, and whose names appear on the February 25, 1983, approved membership roll at their last known address advising them of the preparation of the roll, the requirements for enrollment, and the procedures to be followed.

A listing of only the names of persons who are included on the proposed roll rather than all information contained on the roll as was the case under the regulations as orginally promulgated will be placed on public display throughout the local community and the Washington-Oregon service area of the Bureau. This is to afford interested persons the opportunity to view the list and appeal the omission of any name from the proposed roll. In accordance with the provisions specified in the regulations, persons who believe they meet the qualifications for enrollment, but whose names are not included on the proposed roll, may appeal the omission of their names and submit information or evidence for consideration to support their claim to eligibility. A deadline of the thirtieth (30th) day after the list of names is placed on display for filing appeals is provided.

The primary author of this document is Kathleen L. Slover, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs, Washington, D.C., telephone number: (202) 343-3594.

The authority to issue these rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9); and 96 Stat. 2283. This final rule is published in exercise of the rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The regulations contained in this Part, promulgated as Part 431 (40 FR 36324) and redesignated as Part 71, were originally published as proposed rules and the public was afforded a 30 day comment period. During that period no comments, suggestions or objections were received from interested persons. Although this rulemaking action is revising the rule in its entirety, there are no significant changes being made that will affect the procedures with which the public must comply. This revision is basically to amend the regulations to reflect the change of authority and the addition of a new class of eligible beneficiaries provided for by the 1983 Act. For that reason an opportunity for public comment on this action is determined to be unnecessary. Therefore, advance notice and public procedure are dispensed with under the exception provided in subsection (b)(B) of 5 U.S.C. 533 (1970).

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.* Persons who are potentially eligible beneficiaries must be enrolled members of the Confederated Tribes of the Warm Springs Reservation. Information which has been submitted to the Confederated Tribes by individuals in order to establish their eligibility for enrollment as members will, for the most part, be sufficient to determine whether they meet the qualifications for enrollment under the 1983 Act.

The Department of the Interior has determined that this rule does not significantly affect the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement under Section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c).

The Department of the Interior has determined that this is not a major rule under E.O. 12291 because only a limited number of individuals will be affected and those individuals who are determined eligible will be participating in a per capita distribution made by the Secretary of a relatively small amount of funds.

The Department of the Interior has determined that this rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because of the limited applicability, i.e., one entity, and the fact that this rule will basically require no additional information collection or recordkeeping.

List of Subjects in 25 CFR Part 71:

Indians—Claims, Indians enrollment.

Part 71 of Chapter I of Title 25 of the Code of Federal Regulations is hereby revised to read as follows:

PART 71—PREPARATION OF A ROLL TO SERVE AS THE BASIS FOR THE DISTRIBUTION OF JUDGMENT FUNDS AWARDED CERTAIN WARM SPRINGS INDIANS

Sec.

Authority: 5 U.S.C. 301, R.S. secs. 463 and 465; 25 U.S.C. 2 and 9, and 96 Stat. 2283.

§ 71.1 Definitions.

As used in these regulations:

Act means the Act of Congress approved January 8, 1983 (96 Stat. 2283), Pub. L. 97-436, which authorized the use and distribution of judgment funds awarded the Confederated Tribes of the Warm Springs Reservation by the Indian Claims Commission in Docket 198.

Assistant Secretary means the Assistant Secretary for Indian Affairs or his/her authorized representative.

Director means the Area Director, Portland Area Office, Bureau of Indian Affairs or his/her authorized representative.

Living means born on or prior to and living on the date specified.

Sponsor means parents, recognized guardian, next friend, next of kin, spouse, executor or administrator of estate, the Superintendent, or other person who files an appeal on behalf of another person.

Staff Officer means the enrollment officer or other person authorized to prepare the roll.

Superintendent means the Superintendent, Warm Springs Agency, Bureau of Indian Affairs, or his/her authorized representative.

Tribes mean the Confederated Tribes of the Warm Springs Reservation.

§ 71.2 Purpose.

The regulations in this Part are to govern the compilation of a roll of certain members of the Confederated Tribes of the Warm Springs Reservation eligible to share in the distribution of the judgment funds awarded the Warm Springs Tribes by the Indian Claims Commission in Docket 198.

§ 71.3 Qualifications for enrollment.

The roll shall contain the names of all persons who meet the following requirements:

(a) They were living on January 8, 1983, and their names appear on the February 25, 1983, and/or January 25, 1983, approved membership rolls of the Tribes; *or*

(b) They were living on February 18, 1975, but are now deceased, and their names appeared on the March 25, 1975, and/or the February 25, 1975, approved membership rolls of the Tribes; *and*

(c) They have not participated in: (1) The distribution to the Malheur Paiutes under the provisions of the Act approved August 20, 1964 (78 Stat. 563).

(2) A distribution pursuant to any other judgment under the Act approved August 13, 1946 (25 U.S.C. 70 *et seq.*), or

(3) Any distribution under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

§ 71.4 Notice.

The Superintendent shall mail a notice to each member of the Tribes whose name appears on the Feburary 25, 1983, approved tribal membership roll advising him/her of the preparation of a roll of certain members, the qualifications for enrollment, and the relevant procedures to be followed.

§ 71.5 Preparation of a proposed roll and display of a listing of names included thereon.

The Superintendent shall prepare, with the assistance of the Tribes, a proposed roll of persons who meet the requirements specified in § 71.3. The proposed roll shall contain for each person a roll number, name, sex, date of birth, date of death if applicable, tribal derivation and degree of blood of each tribe. A listing of only the names of the persons included on the proposed roll shall be placed on public display for 30

days at the Warm Springs Agency, community building, local post offices, Portland Area Office, and other Bureau offices in the Washington-Oregon area. The listing shall indicate prominently the deadline for filing appeals contesting the omission of a name, as well as the name, address, and telephone number of a person who may be contacted for further information.

§ 71.6 Appeals.

Persons who believe they meet the qualifications specified in the Act and the regulations in this Part and whose names are not included on the proposed roll may file or have filed by a sponsor an appeal with the Secretary contesting the omission of their names in accordance with the procedures provided in this Part.

§ 71.7 Filing appeals and the deadline.

(a) The appeal shall be in writing and addressed to the Secretary but filed with the Superintendent, Warm Springs Agency, Bureau of Indian Affairs, Warm Springs, Oregon 97761.

(b) The appeal must be received by the Superintendent no later than the close of business on the thirtieth (30th) day after the listing of the names of persons included on the proposed roll is placed on public display as provided for in § 71.5. If the appeal deadline falls on a Saturday, Sunday, legal holiday or other nonbusiness day, the deadline will be the next working day thereafter.

§ 71.8 Supporting evidence and burden of proof.

(a) The appeal should be accompanied by any supporting evidence relied upon as a basis for the appeal, including copies of Bureau or tribal records having a direct bearing on the appellant's contentions. The appellant may furnish affidavits from persons having personal knowledge of the facts at issue. Criminal penalties are provided by statute for knowingly filing false information in such statements (18 U.S.C. 1001).

(b) The appellant may request additional time to submit supporting evidence. A time period considered reasonable for such submissions may be granted by the official receiving the appeal.

(c) The burden of proof for establishing the improper omission of any name from the proposed roll is on the appellant.

§ 71.9 Action by the Superintendent.

The Superintendent shall consider each appeal. If after review of the evidence the Superintendent determines that the omission of any name is improper and eligibility has been established, the appellant shall be so notified in writing and the name entered on the roll. If the Superintendent determines that the omission of any name is proper and eligibility has not been established, the appellant shall be so notified in writing and the appeal together with the complete record and the recommendation of the Superintendent shall be forwarded to the Director.

§ 71.10 Action by the Director.

The Director shall consider each appeal. If after a review of the evidence the Director determines that the omission of any name is improper and eligibility has been established, the appellant shall be so notified in writing and the Superintendent directed to enter the name on the roll. If the Director determines that the omission of the name is proper and eligibility has not been established, the appellant shall be so notified in writing and the appeal together with the complete record and the recommendation of the Director shall be forwarded to the Secretary for final determination.

§ 71.11 Decision of the Secretary on appeals.

The Secretary shall consider the record as presented, together with any additional information he/she may consider pertinent. Any such additional information shall be specifically identified in the decision. The decision of the Secretary on an appeal shall be final and conclusive and written notice of the decision shall be given the appellant. When so directed by the Secretary, the Assistant Secretary shall cause to be entered on the roll the name of any person whose appeal has been sustained.

§ 71.12 Preparation, certification, and approval of the roll.

(a) The staff officer shall prepare a minimum of 5 copies of the roll of those persons determined to be eligible for enrollment, including those who established their eligibility by appeal. The completed roll shall contain, for each person, a roll number, name, sex, date of birth, date of death if applicable, tribal derivation and degree of blood of each tribe.

(b) A certificate shall be attached to the roll by the Superintendent certifying that to the best of his/her knowledge the roll contains only the name of those persons who were determined to meet the requirements for enrollment. The Director shall approve the roll.

§ 71.13 Special instructions.

To facilitate the work of the Superintendent, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this Part.

Theodore C. Krenzke,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 83-26885 Filed 9-30-83; 8:45 am]

BILLING CODE 4310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 433

[WH-FRL 2440-6]

Electroplating and Metal Finishing Point Source Categories; Effluent Limitations Guidelines Pretreatment Standards, and New Source Performance Standards; Clarification and Correction

Correction

In FR Doc. 83-26127 beginning on page 43680 in the issue of Monday, September 26, 1983, make the following correction:

On page 43682, first column, under "§ 433.10 [corrected]", the reference to "§ 433.10(a)" should have been "§ 433.10(b)".

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch.101

[FPMR Temp. Reg. D-70, Supp. 1]

Work Space Management Plans

AGENCY: Public Buildings Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation supplements and amplifies FPMR Temporary Regulation D-70 and work space management plans to be submitted by executive agencies, and provides procedures for the efficient management of work space and related furnishings on a Government-wide basis. It is issued pursuant to Executive Order 12411. This supplement requires executive agencies to make optimum use of work space and related furnishings, to acquire only the minimum work space and related furnishings needed for known and verified mission requirements, and to excess unneeded property to the maximum extent feasible. In addition this supplement promulgates additions and changes to data elements of the world-wide inventory, establishes quarterly reporting of changes to the world-wide inventory, Part 101-3, and also provides new procedures for

identifying and reporting excess automated data processing and telecommunications equipment.

DATES: Effective date: October 3, 1983. Expiration date: May 15, 1985

FOR FURTHER INFORMATION CONTACT: Art Barton (202) 535–8120.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter D.

[Federal Property Management Regulations Temporary Regulation D–70, Supplement 1]

August 5, 1983.

To: Heads of Federal agencies.

Subject: Work Space Management Plans.

1. *Purpose.* This regulation supplements and amplifies FPMR Temp. Reg. D–70 and work space management plans to be submitted by executive agencies and provides procedures for the efficient management of work space and related furnishings on a Government-wide basis. It is issued pursuant to Executive Order 12411. This supplement requires executive agencies to make optimum use of work space and related furnishings, to acquire only the minimum work space and related furnishings needed for known and verified mission requirements, and to excess unneeded property to the maximum extent feasible. In addition this supplement promulgates additions and changes to data elements of the world-wide inventory, establishes quarterly reporting of changes to the world-wide inventory, Part 101–3, and also provides new procedures for identifying and reporting excess automated data processing and telecommunications equipment.

2. *Effective date.* This regulation is effective October 3, 1983.

3. *Expiration Date.* This regulation expires on May 15, 1985.

4. *Background.* Following the publication of Executive Order 12411 and the drafting of FPMR Temp. Reg. D–70, GSA conducted a series of meetings with representatives of executive agencies. This supplement, to the extent feasible, reflects informal comments and suggestions made by attendees at those meetings. Working copies of this supplement were made available to agency representatives before submission for publication in the **Federal Register.** In addition, guidance was received from the Executive Office of the President, the Office of Management and Budget, and the Cabinet Council on Management and Administration.

5. *Scope* This supplement applies to all executive agencies. It establishes uniform methods for developing planning, information and reporting systems for each agency's Government-wide work space and related furnishings.

6. *Work Space Management Plan (IRCN 0308–GSA–AN).*

a. *Planning objectives.* Initial agency plans shall meet the planning objectives set forth in section 101–16.501 of FPMR Temp. Reg. D–70.

b. *Submission of work space management plans.* The Work Space Management Plans of all executive agencies shall be signed by the head of the executive agency and submitted in two sections to the Administrator of General Services (A), Washington, DC, 20405. Section One shall be submitted as provided in FPMR Temporary Regulation D–70, section 101–16.501(a) and Section Two by February 29, 1984.

c. *Section One.* Section One of the Work Space Management Plan shall consist of the following elements (see appendix A for formats) and Temp. Reg. FPMR D–70, section 101–16.003(p)).

(i) Table I—Shows the agency's planned space reduction, the beginning inventory and projected ending inventory.

(ii) Table I–A—Shows personnel, office space and calculated utilization rate.

(iii) Table II—Shows, in gross square feet, the acquisitions and disposals to back up the net change shown in Table I.

(iv) Narrative—Section One of the initial submission shall include a narrative statement that explains the method used to measure each category of space as defined in Appendix C, Usage Classification Codes. Reduction of utilization rates in office space, however measured, will be indexed for reporting to the Cabinet Council on Management and Administration based on these explanations. An interagency working group will use these measurement descriptions to develop a uniform Government-wide measurement standard for determining efficient utilization of work space. This working group will recognize and take account of the individual characteristics that mission requirements impose on space usage.

The narrative shall also explain actions to be taken to achieve the space reduction objectives set forth in FPMR Temp. Reg. D–70, including a statement when the agency will reach the utilization rate of 135 square feet per person (as measured in GSA controlled office space or its equivalent as measured by your agency) for all office space under its control. In the case of office space, indicate the areas of the building which have been included or excluded from the office work space measurement criteria used by the agency.

The narrative shall also include a description of the agency's survey program presently in place. Internal directives, where applicable, should be referenced, but do not submit copies. However, submit the plan of surveys to be conducted, including a description of the work space, by category, which is scheduled for survey. In the event surveys have been recently conducted, submit a narrative summary of the survey results. If there is no established survey program, indicate this. If the agency does not have an existing survey program, indicate in Section Two a narrative description of the plans to establish a survey program including a plan of surveys to be conducted between August 31, 1983, and September 30, 1984. Agencies not planning to establish a survey program should indicate this and the reasons in support of such determination. This decision will be reviewed by the Administrator of General Services for relevancy and approval or denial will be accomplished after consultation with the head of the agency.

d. *Section Two.* Section Two of the Work Space Management Plan shall consist of the following elements (see Appendix A for formats):

(i) Table III — This is the five year plan for projected acquisitions and disposals.

(ii) Table IV — Shows effects of space reductions on related furnishing.

(iii) Narrative — All Section Two plans shall contain narrative statements explaining objectives of each year's plan. They shall also specify when the office work space utilization rate of 135

square feet per person (as measured in GSA controlled office space or its equivalent as measured by your agency) will be accomplished. The data submitted on outleases and permits will be assessed by GSA to determine if the magnitude of space involved in these transactions would warrant a revision to the definition of acquisition and disposal, to include outleases and permits for allowing credits for future computation of space reductions.

(iv) Standards, criteria, and procedures. For purposes of identifying the actions to be taken to improve utilization, agency heads shall develop standards, criteria, and procedures for work space utilization other than office space, and for related furnishings. Agencies should submit these to GSA with Section Two and an explanation of these standards, criteria, and procedures as these relate to specific categories of work space (see appendix C of this supplement.)

7. *Evaluation of plans.* To evaluate agency implementation of its plan, a baseline initial inventory of work space, will be developed by GSA. Reductions will be measured by calculating the difference between the March 31, 1983 inventory and the September 30, 1984 inventory. Agency planned reductions should reflect the target reduction objectives set forth in section 101–16.501 of FPMR Temp. Reg. D–70 and be reported on Table I.

a. *Baseline inventory data.* For GSA-assigned space, baseline work space inventory data will be drawn from agency FPMR Temp. Reg. D–68 plans which have been approved by GSA. For agency-controlled space, the baseline will be the world-wide inventory submission as of March 31, 1983.

b. *Consolidation of data.* For agencies occupying both GSA-assigned space and agency-controlled space, inventory data for both categories will be combined as of the baseline date and again as of September 30, 1984. GSA and executive agencies will consult to ensure that such data is adequate for the purposes of evaluating agencies' performance against reduction objectives. Agency heads should coordinate the planning of GSA-assigned space and agency-controlled space to reflect the overall reduction goals set forth in FPMR Temp. Reg. D–70.

c. *Review of FPMR Temp. Reg. D–68 plans.* Agency space plans for GSA-assigned space previously submitted in accordance with FPMR Temp. Reg. D–68 and FPMR Bulletin D–195 and approved by GSA should be sufficient to meet the office space planning objectives of FPMR Temp. Reg. D–70. Agency heads should, however, review FPMR Temp. Reg. D–68 plans regarding non-office space assigned by GSA for compliance with the overall objective of FPMR Temp. Reg. D–70 for a 10 percent reduction in total work space by September 30, 1984. If necessary, a similar review and adjustment should be made to the previously submitted GSA controlled office space reduction plans.

d. *Long-term office utilization goals.* Agencies shall also indicate when the office space utilization rate of 135 square feet per person (as measured in GSA controlled office space or its equivalent as measured by your agency) will be attained in all office space used by the agency. A statement in the narrative portion of Section Two, together with an explanation of any problem areas which may exist, will meet this requirement.

8. *Crediting of reductions.*

a. Disposals will be credited as work space reductions at the time the property in question is identified as excess.

b. "Identification for disposal," in the context of work space management plans, means that the agency is prepared to submit formal documentation (i.e. Standard Form 118, Report of Excess Real Property or its equivalent) within 60 calendar days from the date the space or property is indentified.

c. Properties reported excess before March 31, 1983, will not be credited as a space reduction for the purposes of objective III. The square footage of these properties should be deducted from the world-wide inventory of March 31, 1983. These deductions will be verified by GSA.

d. If property reported excess does not meet the reporting criteria of FPMR 101–47, appropriate adjustments will be made to the data for space reduction credit purposes.

9. *Utilization surveys.* FPMR Temp. Reg. D–70 requires agencies to have in place a survey program to identify unneeded or underutilized work space and related furnishings; to achieve maximum utilization of work space and related furnishings, in terms of economy and efficiency; and to identify unnecessary work space and related furnishings in order to make them available for other users. Surveys of GSA assigned space will be conducted in accordance with FPMR Temp. Reg. D–68, Section 101–17.2.

10. *Related furnishings.* For purposes of section 101–16.200 of FPMR Temp. Reg. D–70, Table IV, should be completed and submitted as part of Section Two of the work space management plans due February 29, 1984. Technical assistance in developing and compiling the required data will be provided to executive agencies upon request prior to February 29. An interagency working group will be convened to develop specifications for the goals to be achieved and the actions to be taken in order to improve the utilization of related furnishings in accordance with Executive Order 12411.

11. *Interagency working groups.* Interagency working groups will be convened by GSA to establish standards, criteria and procedures for:

a. The establishment of objectives for improved efficiency in the acquisition, use, and disposal of related furnishings;

b. The development and design of government-wide work space planning, information and reporting systems; and

c. The development of uniform methods of measuring, classifying, and accounting for work space.

12. *Subsequent Work Space Management Plans.* GSA will issue bulletins and/or regulations containing information or instructions for the preparation and submission of annual Work Space Management Plans. Such plans will set forth goals to be accomplished in the utilization of work space and plans to meet the office space utilization objective of 135 square feet per person. These plans will also include planned acquisitions and disposals of work space and related furnishings for the ensuing five years. Annual Work Space Management Plans will be submitted by December 31 of each year. Projections of vacant available space for temporary use will be included in the subsequent annual Work Space Management Plans.

13. *Special Automated Data Processing and telecommunications equipment reutilization provisions.* Table IV shall be used to identify excess ADPE amd telecommunications equipment as follows:

a. Special ADPE reutilization procedures.

(1) The following procedures apply to the removal of Government-owned or Government-leased automatic data processing equipment (ADPE) that agencies have decided to remove from Government-owned or Government-leased space as a result of the GSA World-wide Space Reduction Program as set forth in this regulation. For this purpose only, these procedures supersede the reutilization procedures in FPMR Subpart 101–36.3.

(2) Action to remove ADPE under these provisions must be initiated by the end of February 1984. Action documentation shall include a notation that the action is under the GSA World-Wide Space Reduction Program. ADPE

that is leased will not be subject to reporting or interagency screening through GSA as provided in FPMR Subpart 101–36.3 but shall be returned to the contractor in accordance with the terms of the lease contract.

(3) Government-owned ADPE must be reported to GSA at least 60 calendar days prior to the anticipated release date. The reports shall be submitted on SF 120, Report of Excess Personal Property, prepared in accordance with the provisions in FPMR Subpart 101–36.3.

(4) Excess ADPE that is Government-owned and was acquired prior to calender year 1974 is considerd obsolete and may be declared surplus. As surplus, the agency will process the SF 120 directly to the appropriate GSA regional office for donation, sale, or disposal. Government-owned ADPE that will be replaced using GSA exchange/sale authority will not use the procedures in this subparagraph (4).

(5) All other Government-owned ADPE acquired during or after calendar year 1974 which has been declared excess or is being offered for exchange/sale shall be reported to General Services Administration (KHEE), Washington, DC 20405, in accordance with Subpart 101–36.3 provisions. GSA will provide an expedited 15 calendar day interagency screening period on GSA's availability list. (Exchange/sale ADPE eligible for this expedited screening shall be limited to situations wherein a significant amount of space is expected to become available, e.g., replacing a mainframe configuration with a minicomputer of similar capacity.) The requesting agency shall provide shipping instructions to the holding agency no later than 15 calendar days after placing the hold on ADPE. If more than one agency requests the ADPE, it shall be transferred to the first requester. Subsequent requesters shall be notified that their requests will not be honored.

b. Special telecommunications reutilization provisions. The following procedures apply to the removal of Government-owned or Government-leased telecommunications equipment that agencies have decided to remove from Government-owned or Government-leased space as a result of the GSA World-Wide Space Reduction Program.

(1) Action to remove telecommunications equipment under these provisions must be intitiated by the end of February 1984. Action documentation shall include a notation that the action is under the GSA World-Wide Space Reduction Program.

(2) Telecommunications equipment that is leased shall be returned to the contractor in accordance with terms of the lease (or tariff) contract. In the event the equipment is a part of a GSA consolidated local telephone system, the action shall be accomplished in coordination with the GSA regional office serving the telephone system.

(3) Government-owned telecommunications equipment to be removed shall be managed in accordance with the provisions of FPMR Part 101–43. Agencies have the responsibility to consider reutilization potential (in coordination with GSA regional offices as appropriate), particularly in view of the technological age of the equipment. Excess equipment shall be reported to GSA as provided by FPMR Part 101–43. In the event acquisition of a replacement system or equipment results from the space reduction program, exchange-sale provisions of FPMR Part 101–46 shall be considered prior to reporting under FPMR Part 101–43.

14. *Reporting vacant space for temporary use.*

a. *Initial report.* All vacant work space held by executive agencies, including that to be retained in an agency's inventory for known future mission requirements, must be reported to the General Services Administration as provided for in FPMR Temp. Reg. D–70 § 101–18.501(a), as part of the agency plans required by FPMR Temp. Reg. D–70. Thereafter, space is to be reported to GSA six months before it becomes vacant. From this information, GSA will compile and produce a quarterly publication entitled *Space Available for Temporary Federal Use.* This listing will enable agencies requiring additional work space to ensure that it is not available within the Federal inventory before acquiring space from the private sector or State and local governments. Each agency must designate an office to serve as a central collection point for vacant space listings to be submitted to GSA for publication. Listings of space available for temporary use should be in the format shown in Appendix B.

b. *Vacant space reports.* Federal agencies will be able to purchase their annual subscriptions for copies of *Space Available for Temporary Federal Use* in bulk from the U.S. Government Printing Office at cost. Specific instructions for purchase and agency internal distribution will be given each agency's designated space management executive at a later date.

c. *Certification of unsuitability for temporary use.* Where vacant space to be retained in an agency inventory is not suitable for temporary use by other Federal agencies (due to high renovation costs to make the space usable; or due to potential disruption of agency operations or other reasons) the head of the agency may so certify in the narrative portion of the vacant space report.

15. *Consultations and exemptions.*

a. *Request for exemptions.* Exemptions from the requirements of Executive Order 12411 and of FPMR Temp. Reg. D–70 are warranted under two circumstances:

(1) When application of FPMR Temp. Reg. D–70 provisions is "prohibited by existing law" (including considerations of national security) within the meaning of Executive Order 12411; and

(2) When application of FPMR Temp. Reg. D–70 provisions would, in the judgment of the agency head, impose excessive costs not contemplated by Executive Order 12411.

b. *Form and content of requests.*

(1) Requests for exemptions shall be submitted by letter to the Administrator of General Services and should be signed by the agency head. The request should indicate the grounds for the exemption, i.e., whether based on existing laws which prohibit applicability of the regulation, or based on considerations of cost or practicality.

(2) Broad generalized descriptions of property (such as "all rural facilities") are unacceptable; submissions should specify with particularity the types of properties for which exemptions are requested and the circumstances which, in the opinion of the agency head, justify the exemption.

(3) Agency heads have the burden of demonstrating compliance with the regulation would be impractical or excessively costly. Determinations regarding costs and benefits of the provisions of the Executive Order and implementing regulations will be made by consultation between agency heads and the Administrator.

(4) When agency heads determine that compliance is prohibited by existing law, the burden is on the agency head to cite the law and state the legal theory (with citation of case law, where relevant) under which applicability of Executive Order 12411 is prohibited.

c. *Qualified exemptions.* Circumstances may arise whereby exemptions from some, but not all, of the provisions of FPMR Temp. Reg. D–70 are merited. For example, it may be appropriate for certain types of space to be exempted from reduction objectives, but not exempted from reporting requirements. When such qualified exemptions are merited in the judgment

of the agency head, he or she should draft the request accordingly.

d. *Consultations with the Administrator of General Services.* FPMR Temp. Reg. D–70 provides that the Administrator of General Services will review and evaluate requests for exemptions. This review and evaluation is based on the principle that consultations between the Administrator and the heads of other executive agencies are the best means of ensuring that management objectives are achieved consistent with existing law and practical considerations of cost and feasibility. Consultations may be accomplished by exchanges of letters between the head of an agency and the Administrator.

16. *Quarterly Real Property Inventories.*

a. *General.* This supplement prescribes the procedures and forms for use by executive agencies in connection with the preparation of quarterly reports necessary for the maintenance and publication of real property inventories. This supplement includes certain revisions to FPMR Part 101–3, Annual Real Property Inventories; these revisions include changes to frequency or reports, certain data elements, and addition of new data elements, in order to comply with the objectives of Executive Order 12411.

b. *Coverage.* The quarterly inventory reports shall cover those categories of property specified in FPMR sections 101–3.202 and 101–3.302 Section 101–3.302(a), however, is hereby modified to exclude leases executed for land only when annual rentals are less than $500 unless otherwise deemed significant, and to exclude leases for buildings or other structures and facilities when annual rentals are less than $2,000 unless otherwise deemed significant. Inventory reports shall not include those categories of property specified in FPMR sections 101–3.203 and 101–3.303.

c. *New or modified data elements.* Changes and additions to data elements in real property inventory reporting requirements are as follows:

(1) Congressional Districts. A two digit numeric designation of the congressional district(s) in which the installation or portion being reported is located.

(2) Estimated Current Value. An estimate of the current value of the entire installation expressed in thousands of dollars. This figure may be a professional appraisal or any reasonable estimate. Leave blank if Public Domain, Trust or leased property.

(3) Highest and Best Use. Indication of highest and best use for the installation if held in private ownership. Valid codes are:

(i) Agricultural.
(ii) Residential—High Density.
(iii) Residential—Low Density
(iv) Commercial.
(v) Industrial.
(vi) Industrial—Heavy.
(vii) Multiple—(Used for large installation only).

(4) Historical Significance. Indication of property or portion thereof as listed on the National Register of Historic Places or has been acceptable as eligible for inclusion in the Register.

(5) Year of Last Survey. The last year the property was surveyed by GSA and/or the holding agency, pursuant to Executive Order 12348.

(6) Building Number. This field is used to identify a specific building within an installation. Each agency may use their own method assigning a building number as long as duplicates are avoided. In the absence of any other numbering scheme, buildings should be numbered sequentially, beginning with 0000000001.

(7) Total Assignable Space. Assignable space within a building includes assigned, vacant, outleased, and permitted space.

(8) Assignable Space—Office. Of the total assignable space above, that which is classified as office space. Do not include any outleased or permitted space.

(9) Total Assigned Space. Number of square feet assigned within the building. This figure includes space assigned as outleased or permitted.

(10) Assigned Space—Office. Of the total assigned space above, that which is classified as office space. Do not include any outleased or permitted space.

(11) Public Access and Support. Number of square feet in the building space being reported as space utilized for public access and support functions such as mechanical, toilet, custodial, etc., or unfinished basement areas unsuitable for use by personnel in the performance of an agency requirement.

(12) Outleased Space. Space that is leased to a non-Federal tenant under the provisions of the Outleasing Program or the Cooperative Use Act. This figure is included in Assignable and Assigned Space as noted above.

(13) Permitted Space. Space that is permitted to another Federal agency and used solely by that agency for the accomplishment of its mission and for which you are receiving the Fair Annual Rental. This figure is included in total assigned space and total assignable space as noted in Nos. 7 and 9 above.

(14) Personnel Housed—Office. The peak number of personnel housed or to be housed for whom a separate work station must be provided in assigned office space for the fiscal year for which the report is prepared.

(15) Personnel Housed—Other. The peak number of personnel housed or to be housed for whom a separate work station must be provided in assigned space other than office space for the fiscal year for which the report prepared. This figure should not include personnel assigned to housing space.

d. *Reporting agencies.* Reports shall be submitted by the agency responsible for the maintenance of real property records and accounts as prescribed in FPMR section 101–3.201.

e. *Reports to be submitted.* Each agency shall prepare reports in accordance with FPMR §§ 101–3.204, 101–3.205, 101–3.304, and 101–3.305, as revised.

f. *Preparation and due dates.* FPMR §§ 101–3.206 and 101–3.306 are hereby modified to require submission as of the last day of December, March, June, and September of each fiscal year. An original and one copy of each report shall be submitted to GSA no later than 45 calendar days after the report date. It is only necessary to submit changes to data elements contained in the previous quarterly inventory report.

Note: Detailed lists of the revisions to inventory reports are filed with the Office of the Federal Register as part of this original document. Copies will be forwarded under separate cover to agencies reporting under this system, and additional copies are available from the General Services Administration (PR), Washington, DC 20405.

g. *New reporting forms.* Revised forms for input to reports by executive agencies are being designed and will be distributed prior to the reporting due date.

h. *Effective date.* The requirements of this revision are effective as of the December 31, 1983, reporting period. They will continue in effect during the remainder of fiscal year 1984, and will be used to evaluate performance of executive agencies against their initial work space management plans. These are interim requirements, designed for use in the first year of the work space management reform program.

i. *Identifying disposals.* For purposes of calculating agency space reduction efforts, the property (work space) will be identified for disposal through the use of an excessed indicator data element in the world-wide inventory. An "E" should be placed in this field if the property has been reported excess or if

the property will be reported excess within 60 calendar days of the date of entry. In the latter case, this constitutes a firm commitment to submit formal documentation (Standard Form 118, Report of Excess Real Property or equivalent). All data on property excessed or to be excessed will be subject to verification by GSA. In either case agencies will be credited with a reduction. Portions of installations may be reported excess in the manner indicated above; the reported portions should be given a new and separate major installation number and the original installation number retained for the property to be held. That portion of the installation reported excess must be severable from the remainder for either a realistic outright disposal or for temporary utilization of other executive agencies. Such property cannot consist of groups or individual buildings, structures, facilities or land with restricted access or disposability because of the physical location of such property within the major installation.

Patrica Q. Schoeni,

Acting Administrator of General Services.

Section One

1. Executive agencies which have experienced substantial reductions (i.e., significantly in excess of 10 percent) in office personnel since October 1980 may find that Objective I will be controlling. Agencies which have not had such reductions will probably find that Objective II will control. Both calculations must be made, and the initial work space management plan for September 1984 office space will reflect the lower of the two results. Sample calculations will be available from the desk officers and will be provided to agencies upon request.

2. *Personnel.* Table I–A will also include personnel data for purposes of computing office space utilization rates pursuant to FPMR Temp. Reg. D–70. "Office Personnel," for purposes of this supplement, is defined in FPMR § 101–16.003(1). The utilization rate objectives of FPMR Temp. Reg. D–70 apply to all office space occupied by an executive agency. For initial submissions, under circumstances when agency-controlled office space is used by another executive agency, the space and personnel in question should be reported by the agency permitting the space.

3. *Acquisitions and disposals.* Table II is designed to provide information on the total acquisitions and disposals by usage code that the agency expects to make by September 30, 1984. In the narrative of Section One of the work space management plan provide as much detail as is readily available; however, as a minimum provide the gross square feet and the number and type of facilities planned for disposal. Further details on these acquisition disposal actions can be provided in Section Two of the work space management plans due February 29, 1984, and should indicate the category of work space, location, square footage and estimated dollar value, personnel to be housed, and the date planned for each acquisition or disposal.

a. *Acquisitions.* For the purpose of the initial submission, an "acquisition" is the obtaining of any interest in property containing work space which is of a nature that is reported to the world-wide inventory (e.g., purchase, construction completions, transfer from excess and lease, including renewals of existing leases. See 41 CFR 101–3.202 and 101–3.303, as revised by section 17 of this supplement.

b. *Disposals.* For the purpose of the initial submission, a "disposal" means a permanent disposal as defined in FPMR § 101–47.202. These include both fee simple disposals, disposals of leasehold expirations or cancellations. Leased space excepted from reporting to GSA under FPMR § 101–47.202–4 can be a "disposal" for reduction purposes. In the narrative portion of Section One of the plan identify the number, gross square footage, and annual rental of this excepted space.

Agency _____
Date _____
Contact _____
Telephone Number _____

TABLE I.—INITIAL WORK SPACE MANAGEMENT PLAN—SECTION ONE IN SQ.FT.

Usage code [1] [2]	Beginning inventory [3] (as of Mar. 31, 1983)	Projected ending inventory [3] (as of Sept. 30, 1984)	Net change [4] plus or minus
10—Office			
40—Storage			
XX—Special purpose (detail by usage code) [5]			
Total special purpose			
Total work space per world wide inventory			
Exempted space:			
Office			
Nonoffice			
Total			

[1] See appendix G.
[2] See par. 6(a).
[3] See par. 6.
[4] Transfer this figure to column 4 on table II.
[5] Reference FPMR 101–3.49. Include only buildings per par.[6] Pg 363. Do not include Land per par.[7] Pg. 357 or Facilities and Structures per par.[8] Pg. 368.
[6] This figure includes exempted space.

Agency
Date
Contact
Telephone Number

TABLE I.-A—INITIAL REPORT ON COMBINED UTILIZATION RATE SECTION ONE

	As of Oct. 2, 1980	As of Mar. 31, 1983	Projected Sept. 30, 1984
Office personnel: [1]			
Personnel in GSA assigned space			
Personnel in agency controlled space			
Total personnel in office space			
Office space: [2]			
GSA assigned space (sq. ft.)			
Agency controlled space (sq. ft.)			
Total office space			
Utilization rate: [3]			
GSA assigned space			
Agency controlled space			
Combined utilization rate			
Personnel in exempted office space [4]			

[1] As defined in FPMR Temp. Reg. FPMR D-70, Sec. 101-16.003(1).
[2] Includes personnel reported in exempted space.
[3] Square footage divided by number of personnel.
[4] Number of personnel in exempted office space reported on table I.

TABLE II.—INITIAL WORK SPACE MANAGEMENT PLAN—SECTION ONE

[From Mar. 31, 1983 to Sept. 30, 1984]

	Acquisitions	(Disposals) [2]	Net acquisitions (Disposals) [2]
Usage Code: [1] [2]			
10—Office			
40—Storage			
XX—Special purpose (Detail by usage code) [2]			
Total special purpose			
Total work space per world-wide inventory.[2]			

See footnote on table I.

[1] Include square footage of all leases expiring during report period.
[2] These figures must match column 4 on table I.

Agency
Date
Contact
Telephone Number

TABLE III.—WORK SPACE MANAGEMENT PLAN—SECTION TWO PROJECTED WORK SPACE ACQUISITIONS AND DISPOSALS [1] (IN FISCAL YEARS)

Usage code	1985	1986	1987	1988
10—Office				
40—Storage				
XX—Special purpose (detail by usage code				
Total special purpose				
Total work space per worldwide inventory				
Year end office personnel				
Year end office work space				
Year end utilization rate				

[1] Report only those acquisitions or disposals which are not subject to exemption.

TABLE IV.—WORK SPACE MANAGEMENT PLAN—SECTION TWO RELATED FURNISHINGS

Usage code [1] [2]	Net acquisitions (disposals)	Effect on related furnishings [2]
10—Office		
40—Storage		
XX—Special purpose (detailed by usage code)		
Total special purpose		
Total work space pre world wide inventory		
Exempted spaces:		
Office		
Non-office		
Total		

See footnotes on table I.

[2] See Par. 10 in FPMR Temp. Reg. D-70—Describe for each category the related furnishings expected to be reported as excess to GSA. Include any stored furnishings which will be excessed.

Code	Classification
10	*Office.* Buildings used primarily for office space.
14	*Post Office.* (Leased only). Buildings or portion of buildings leased for use as Post Offices.
21	*Hospital.* Buildings used primarily for furnishing in-patient diagnosis and treatment under the supervision of physicians and which have 24-hour-a-day registered graduate nursing services. Include medical laboratories used in routine testing. Exclude buildings used directly in basic or applied research in medicine which should be reported as Research and Development.
22	*Prison.* Buildings under the jurisdiction of the Department of Justice used for the confinement of Federal prisoners.
23	*School.* Buildings used primarily for formally organized instruction; such as, school for dependent children of Federal employees, Indian schools, and military training buildings.
29	*Other Institutional Uses.* Buildings used for institutional purposes other than schools, hospitals, and prisons. Include libraries, chapels, museums, out-patient clinics, etc.
30	*Housing.* Buildings used primarily for dwelling purposes; such as, apartment houses, single or row houses, and barracks. Includes public housing, housing for military personnel, housing for personnel in various Federal agencies, and housing for institutional personnel.
40	*Storage.* Buildings used for storage purposes; such as, warehouse, ammunition storage, and cover sheds. Also include in this category, garages used primarily for storage of vehicles or materials. Do not include such facilities as water reservoirs and oil storage tanks, which are to be reported as Other Structures and Facilities.
50	*Industrial.* Buildings specifically designed and used primarily for production or manufacturing. Include buildings used for the production or manufacture of ammunition, aircraft, ships, vehicles, electronic equipment, chemicals, aluminum, and magnesium. Also include laboratories used for routine testing of industrial products.
60	*Service.* Buildings used in connection with service activities; such as, maintenance and repair shops, laundry and dry cleaning plants, post exchange stores, and airport hangars. Also include garages used primarily for vehicle maintenance and repair.
70	*Research and Development.* Buildings used directly in basic or applied research in the sciences (including medicine) and in engineering. Include buildings used in the design, development and testing of prototypes and processes such as chemistry, physics, and medical laboratories and observatories for meteorological research. Do not include medical or industrial laboratories used in routine testing which should be reported as Hospital and Industrial, respectively.
80	*All Other.* Buildings which cannot be classified elsewhere. Wherever this classification is utilized, give a brief description of use in Remarks block.
89	*Trust Buildings.* All buildings held in trust by the reporting agency. Whenever this classification is utilized, give a brief description of use in Remarks block.

[FR Doc. 83-26898 Filed 9-30-83; 8:45 am]
BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Advanced Nurse Training Programs

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the regulations implementing the Advance Nurse Training Grants Programs by deleting the designation of six nursing specialties as the only specialty areas requiring advanced training and by removing funding preferences for certain specialties.

When the regulations for the Advanced Nurse Training Grants Programs were published in 1978, categories identified as eligible for support were broad enough to allow many important advanced nurse training programs to apply for funds to develop needed programs. Since that time it has become evident that there are other areas of high priority to the Department that are not eligible for support, e.g., family oriented nursing programs and programs directed to the provision of care to individuals with chronic disease. As societal needs and Departmental interests have changed and broadened, it appears appropriate to eliminate the current restriction on eligibility so as to permit support of a wider range of advanced nursing programs.

EFFECTIVE DATE: This rule is effective October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Gretchen A. Osgood, R.N., M.S., Deputy Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number 301 443-5786.

SUPPLEMENTARY INFORMATION: Section 821 of the Public Health Service Act authorizes the award of grants to public and nonprofit private collegiate schools of nursing to meet the cost of projects to (1) plan, develop and operate, (2) significantly expand, or (3) maintain existing programs for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training. Regulations implementing section 821 set forth in 42 CFR Part 57, Subpart Z, provide that the following six professional nursing specialties require advanced nurse training: (1) Geriatric nursing, (2) community health nursing, (3) maternal-child nursing, (4) acute care nursing, (5) medical-surgical nursing, and (6) adult nursing.

When the regulations for the Advanced Nurse Training Programs were published in 1978, categories identified as eligible for support were broad enough to allow many important advanced nurse training programs to apply for funds to develop needed programs. Since that time it has become evident that there are other areas of high priority to the Department that are not eligible for support, e.g., family oriented nursing programs and programs directed to the provision of care to individuals with chronic disease. As societal needs and Departmental interests have changed and broadened, it appears appropriate to eliminate the current restriction on eligibility so as to permit support of a wider range of advanced nursing programs. Consequently, this amendment deletes the designation of six nursing specialties from the definition of "advanced nurse training program" and removes the funding preferences for certain specialties. However, the Secretary is authorized to announce special funding preferences should specific needs warrant such action. Preferences will be announced by publishing a notice in the **Federal Register.**

Notice of Proposed Rulemaking was published in the **Federal Register** on February 1, 1983, and provided a period of 30 days for public comment. Eight letters were received during the comment period, seven of which strongly supported the amendment. One dissenting letter expressed concern that removal of a preference for gerontological nursing might impact unfavorably on the preparation of nurses for this important specialty area. The Secretary agrees that the continued preparation of nurses to work with the aged is essential, but believes that, in view of the number and quality of applications submitted in this specialty area, significant funding will continue to be available in the foreseeable future.

Executive Order 12291, Federal Regulation and Regulatory Flexibility Act

The Department has determined that this is not a major rule for the purpose of Executive Order 12291, Federal Regulation because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in cost 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.

The amount of Federal grant funds allocated under section 821 of the Public Health Service Act will not be changed as a result of this amendment to the final regulation. Since this amendment merely removes eligibility restrictions from the existing rules, and will not adversely affect projects currently receiving support, the Secretary has determined that these regulations do not meet any criteria for a major rule under Executive Order 12291, and a regulatory impact analysis is not required. Further, the regulations will not have a significant economic impact on a substantial number of small entities and a Regulatory Flexibility Act of 1980 (Pub. L. 96-354) analysis is not required.

Paperwork Reduction Act

The recordkeeping and reporting requirements in revised § 57.2504 and the application forms and instructions for this grant program were submitted to the Office of Management and Budget (OMB) for review under section 3507 of the Paperwork Reduction Act of 1980. OMB approval numbers are 0915-0061 for the continuation application form and 0915-0060 for the competing application form. In addition, although this rule does not amend the provisions of § 57.2513, § 57.2513 is amended to include the OMB approval numbers 0915-0061 and 0915-0060 at the end of the section.

List of Subjects in 42 CFR Part 57

Dental health, Education of disadvantaged, Educational facilities, Educational study programs, Emergency medical services, Grant programs—education, Grant programs—health, Grant programs—nursing, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Nursing advanced training, Scholarships and fellowships, Student aid.

Accordingly, 42 CFR Part 57, Subpart Z is made final as set forth below.

Dated: June 30, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: August 19, 1983.

Margaret M. Heckler,

Secretary.

(*Catalog of Federal Domestic Assistance*, No. 13.299, Grants to Advanced Nurse Training Programs)

PART 57—[AMENDED]

42 CFR Part 57 Subpart Z is amended as follows:

Subpart Z—Grants for Advanced Nurse Training Programs

1. The authority citation for Subpart Z is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C 216); sec. 821 of the Public Health Service Act, 89 Stat. 361; as amended by Pub. L 97-35, 95 Stat. 930 (42 U.S.C 296*l*).

2. Section 57.2502 is amended by revising the definition for "Advanced nurse training program" to read as follows:

§ 57.2502 Definitions.

* * * * *

"Advanced nurse training program" means a program of study in a collegiate school of nursing leading to a graduate degree in nursing which trains professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialities (including service as nurse clinicians) determined by the Secretary to require advanced training.

* * * * *

§ 57.2503 [Amended]

3. In § 57.2503 paragraph (b), footnote 1 is removed.

§ 57.2504 [Amended]

4. In § 75.2504 paragraph (a), footnote 2 is redesignated as footnote 1 and is revised to read as follows:

* * * * *

[1] Applications and instructions maybe obtained from the Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, Parklawn Building, Room 5C-26, 5600 Fishers Lane, Rockville, Maryland 20857.

* * * * *

Section 57.2504 is further amended by adding the following parenthetical sentence at the end of the section:

(Approved by the Office of Management and Budget under control numbers 0915-0060 and 0915-0061.)

* * * * *

5. In § 57.2506, paragraph (b) is revised to read as follows:

§ 57.2506 Evaluation and grant awards.

* * * * *

(b) *Funding preference.* The Secretary will announce special funding preferences should specific needs warrant such action. Preferences will be announced by publishing a notice in the **Federal Register.**

* * * * *

6. Section 57.2513 is amended by adding the following parenthetical sentence at the end of the section.

§ 57.2513 Applicability of 45 CFR Part 74.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0915-0060 and 0915-0061.)

* * * * *

[FR Doc. 83-28940 Filed 9-30-83; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 160

[CGD 82-063b]

Revision of Staff Codes and Addresses; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; Correction.

SUMMARY: This document corrects an inadvertent error made to the final rule document issued on February 3, 1983 (48 FR 4780). That rule revised or updated the addresses and staff codes of the component divisions of the Office of Merchant Marine Safety, U.S. Coast Guard Headquarters, to reflect recent organizational changes.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Office of Merchant Marine Safety (G-MTH-3/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593 (202) 426-1577.

SUPPLEMENTARY INFORMATION:

List of Subjects in 46 CFR Part 160

Marine safety.

§§ 160.050-7, 162.050-7, and 162.050-15 [Corrected]

The following correction is made to FR Doc. 83-2945 appearing in the issue of February 3, 1983. On page 4783,

column one, change 52. is corrected to read as follows:

"52. In the following sections, ("G-MMT-3/83)" is changed to "(G-MVI)" except in § 160.050-7(a) where "(G-MVI)" is added to the address after the word "Commandant"; and the zip code "20590" is changed to "20593":

§ 160.050-7(a)

§ 162.050-7(a)

§ 162.050-15 (a), (e) and (h)

Authority: 14 U.S.C. 632; 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Dated: September 28, 1983.

A. F. Bridgman, Jr.,

Chief, Regulations and Administrative Law Division.

[FR Doc. 83-26910 Filed 9-30-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 81, 83, and 87

Editorial Amendment of the FCC's Rules Governing Stations on Land and on Shipboard in the Maritime Services, the Alaska Fixed Service, and the Aviation Services

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document editorially amends various sections of the Commission's rules governing stations on land and on shipboard in the Maritime Services, the Alaska Fixed Service, and the Aviation Services. It deletes obsolete language, clarifies vague wording, corrects errors, combines two subparts, and makes other minor editorial changes. This action was undertaken by the Commission to improve upon the existing rules without making substantive changes. Actions such as this one are necessary on a regular basis to purge the rules of outdated provisions which no longer apply. This action is intended to simplify the remaining rules for the public, and to economize on the government's printing costs.

EFFECTIVE DATE: September 22, 1983.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, 202-632-7175.

List of Subjects

47 CFR Part 81

Coast stations, Communications equipment, Marine Safety, Telegraph, Radio, Telephone, Vessels.

47 CFR Part 83

Communications equipment, Radio, Reporting requirements, Ship stations, Vessels.

47 CFR Part 87

General Aviation, Radio.

Order

In the matter of editorial amendment of Parts 81, 83, and 87 of the FCC's Rules and Regulations.

Adopted: September 8, 1983.
Released: September 22, 1983.

1. We are editorially amending a number of sections of Parts 81, 83, and 87 of the Commission's rules to delete obsolete language, to clarify unclear language, to change certain minor provisions, to correct errors, and to combine some duplicate rules. These changes are intended to simplify the remaining rules for the public, and to economize on the government's printing costs. The affected sections are: 81.42, 81.136, 81.209, 81.372, 81.451, 81.452, 81.453, 81.454, 81.455, 81.456, 81.459, 81.460, 81.461, 81.471, 81.472, 81.473, 81.474, 81.475, 81.476, 81.601, 81.602, 81.603, 81.605, 81.607, 81.609, 81.611, 81.613, 81.615, 81.617, 81.619, 81.621, 81.623, 81.625, 83.144, 83.146, 83.339, 83.367, 87.22, 87.79, 87.183, 87.455, 87.521.

2. Authority for this action is contained in sections 4(i), and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure, and effective date provisions of 5 U.S.C. 553 do not apply.

3. Regarding questions on matters covered in this document contact Maureen Cesaitis, telephone (202) 632-7175.

4. In view of the above, it is ordered, That the rule amendments set forth in the attached Appendix are adopted effective September 22, 1983.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Parts 81, 83, and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. In § 81.42, paragraphs (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 81.42 Applications for consent to assignment of station license or for consent to transfer of control of corporation holding same.

(a) *Voluntary.* (1) Except for fixed stations using frequencies above 952 MHz, the holder of a station authorization desiring to assign to another person the privilege to use a radio station shall submit to the Commission a letter setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of station. This letter shall also include a statement that the assignor will submit his current station authorization for cancellation upon completion of the assignment. Enclosed with this letter shall be an application for Assignment of Authorization on FCC Form 503 prepared by and in the name of the person to whom the station is being assigned. Fixed stations using frequencies above 952 MHz shall use FCC Form 402, "Application for license in the Private Operational-Fixed Microwave Radio Service", for this purpose. In lieu of the letter the assignor may complete and sign an FCC Form 1046.

(2) Application for consent to voluntary transfer of control of a corporation holding a license covering a station subject to this part shall be filed on FCC Form 703, "Application for Consent to Transfer of Control of Corporation Holding Construction Permit on Station License". The applications specified herein shall be filed at least 60 days prior to the contemplated effective date of assignment or transfer of control.

(b) *Involuntary.* In the event of the death or legal disability of a licensee, or a member of a partnership which is a licensee, or a person directly or indirectly in control of a corporation which is a licensee:

* * * * *

2. Section 81.136, including the heading, is revised in its entirety to read as follows:

§ 81.136 Type acceptance required.

(a) Transmitters shall be typed-accepted by the Commission pursuant to Subpart J of Part 2 of this chapter (§ 2.901 et seq.).

(1) Manufacturers of transmitters shall apply to the Commission for type-acceptance.

(2) Individuals may apply for individual transmitter type-acceptance.

(b) Type-accepted transmitters are listed in the Commission's "Radio Equipment List," which is available for inspection at the Commission in

Washington, D.C., and in its field offices. Type-accepted individual transmitters normally will not be included in this list, but only specified on the station authorization.

3. In § 81.209, paragraph (a), including the table, is revised to read as follows:

§ 81.209 Watch on ship calling frequencies.

(a) Coast stations shall maintain a continuous listening watch, subject to normal variations in radio propagation, during their working hours for calls from ship station on frequencies listed in the table below. A coast station shall monitor the ship station frequencies in the same band(s) in which the coast station is licensed to operate.

Coast station location	Kilohertz
East Coast	4181, 4181.8, 4182.2, 6271.5, 6272.7, 6273.3, 8362, 8363.6, 8364.4, 12543, 12545.4, 12546.6, 16724, 16727.2 16728.8, 22228, 22232, 22234, 25071, 25073.
Gulf Coast	4181.8, 4182.2, 4183.4, 6272.7, 6273.3, 6375.1, 8363.6, 8364.4, 8366.8, 12545.4, 12546.6, 12550.2, 16727.2, 16728.8, 16733.6, 22232, 22234, 22236, 25071, 25073.
West Coast	4181.8, 4182.2, 4185, 6272.7, 6273.3, 6277.5, 8363.6, 8364.4, 8370, 12545.4, 12546.61, 12555, 16727.2, 16728.8, 16740, 22232, 22234, 22240, 25073, 25075

* * * * *

4. In § 81.372, paragraph (a) is revised to read as follows:

§ 81.372 Station identification.

(a) Limited coast or marine utility stations shall identify transmissions by announcing in the English language the station's assigned call sign. In lieu of the identification of the station by voice, the official call sign may be clearly transmitted by tone-modulated telegraphy in the International Morse Code by a duly licensed radiotelegraph operator or by means of an automatic device approved by the Commission. Transmissions on the navigation frequency (156.65 MHz) by stations on drawbridges may be identified by use of the name of the bridge in lieu of the call sign. Identification shall be made:

(1) At the beginning and upon completion of each communication with any other station;

(2) At the beginning and upon conclusion of each transmission made for any other purpose;

(3) At intervals not exceeding 15 minutes whenever transmissions or communications are sustained for a period exceeding 15 minutes.

* * * * *

§§ 81.451 through 81.476 (Subpart L) [Removed]

5. Subpart L (§§ 81.451–81.476) is removed.

6. Subpart P is amended by revising the heading and adding new center headings; by redesignating § 81.603 as § 81.625 and adding a new § 81.603; adding new §§ 81.609–81.623; by revising §§ 81.601, 81.602, and 81.607; and adding a new 81.605 as follows:

Subpart P—Fixed Stations Associated With the Maritime Mobile Service

Marine Fixed Stations

§ 81.601 Scope.

Marine fixed stations shall be used primarily for safety communications. Other than safety communications may be carried on by these stations with discretion and to the extent required in behalf of that station's specific activities. Priority shall be given at all times to ship to shore transmissions using the assigned radio channel(s).

§ 81.603 Eligibility requirements.

Subject to the basic eligibility requirements set forth in § 81.23, the following persons are eligible for authorization for marine fixed stations:

(a) Persons engaged in prospecting for, producing, collecting, refining, or transporting petroleum or petroleum products in the immediate vicinity of the marine fixed station requested;

(b) Persons engaged in a construction project of a public nature, in the vicinity of the proposed marine fixed station;

(c) Any nonprofit corporation or association, organized for the purpose of furnishing a radiocommunication service solely to persons who are actually engaged, in the immediately vicinity of the proposed marine fixed station, in one or more of the activities described in this section. Such a corporation or association shall render service only on a nonprofit cost-sharing basis, said costs to be prorated on an equitable basis among all persons to whom service is rendered. Records which reflect the cost-sharing nonprofit basis shall be maintained and held available for inspection by Commission representatives.

* * * * *

§ 81.605 Showing of need.

Applicants for authority to establish and operate marine fixed stations must demonstrate that a need for the desired communication exists primarily in respect to the safety of life or property, and that the use of any communication facility to satisfy such need, other than a marine fixed station, is impossible or impracticable for the purpose involved.

§ 81.607 Points of communication.

Marine fixed stations are authorized to communicate with public regional telephony coast stations in the United States in order to render a communication service of telephony in direct connection with the general public service land-line telephone system. In each instance, the marine fixed station must be located not more than 300 statute miles from each coast station with which it communicates.

§ 81.609 Frequencies available.

(a) Marine fixed stations may be authorized to use carrier frequencies in the band 2000–2450 kHz. These frequencies may be used to transmit public correspondence to public coast stations (normally providing direct connection with land-line telephone systems). However, such use shall cause neither harmful interference nor intolerable delay to communications between coast stations and mobile stations.

(b) Marine fixed stations may transmit distress calls, distress traffic, urgency, and safety signals and messages on the carrier frequency 2182 kHz. Any other use of this frequency by marine fixed stations is prohibited.

Marine Receiver-Test Stations

§ 81.611 Scope.

A marine receiver-test station shall be used solely for brief transmissions intended for interception by the licensee's associated public coast station. The purpose of such transmissions shall be to test the technical performance of the public coast station's radiotelephone receiver. No other signals or communications shall be transmitted by marine receiver-test stations.

§ 81.613 Eligibility requirements.

An authorization for a marine receiver-test station may be granted to the licensee of a public coast station which uses telephony.

§ 81.615 Frequencies available.

Marine receiver-test stations may be authorized to transmit on the ship transmit frequencies of the marine channel assigned to the public coast station.

§ 81.617 Marine receiver-test station identification.

At the conclusion of each completed test transmission, the marine receiver-test station shall announce the official call sign.

§ 81.519 Marine receiver-test station limitations.

Marine receiver-test station licensees shall avoid interfering with calls from ship stations and with the exchange of public correspondence between ship and shore. In a region of heavy radio traffic on a particular channel, marine receiver-test stations shall limit their test time on that radio-channel to not exceed 24 minutes in each 24-hour period.

Operational Fixed Stations

§ 81.621 Scope.

Operational fixed stations in the Marine Services are authorized for control, repeater, relay or similar marine functions.

§ 81.623 Eligibility requirements.

(a) An applicant for an operational station using frequencies in the 72–76 MHz band must submit the following showings:

(1) Coast station license number;

(2) Need for the operational fixed station;

(3) Unavailability of other effective telecommunications facilities.

(b) Operational fixed stations may be assigned frequencies in the 10,550–10,680 MHz band, subject to Part 94.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.144, the section heading is revised to read as follows:

§ 83.144 Special requirements for emergency position indicating radiobeacon stations, Class B.

* * * * *

2. In § 83.146, the section heading is revised to read as follows:

§ 83.146 Special requirements for emergency position indicating radiobeacon stations, Class C.

* * * * *

§ 83.339 [Amended]

3. In § 83.339, paragraph (a)(6) is amended by removing the "Note".

§ 83.367 [Amended]

4. In § 83.367, paragraph (a)(5) is amended by removing the "Note".

PART 87—AVIATION SERVICES

1. Section 87.22 and its heading is revised to read as follows:

§ 87.22 Assignment of aeronautical or fixed stations in the Aviation Service.

When the holder of a station license desires to assign to another person the privilege to use a radio station, he shall submit to the Commission a letter setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of station. This letter shall also include a statement that the assignor will submit his current station license for cancellation upon completion of the assignment. Enclosed with this letter shall be an application for Assignment of Authorization on FCC Form 406 prepared by and in the name of the person to whom the station is being assigned. In lieu of the letter, the assignor may complete and sign an FCC Form 1046.

§ 87.79 [Amended]

2. In § 87.79, paragraph (d) is amended by revising the FAA address to read as follows:

(d) * * *

Federal Aviation Administration, Spectrum Engineering Division, AES–500, 800 Independence Avenue SW., Washington, D.C. 20591.

* * * * *

3. In § 87.183, paragraph (i), including the list of frequencies, is revised to read as follows:

* * * * *

§ 87.183 Frequencies available.

* * * * *

(i) Frequencies in the bands 118.000–121.400, 121.600–121.925, 123.600–128.800, and 132.025–135.975 MHz, inclusive, are available for air traffic control operations. Channel spacing is 25 kHz.

* * * * *

4. Section 87.455 is amended by revising the list of frequencies in paragraph (b)(2), and by adding a new paragraph (c), as follows:

§ 87.455 Assignment of frequencies.

* * * * *

(b) * * *

(2) * * *

Frequencies available:

kHz:

2648, 4645, 4947.5, 5122.5, 5310, 5887.5, 8015

(c) *Gulf of Mexico.* In addition to the provisions of paragraph (a), the following frequencies and emissions are available for aeronautical fixed use in the Gulf of Mexico.

Frequencies available:

kHz and Emission:

4550 6A3, 3A3A, 3A3H, 3A3J
5036 6A3, 3A3A, 3A3H, 3A3J

§ 87.521 [Amended]

5. In § 87.521, paragraph (d)(2) is amended by removing the last (second) sentence.

[FR Doc. 83-26843 Filed 9-30-83; 8:45 am]
BILLING CODE 8712-01-M

Proposed Rules

Federal Register
Vol. 48, No. 192
Monday, October 3, 1983

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

Agricultural Marketing Service

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Temporary Revision of Pool Supply Plant Shipping and Diversion Limitation Percentages

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to temporarily relax certain pooling provisions of the Nebraska-Western Iowa Federal milk order. The proposed action would relax for October 1983 through March 1984 a portion of the pooling standards for supply plants and the limit on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The action was requested by a cooperative association representing a substantial number of producers supplying the market in order to prevent uneconomic movements of milk.

DATE: Comments are due not later than October 11, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that any need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the procedure in time to give interested parties timely notice that the shipping requirements for pool supply plants and the limits on the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants for October 1983 would be modified. The initial request for the action was received on September 2, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of §§ 1065.7(b)(3) and 1065.13(d)(4) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for the months of October 1983 through March 1984.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file two copies of such material with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days after publication of this notice in the **Federal Register**. The period for filing views is limited because a longer period would not provide the time needed to complete the required procedures and include October 1983 in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are (1) the shipping percentages for pool supply plants set forth in § 1065.7(b) and (2) the diversion limitation percentages set forth in § 1065.13(d). The revisions would be applicable for the months of October 1983 through March 1984. The specific revisions would (1) decrease the supply plant shipping percentages 10 percentage points, from the present 40 percent to 30 percent and (2) increase the diversion limitation percentages 10 percentage points, from the present 40 percent to 50 percent.

Sections 1065.7(b) and 1065.13(d) of the Nebraska-Western Iowa milk order allow the Director of the Dairy Division to increase or decrease the supply plant shipping percentage and the diversion limitation percentages by up to 20 percentage points during any month to encourage additional needed milk shipments to pool distributing plants or to prevent uneconomic shipments merely for the purpose of assuring that diary farmers will continue to have their milk priced under the order and thereby receive the benefits that accure from such pricing.

Associated Milk Producers, Inc., a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that for the months of October 1983 through March 1984, the pool supply plant shipping percentage be reduced 10 percentage points. Also, the cooperative requested that for the same months the percentage of allowable diversions be increased 10 percentage points.

The cooperative states that beginning in October 1983 the pooling provisions in question will not accommodate the efficient pooling of the milk of some of its members who regularly are associated with the market. The cooperative indicates that it is requesting the revision because of the present buildup in the market's milk supplies due to a substantial increase in producer deliveries and a decline in Class I sales. In that regard, the cooperative noted that producer deliveries for the first seven months of 1983 were up 6.7 percent from the already high levels of the same period a year ago while Class I sales were down 1.8 percent. The cooperative believes that the temporary revision of both the supply plant shipping standard and the diversion limits will be necessary for the

months of October 1983 through March 1984. Because of the market's present supply situation, the cooperative contends that the temporarily relaxed pool supply plant shipping percentage and diversion limits will be adequate to supply the needs of the Class I market without causing unnecessary and uneconomic shipments to pool plants simply to meet order requirements.

Therefore, it may be appropriate to reduce the aforementioned pooling privisions for the months of October 1983 through March 1984 to prevent uneconomic shipments of milk.

List of Subjects In 7 CFR Part 1065

Milk marketing orders, Milk, Dairy Products.

Signed at Washington, D.C., on September 27, 1983.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 83-26892 Filed 9-30-83; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 317, 319, and 381

[Docket No. 78-733E]

Labeling for Meat and Poultry Products With Cheese Substitutes; Revised Pizza Standard; Extension of Comment Period

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On August 5, 1983, the Food Safety and Inspection Service (FSIS) published a proposal to amend the Federal meat and poultry products inspection regulations regarding the labeling of cheese substitutes used in meat and poultry products and regarding the standard for pizza. The FSIS has determined that it will extend the comment period until April 2, 1984.

DATE: Comments must be received on or before April 2, 1984.

ADDRESSES: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided under the Poultry Products Inspection Act should be directed to Mr. Robert G. Hibbert, (202) 447-6042.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On August 5, 1983, the Food Safety and Inspection Service published a proposed rule in the **Federal Register** (48 FR 35654) to amend the Federal meat and poultry products inspection regulations regarding the labeling of cheese substitues used in meat and poultry products and regarding the standard for pizza. The FSIS has received several requests to allow additional time to study the proposal and submit comments, including one request for additional time to permit them to conduct consumer perception surveys. The FSIS is interested in receiving additional data on this proposal and has determined that there is sufficient justification for extending the comment period unitl April 2, 1984.

Done at Washington, DC, on: September 30, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-27092 Filed 9-30-83; 11:04 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ASW-39]

Proposed Alteration of Transition Area; Falfurrias, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration propóses to alter the transition area at Falfurrias, TX. The intended effect of the proposed action is to realign controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Brooks County Airport. This action is necessary since the final approach segment of the SIAP is being altered to the east, thereby requiring the realignment of controlled airspace for the protection of aircraft.

DATES: Comments must be received on or before November 3, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Falfurrias, TX, will necessitate an amendment to this subpart. This amendment will be required at Falfurrias, TX, since there is a proposed change in IFR procedures to the Brooks County Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-39." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones Transition areas, aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Falfurrias, TX Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Brooks County Airport (latitude 27°12'27" N., longitude 98°07'20" W.), within 3.5 miles each side of the 164° bearing of the NDB (latitude 27°12'24" N., longitude 98°07'16" W.), extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

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

Issued in Forth Worth, TX, on September 15, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-26934 Filed 9-30-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-20230; File No. S7-995]

Certain Sales by Block Positioners

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment and solicitation of public comments.

SUMMARY: The Commission is proposing for adoption an exemption from the "tick" provisions of the short sale rule, Rule 10a-1 under the Securities Exchange Act of 1934. The exemption is intended to facilitate the bolck positioning activities of broker-dealers who engage in both block positioning and arbitrage. Under the proposed exemption, a broker-dealer selling a security that it acquired while acting in the capacity of a block positioner could, in determining whether it was long or short for purposes of the "tick" provisions of the short sale rule, disregard a proprietary short position in that security if and to the extent that such short position was the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

DATE: Comments must be received on or before November 15, 1983.

ADDRESSES: Interested persons should submit three copies of their comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 6184, 450 Fifth Street, NW., Washington, D.C. 20549, and should refer to File No. S7-995. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 1024, 450 Fifth Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: M. Blair Corkran, Jr. (202-272-2853); Joel M. Bludman (202-272-7491); or Deren E. Manasevit (202-272-7496), Office of Legal Policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Background

Rule 10a-1[1] under the Securities Exchange Act of 1934 (the "Act") regulates short sales of certain securities. Rule 10a-1 provides generally that short sales of reported securities (*i.e.*, securities as to which last sale information is reported in the consolidated system)[2] may be effected only at a price above the price at which the immediately preceding sale was effected ("plus tick"), or at a price equal to the last sale if the last preceding transaction at a different price was at a lower price ("zero-plus tick"), established by reference to the last sale price reported from any market in the consolidated system.[3] The general purpose of Rule 10a-1 is to prevent manipulative sales of a security for the purpose of accelerating a decline in the price of such security.

On June 1, 1982, the Commission granted, on a one year trial basis, an exemption from Rule 10a-1[4] that permits a broker-dealer who has acquired a security while acting in the capacity of a "block positioner"[5] to disregard a short stock position if and to the extent that such short position is and has been for at least five business days the subject of one or more offsetting positions creted in the course of "bona fide arbitrage," "risk arbitrage," or "bona fide hedge" activities.[6] Block positioning is an activity engaged in by certain broker-dealers whereby a broker-dealer acts as principal in taking all or part of a block order placed with him by a customer in order to facilitate a transaction that might otherwise be difficult to effect in the ordinary course of floor trading. The exemption enables a broker-dealer that estblishes an "arbitrage" or "hedge" position in an arbitrage account, with a

[1] 17 CFR 240.10a-1.

[2] Reported securities include (i) any common stock, long term warrant or preferred stock registered or admitted to unlisted trading privileges on either the New York Stock Exchange ("NYSE") or the American Stock Exchange ("Amex"); (ii) any common stock, long-term warrant, or preferred stock registered on any exchange or admitted to unlisted trading privileges thereon that substantially meets either NYSE or Amex original listing requirements and (iii) any right to acquire any of the securities described in (i) or (ii) that is traded on the same exchange as such security. *See* Rule 11Aa3-1 under the Act, 17 CFR 240.11Aa3-1.

[3] Rule 10a-1(a). Pursuant to Rule 10a-(a)[2], the permissibility of short sales effected on the NYSE and Amex is measured by reference to the last sale in those respective markets rather than by reference to the consolidated system. For listed securities that are not reported securities, the permissibility of short sales is measured by reference to the last sale on the exchange where the short sale is effected. Rule 10a-(b).

[4] Letter from the Commission to Joseph McLaughlin, Esq., Chairman, Federal Regulation Committee, Securities Industry Association, dated June 1, 1982.

[5] *See* Part IIA of Securities Exchange Act Release No. 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) ("Release No. 34-15533").

[6] *See* Part IIB of Release No. 34-15533.

short position fully hedged or coverd by an equivalent security, not to be handicapped by Rule 10a–1 in its block positioning activities in that security.

As originally granted, the exemption required that the short stock position in question must have existed at the time the block was acquired, and that both the short stock position and the offsetting hedge position must have been maintained for five business days before securities could be sold in reliance upon the exemption. The requirement that the short position must have existed at the time the block was acquired was subsequently deleted.[7] At the same time, the exemption was extended to June 30, 1983.[8] The exemption was subsequently extended to September 30, 1983.[9]

II. Discussion

The problem the exemption seeks to address concerns the interaction between Rule 10a–1 and Rule 3b–3 under the Act. Rule 3b–3 defines the term "short sale" for purposes of the Act. Under the definition, a short sale of a security is "any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the acount of, the seller." [10] Rule 3b–3 also provides that "a person shall be deemed to own securities only to the extent that he has a net long position in such securities." [11]

In order to determine whether a person has a "net long position" in a security, all accounts must be aggregated. Long positions in convertible securities, rights, warrants or call options, however, are not considered long positions in the underlying securities unless they have been converted or exercised.[12]

The aggregation provisions can affect the trading strategies of broker-dealers that engage in block positioning because most of those broker-dealers also engage inproprietary trading, including bona fide and risk arbitrage. For example, as part of its arbitrage activities, a broker-dealer will frequently engage in short sales of a common stock in an arbitrage account while simultaneously purchasing an "equivalent security," such as a stock purchase warrant or an exchange-traded call option that can be converted into, or exercised to purchase, an amount of the common stock equivalent to the shares that have been sold short. A short position in such an account is considered a short position under Rule 3b–3 notwithstanding that the position is fully hedged or covered by holdings in the same account of "equivalent secuities." Therefore, a broker-dealer must comply with the "tick" provisions of paragraphs (a) and (b) of Rule 10a–1 and mark as "short" any sales of securities where an economically neutral, but legally "short", position in an arbitrage or hedged account is equal to or greater than a long position acquired in the course of block positioning.[13] Broker-dealers are therefore sometime handicapped in their block positioning activities if they are conducting concurrent arbitrage or hedging activities in the same stocks that they are positioning as block traders.

The Commission has long recognized the important role of block positioning in the provision of liquidity for large securities transactions and the maintenance of fair and orderly markets. Moreover, where a separate short position held by a block positioning firm is fully hedged, there is no incentive to effect sales from a trading account in which it carries on its block positioning activities in a manner that would cause or accelerate a decline in the market.[14]

III. Proposed Exemption

The Commission proposes to amend Rule 10a–1 to allow a block positioner to disregard a short position in a security in calculating its net long position if such short position is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

The proposed exemption would be drawn to limit its use to circumstances where it would facilitate activity beneficial to the market and where manipulative incentives do not appear to exist. First, the proposed exemption would be limited to sales of a security acquired by a broker-dealer while acting in the capacity of a block positioner. Second, the exemption would be available only if the short position is created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedging activities. For purposes of the exemption, the terms "block positioner," "bona fide arbitrage," "risk arbitrage," and "bona fide hedge" are as defined in Part II of Securities Exchange Act Release No. 15533.

In order to facilitate block positioning, from and after the date of this release until the Commission takes final action on this proposal, the staff will not recommend that the Commission take enforcement action if a broker-dealer that has acquired a security while acting in the capacity of a block positioner does not comply with Rule 10a–1 (a) and (b) in connection with transactions in that security if and to the extent that such broker-dealer's short position in such security is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

IV. Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act establishes procedural requirements applicable to agency rulemaking that has a "significant economic impact on a substantial number of small entities." [15] The Chairman of the Commission has certified pursuant to that Act that the proposed amendment to Rule 10a–1, if adopted, will not have a significant economic impact on a substantial number of small entities. The amendment to Rule 10a–1 would free the sale of stock by a block positioner from the "tick" provisions under certain circumstances in which the block positioner has a short position in the same security as a result of bona fide hedge or arbitrage activity. Because of the large capital required for block positioning, it is highly unlikely that any small broker-dealers as defined by the Commission engage in that activity.

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[7] Letter from the Commission to Joseph McLaughlin, Esq., Chairman, Federal Regulation Committee, Securities Industry Association, Dated June 24, 1982.

[8] *Id.*

[9] Letter from Jeffrey L. Steele, Associate Director, Division of Market Regulation to Saul S. Cohen, Esq., Chairman, Federal Regulation Committee, Securities Industry Association, Dated June 28, 1983.

[10] 17 CFR 240.3b–3.

[11] *Id.*

[12] Rule 3b–3 (3), (4) and (5).

[13] For example, a broker-dealer that owned 200 in the money but unexercised XYZ calls hedged by a short stock position of 20,000 XYZ shares would, pursuant to Rule 3b–3, be deemed to be short 20,000 XYZ shares for purposes of compliance with the short sale rule. Accordingly, if the broker-dealer purchased a block of 15,000 shares of XYZ stock in the course of block positioning, absent an exemption, it would only be able to sell the block on an "up-tick" or a "zero plus tick."

[14] The gain from the short stock would be offset by a loss in the equivalent security or securities making up the bona fide hedge or arbitrage position.

[15] Although Section 601(b) of the Regulatory Flexibility Act defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission has adopted definitions of the term small entity for purposes of Commission rulemaking in accordance with the Regulatory Flexibility Act. Those definitions, as relevant to this proposed rulemaking, are set forth in Rule 0–10, 17 CFR 240.0–19. *See* Securities Exchange Act Release No. 34–18452 (January 28, 1982). A broker or dealer generally is a "small business" or "small organization" if it had total capital of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to 17 CFR 240.17a–5(d). *See* Rule 0–10(c).

V. Statutory Basis and Text of Rule Amendment

The proposed amendments to Rule 10a–1 would be adopted under the Act, 15 U.S.C. 78a *et seq.*, and particularly Sections 2, 3, 10(a), 10(b), 15(c), and 23(a), 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(a), 78j(b), 78o(c), and 78w(a).

List of Subjects in 17 CFR Part 240

Brokers, Confidential business information, Fraud, Reporting and recordkeeping requirements, Securities.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

On the basis of the above discussion and analysis, the Commission is proposing to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

By adding a new paragraph (e)(13) to § 240.10a–1 to read as follows:

§ 240.10a–1 Short sales.

* * * * *

(e) * * *

(13) A broker-dealer that has acquired a security while acting in the capacity of a block positioner shall be deemed to own such security for the purposes of Rule 3b–3 [§ 240.3b–3] and of this section notwithstanding that such broker-dealer may not have a net long position in such security if and to the extent that such broker-dealer's short position in such security is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

September 27, 1983.

Regulatory Flexibility Act Certification

I, John Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendment to Rule 10a–1 set forth in Securities Exchange Act Release No. 20230, if adopted, will not have a significant economic impact on a substantial number of small entities. The amendment to Rule 10a–1 would free the sale of stock by a block positioner from the tick provisions under certain circumstances in which the block positioner has a short position in the same security as a result of bona fide hedge or arbitrage activity. Because of the large capital required for block positioning, it is highly unlikely that any small broker/dealer as that term is defined in Rule 0–10(c) engages in block positioning.

Dated: September 27, 1983.

John S. R. Shad,

Chairman.

[FR Doc. 83–26887 Filed 9–30–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 83N–0153]

Linoleic Acid; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that linoleic acid is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listing of this ingredient as a GRAS substance for use in dietary supplements.

DATE: Written comments by December 2, 1983.

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

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of linoleic acid has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency is proposing to affirm the GRAS status of this ingredient as a nutrient supplement for direct use in conventional food [1] and infant formula.

The GRAS status of the use of linoleic acid in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using this ingredient in dietary supplements. The use of this ingredient in dietary supplements will continue to be permitted under Subpart F of Part 182 (21 CFR Part 182).

The safety evaluations of coconut oil, peanut oil, oleic acid, and linoleic acid conducted by the Select Committee on GRAS Substances of the Federation of American Societies for Experimental Biology (FASEB) were contained in the same report. This proposal presents only FASEB's GRAS evaluation and FDA's conclusion on the safety of linoleic acid. Separate documents presenting FASEB's evaluation and FDA's conclusions on the safety of vegetable oils (i.e., coconut oil and peanut oil) and oleic acid will be published in a future issue of the **Federal Register.**

Most vegetable oils are composed of glycerides containing combinations of saturated and unsaturated fatty acids including linoleic acid (Z,Z)-9,12-octadecadienoic acid ($C_{17}H_{31}COOH$)). Linoleic acid is an essential fatty acid. It is an oil at room temperature, has a molecular weight of 280.5, and melts at −12° C. The refractive index of linoleic acid is 1.4669. The acid may be obtained from the saponification or hydrolysis of edible fats and vegetable oils at reduced pressures and temperatures. Various processes have achieved commercial significance in the separation of solid saturated fatty acids from liquid unsaturated fatty acids, including the panning and pressing method and solvent crystallization.

Linoleic acid was listed as GRAS as a nutrient and dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, under a regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837), the nutrient and dietary supplement category was divided into separate listings for GRAS dietary supplements and GRAS nutrients. As a consequence, linoleic acid is currently listed as GRAS in § 182.5065 (21 CFR 182.5065) as a dietary supplement and in § 182.8065 (21 CFR 182.8065) as a nutrient supplement.

Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 350a(g)) lists linoleate (the salt form of linoleic acid) among the

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

essential fatty acids that, subject to level restrictions, are required nutrients in infant formula. However, the agency has learned from contacts with infant formula manufacturers that these manufacturers do not add isolated linoleic acid or linoleate salts to meet this requirement. Rather, they add vegetable oils such as corn or soybean oil to infant formula as the source of essential fatty acids. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient levels of essential fatty acids (including linoleate) in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which linoleic acid was used and the levels of usage. The survey revealed no information on the amounts of linoleic acid consumed as an isolated ingredient in food. However, according to the Flavor and Extract Manufacturers' Association (FEMA GRAS List 6 (Ref. 1), mixtures of fatty acids containing up to 48 percent linoleic acid are added to a variety of foods as a flavoring agent and adjuvant.

Linoleic acid has been the subject of a search of the scientific literature from 1920 to 1973. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing.

Information from the scientific literature review and other sources has been updated to 1977 and summarized in the report of the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office, FASEB. The members of the Select Committee have evaluated all the available safety information on linoleic acid.[2] In the Select Committee's opinion:

> " * * * linoleic acid ha[s] been used as * * * [a] food [component] by man for many years. [Linoleic acid is] rapidly absorbed after oral administration, metabolized, and the metabolic products are utilized and excreted. None of the available biological information indicates that [this substance is] hazardous to man or animals even when consumed at levels that are orders of magnitude greater than could result from [its] use for the purposes covered in this report."[3]

The Select Committee concludes that there is no evidence in the available information on linoleic acid that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.[4]

FDA has undertaken its own evaluation of the available information on linoleic acid and concurs with the conclusion of the Select Committee.

There is some uncertainty about the level of consumer exposure to linoleic acid from its use as a nutrient and as a flavoring agent and adjuvant added to food. However, when it is used in conventional food for these purposes, linoleic acid is used at low levels and consumer exposure to it is insignificant compared to the levels of, and consumer exposure to, linoleic acid resulting from its common occurrence in many foods. Because linoleic acid occurs naturally at high levels in many vegetable oils such as soybean, cottonseed, corn, coconut, and peanut oils, and these vegetable oils are in turn used in many foods such as margarine, shortening, salad dressing, and cooking oils, it is appropriate to consider data showing the safety of these vegetable oils in evaluating the safety of linoleic acid as a nutrient and as a flavoring agent and adjuvant in conventional food. The safety of these vegatable oils is well-documented in standard texts on physiology and nutrition. The agency concludes, on the basis of these texts and of the other information on the safety of linoleic acid that it has reviewed, that no change in the current GRAS status of this ingredient is justified. Therefore, the agency proposes that linoleic acid be affirmed as GRAS when used as a nutrient supplement or as a flavoring agent and adjuvant in conventional foods.

Additionally, FDA is proposing not to include food categories and levels of use in the GRAS affirmation regulation for linoleic acid. Both FASEB and the agency have concluded that a large margin of safety exists for the use of this substance, and that a reasonably foreseeable increase in the level of consumption of linoleic acid will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of linoleic acid when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of linoleic acid is based on the evaluation of limited uses, the proposed regulation sets forth the technical effects that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Because no food-grade specifications exist for linoleic acid at the present time, the agency will work with the Committee on Food Chemicals Codex of the National Academy of Sciences to develop acceptable specifications for this ingredient. If acceptable specifications are developed, the agency will incorporate then into this regulation at a later date. Until specifications are developed, FDA has determined that the public health will be adequately protected if commercial linoleic acid complies with the description in the proposed regulation, meets the purity specifications listed in § 172.860(b) (21 CFR 172.860(b)), and otherwise is of a purity suitable for its intended use in accordance with § 182.1(b)(3) (21 CFR 182.1(b)(3)).

Copies of the scientific literature review on linoleic acid and the report of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

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[2] "Evaluation of the Health Aspects of Coconut Oil, Peanut Oil, and Oleic Acid as They May Migrate to Food From Packaging Materials and Linoleic Acid as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1977, pp. 6–10. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preambles to GRAS proposals that affirm GRAS status in accordance with current good manufacturing practice.

[3] Ibid., p. 9.

[4] Ibid., p. 10.

Title	Order No.	Price code	Price[1]
Coconut oil, peanut oil, oleic and linoleic acid (scientific literature review).	PB-226-546/AS	A10	$18.00
Coconut oil, peanut oil, oleic and linoleic acid (Select Committee report).	PB-274-475/AS	A02	6.00

[1] Price subject to change.

This proposed action does not affect the current use of linoleic acid in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1065 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effects listed. This change has no substantive effect but is made merely for clarity.

Reference

The following information is on file in the Dockets Management Branch (address above) and may be reviewed in that office between 9 a.m and 4 p.m, Monday through Friday.

1. Oser, B. L. and R. A. Ford, "Recent Progress in the Consideration of Flavoring Ingredients Under the Food Additives Amendment 6. GRAS Substances," *Food Technology*, 27:64–67, 1973.

The agency has determined pursuant to 21 CFR 25.24(d)(6) (proposed December 11, 1979, 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.8065 [Removed]

1. Part 182 is amended by removing § 182.8065 *Linoleic acid.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1065, to read as follows:

§ 184.1065 Linoleic acid.

(a) Linoleic acid (Z,Z)-9,12-octadecadienoic acid ($C_{17}H_{31}COOH$) (CAS Reg. No. 60–33–3)), a straight chain unsaturated fatty acid with a molecular weight of 280.5, is a colorless oil at room temperature. Linoleic acid may be produced by hydrolysis or saponification of edible fats and oils under reduced pressures and temperatures.

(b) FDA is developing food-grade specifications for linoleic acid in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use. The ingredient must also meet the specifications in § 172.860(b) of this chapter.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter and as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before December 2, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 20, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-26862 Filed 9-30-83; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Vocational Rehabilitation Amendments

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The VA is publishing for public comment regulations to implement provisions of the Veterans' Rehabilitation and Education Amendments of 1980. Title 1 of these

amendments updates and expands the vocational rehabilitation program. This revision of chapter 31 of title 38, United States Code, the first since its establishment for veterans of World War II, improves the vocational rehabilitation program, and helps to assure that service-disabled veterans will benefit from the latest concepts and methods developed in the field of rehabilitation. The revision of the law requires a corresponding revision of regulations governing the program. The regulations contained here implement provisions of the law dealing with counseling, educational and vocational training services, independent living services, furnishing supplies to chapter 31 participants, rehabilitation research, personnel qualifications and staff development, the Veterans' Advisory Committee on Rehabilitation, employment services, medical care and special rehabilitation services. These regulations will better acquaint eligible veterans, educational institutions and the public at large with the way the provisions will be implemented.

DATES: Comments must be received on or before December 2, 1983.

It is proposed that these regulations be made effective on the same dates as the provisions of law on which they are based. Following this principle, provisions for personnel qualifications and staff development, rehabilitation research, Veterans' Advisory Committee on Rehabilitation, educational and vocational training services, supplies, counseling, and medical care would be generally effective October 1, 1980. Provisions for independent living services, employment services, and special rehabilitation services would be effective April 1, 1981. Sections and their corresponding proposed effective dates are as follows: The following sections would be effective on April 1, 1981: §§ 21.100, 21.120, 21.122, 21.123(a), 21.126(e), 21.132 (a) and (b), 21.134, 21.140, 21.142, 21.148(d), 21.150, 21.152 (a) through (c), 21.154, 21.156, 21.160, 21.162 (b) and (c), 21.210, 21.212, 21.214, 21.216, 21.218, 21.219, 21.220, 21.222, 21.224, 21.240, 21.242, 21.250, 21.252, 21.254, 21.257, 21.258, 21.420, and 21.430. The following sections would be effective on October 1, 1980: §§ 21.123(b), 21.124, 21.126 (a) through (d), 21.128, 21.129, 21.130, 21.132(c), 21.144, 21.146, 21.148 (a) through (c), 21.152(d), 21.155, 21.162(a), 21.256, 21.380, 21.382, 21.390, 21.400, and 21.402.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All written comments will be available for public inspection only at the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until December 16, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen L. Lemons, Director, Vocational Rehabilitation and Counseling Service, Department of Veterans Benefits, (202) 389–3935.

SUPPLEMENTARY INFORMATION: The VA published the first portion of the proposed regulations implementing some of the provisions of the Veterans' Rehabilitation and Education Amendments of 1980 in the **Federal Register** of April 29, 1982, at pages 18382 to 18386. The second portion of the proposed regulations was published in the **Federal Register** of September 15, 1982, at pages 40649 to 40658. The third portion of the proposed regulations was published in the **Federal Register** of May 10, 1983, at pages 20939 to 20949. The fourth portion of the proposed regulations was published in the **Federal Register** of September 15, 1983, at pages 41438 to 41449. These proposed regulations constitute the final portion of the regulations to be proposed for this purpose. Specifically, these regulations contain policy for providing counseling services, educational and vocational training services, independent living services, furnishing supplies to chapter 31 participants, personnel qualifications and development, rehabilitation research, the Veterans' Advisory Committee on Rehabilitation, employment services, and special rehabilitation services.

These proposed regulations do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. There will be no new reporting or recordkeeping requirements, or other compliance costs, to business or educational institutions caused by this proposal. The proposal will not affect other agencies. However, this proposal may induce some veterans to train under 38 U.S.C. ch. 31, who would not have done so otherwise. Furthermore, these proposed regulations will affect every veteran who is eligible to train under 38 U.S.C. ch. 31. However, these effects of the law do not place the proposed regulations in the category of major rules. Since these proposed regulations are not major rules they do not require regulatory analysis. They will not have an effect of $100 million in any year. They will not create major increases in costs or prices. They will not impose major recordkeeping burdens on anyone and they will not cause major additional costs to recipients of Federal assistance. Accordingly, the VA has not prepared an analysis of these proposed regulations.

The Administrator hereby certifies that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that, to the extent the proposed rules are directed to small entities, they follow the requirements of Public Law 96–466, or codify pre-existing agency policy and practice. Thus, no new regulatory burdens are imposed on small entities. In addition, only a limited number of service-connected disabled veterans are in training under this program at any given time. These rules will therefore have no significant economic impact on small entities.

The Catalog of Federal Domestic Assistance Number is 64.116.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 9, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

38 U.S.C. Part 21, *Vocational Rehabilitation and Education*, is amended as follows:

1. A new center heading and a new § 21.100 are added to read as follows:

Counseling

§ 21.100 Counseling.

(a) *General.* A veteran requesting or being furnished assistance under chapter 31 shall be provided professional counseling services by VR&C (Vocational Rehabilitation and Counseling) Service and other staff as necessary to:

(1) Carry out an initial evaluation in each case in which assistance is requested;

(2) Develop a rehabilitation plan or plan for employment services in each case in which the veteran is found during the initial evaluation to be eligible and entitled to services;

(3) Assist veterans found ineligibe for services under chapter 31 to the extent provided in § 21.82; and

(4) Try to overcome problems which arise during the course of the veteran's rehabilitation program or program of employment services. (38 U.S.C. 1501)

(b) *Types of counseling services.* The VA will furnish comprehensive counseling services, including but not limited to:

(1) Psychological;

(2) Vocational;

(3) Personal adjustment;

(4) Employment;

(5) Educational. (38 U.S.C. 1504)

(c) *Qualifications.* Counseling services may only be furnished by VA or other personnel who meet requirements established under provisions of § 21.380 and other policies of the VA pertaining to the qualifications of staff providing assistance under chapter 31. (38 U.S.C. 1518)

(d) *Limitation.* Counseling services necessary to carry out the initial evaluation and the development of a rehabilitation plan or a program of employment services will be furnished by staff of the VR&C Service of the Department of Veterans Benefits. (38 U.S.C. 1515)

2. The following new center heading and §§ 21.120 through 21.129 are added:

Educational and Vocational Training Services

§ 21.120 Educational and vocational training services.

(a) *Purposes.* The purposes of providing educational and vocational training services are to enable a veteran eligible for, and entitled to, services and assistance under chapter 31 to:

(1) Meet the requirements for employment in the occupational objective established in the IWRP (Individualized Written Rehabilitation Plan);

(2) Provide incidental training which is necessary to achieve the employment objective in the IEAP (Individualized Employment Assistance Plan);

(3) Provide incidental training needed to achieve the goals of an IILP (Individualized Independent Living Plan); or

(4) Provide training services necessary to implement an IEEP (Individualized Extended Evaluation Plan). (38 U.S.C. 1507)

(b) *Selection of courses.* The VA will generally select courses of study and training completion of which usually results in a diploma, certificate, degree, qualification for licensure, or employment. If such courses are not available in the area in which the veteran resides, or if they are available but not accessible to the veteran, other arrangements may be made. Such arrangements may include, but are not limited to:

(1) Relocation of the veteran to another area in which necessary services are available, or

(2) Use of an individual instructor to provide necessary training. (38 U.S.C. 1507)

(c) *Charges for education and training services.* The cost of education and training services will be one of the factors considered in selecting a facility when:

(1) There is more than one facility in the area in which the veteran resides which:

(i) Meets requirements for approval under §§ 21.294 through 21.298;

(ii) Can provide the eduction and training services, and other supportive services specified in the veteran's plan; and

(iii) Is within reasonable commuting distance;

(2) The veteran wishes to train at a suitable facility in another area, even though training can be provided at a suitable facility in the area in which the veteran resides. (38 U.S.C. 1515(a))

§ 21.122 School course.

(a) *Explanation of terms—schools, educational institution, and institution.* These terms mean any public or private school, secondary school, vocational school, correspondence school, business school, junior college, teacher's college, college, normal school, professional school, university, scientific or technical institution, or other institution furnishing education for adults. (38 U.S.C. 1652(c))

(b) *Course.* A course generally consists of a number of areas of subject matter which are organized into learning units for the purpose of attaining a specific educational or vocational objective. Organized instruction in the units comprising the course is offered within a given period of time and credit toward graduation or certification is generally given. (38 U.S.C. 1504(a))

(c) *School course.* A "school course" is a course as defined in paragraph (b) of this section offered by a facility identified in paragraph (a) of this section. (38 U.S.C. 1515)

§ 21.123 On-job course.

(a) *Training establishment.* This terms means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any state apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. chapter 4C, or any agency of the Federal government authorized to supervise such training. (38 U.S.C. 1652(e))

(b) *On-job course.* An on-job course is pursued toward a specified vocational objective, provided by a training establishment. The trainee learns, in the course of work performed under supervision, primarily by receiving formal instruction, observing practical demonstration of work tasks, and assisting in those tasks. Productive work should gradually increase with greater independence from formal instruction as the course progresses. (38 U.S.C. 1507(a)(7))

§ 21.124 Combination course.

(a) *General.* A combination course is a course which combines training on the job with training in school. For the purpose of VA vocational rehabilitation, a course will be considered to be a combination course, if the student spends full-time on the job and one or more times a week also attends school on a part-time basis. A veteran may pursue the components of a combination course in the following manner:

(1) Concurrent school and on-job training;

(2) Primarily on-job with some related instruction in school;

(3) In a school as a preparatory course to entering on-job training; or

(4) First training on-job followed by the school portion. (38 U.S.C. 1507(a)(7))

(b) *Cooperative course.* A cooperative course is a special type of combination course which usually:

(1) Has an objective which the student attains primarily through school instruction with the on-job portion being supplemental to the school course;

(2) Is at the college or junior college level although some cooperative courses are offered at post-secondary schools which do not offer a college degree or at secondary schools;

(3) Requires the student to devote at least one-half of the total training period to the school portion of the course; and

(4) Includes relatively long periods each of training on the job and in school such as a full term in school followed by a full term on the job. (38 U.S.C. 1504(a)(7))

§ 21.126 Farm cooperative course.

(a) *Definition.* An approvable farm cooperative course is a full-time course designated to restore employability by training a veteran to:

(1) Operate a farm which he or she owns or leases; or

(2) Manage a farm as the employee of another. (38 U.S.C. 1504(a)(7))

(b) *Reaching the goal of a farm cooperative course.* The farm cooperative course must enable a veteran to become proficient in the type of farming for which he or she is being provided rehabilitation services. The areas in which proficiency is to be established include:

(1) Planning;
(2) Producing;
(3) Marketing;
(4) Maintaining farm equipment;
(5) Conserving farm resources;
(6) Financing the farm;
(7) Managing the farm; and
(8) Keeping farm and home accounts. (38 U.S.C. 1504(a)(7))

(c) *Instruction, including organized group instruction.* Instruction in a farm cooperative course may be by a mixture of organized group (classroom) instruction and individual instruction or by individual instruction alone. A course which includes organized group instruction must meet the following criteria to be considered as full-time:

(1) The number of clock hours of instruction which should be provided yearly shall meet the requirements of § 21.310(a)(4) and § 21.4264 pertaining to full-time pursuit of a farm cooperative course;

(2) The individual instructor portion of a farm cooperative course shall include at least 100 hours of individual instruction per year. (38 U.S.C. 1504(a)(7))

(d) *Instruction given solely by an individual instructor.* (1) Instruction in a farm cooperative course may be given solely by an individual instructor if organized group instruction is:

(i) Not available within reasonable commuting distance of the veteran's farm; or

(ii) The major portion of the organized group instruction that is available does not have a direct relation to the veteran's farming operation and pertinent VA records are fully and clearly documented accordingly.

(2) To be considered full-time pursuit the individual instruction provided in these courses must:

(i) Consist of at least 200 hours of instruction per year;

(ii) Be given by a fully qualified individual instructor by contract between the VA and the instructor or an educational agency which employs the instructor. (38 U.S.C. 1504(a)(7))

(e) *Plan requirements for farm operator or farm manager.* (1) The plan for training developed by the case manager and the veteran in collaboration with the instructor must include:

(i) A complete written survey including but not limited to the areas identified in § 21.298(a) and (b);

(ii) An overall, long-term plan based upon the survey of the operation of the farm;

(iii) An annual plan identifying the part of the overall plan to be implemented will be prepared before the beginning of each crop year; and

(iv) The plan must include a detailed, individual training program showing the kind and amount of instruction, classroom and individual, or individual; and

(2) The farm must meet the requirements for selecting a farm found in § 21.298. (38 U.S.C. 1507(a)(7))

§ 21.128 Independent study course.

A veteran may pursue a course by independent study under the following conditions:

(a) *College level.* The course is offered by a college or university. (38 U.S.C. 1504(a)(7))

(b) *College degree.* The course leads to or is fully creditable towards a standard college degree. (38 U.S.C. 1504(a)(7))

(c) *Course content.* The course consists of a prescribed program of study with provision for interaction between the student and regularly employed faculty of the university or college by mail, telephone, personally, or class attendance (38 U.S.C. 1504(a)(7))

(d) *School responsibility.* The university or college:

(1) Evaluates the course in semester or quarter hours or the equivalent; and

(2) Prescribes a period for completion. (38 U.S.C. 1504(a)(7))

§ 21.129 Home study course.

(a) *Definition.* A "home study" course is a course conducted by mail, consisting of a series of written lesson assignments furnished by a school to the student for study and preparation of written answers, solutions to problems, and work projects which are corrected and graded by the school and returned to the trainee. (38 U.S.C. 1504(a)(7))

(b) *Limitations on inclusion of home study courses, in rehabilitation plans.* A veteran and his or her case manager may include a home study course in a rehabiliation plan only when it supplements the major part of the program. The purpose of the home study course is to provide the veteran with theory or technical information directly related to the practice of the occupation for which the veteran is training. (38 U.S.C. 1504(a)(7))

Center heading and §§ 21.131, 21.133, 21.135–21.138 [Removed]

3. The center heading "SUBSISTENCE ALLOWANCE" and §§ 21.131, 21.133, and 21.135 through 21.138 are removed; and §§ 21.130, 21.132 and 21.134 are revised as follows:

§ 21.130 Educational and vocational courses outside the United States.

(a) *General.* The VA may provide educational and vocational courses ouside a State if the case manager determines that such training is in the best interest of the veteran and the Federal government. (38 U.S.C. 1514)

(b) *Specific conditions.* (1) The training must be necessary to enable the veteran to qualify for and obtain suitable employment in the occupational objective; and

(2) Either:

(i) The training is not available in the United States; or

(ii) The training is available in the United States, but requiring that the veteran pursue training in this country would result in personal hardship; and

(3) All necessary supportive services, including medical care and treatment, can be provided. (38 U.S.C. 1514)

§ 21.132 Repetition of the course.

(a) *Repeating all or part of the course.* A veteran, having completed a course under chapter 31 according to the standards and practices of the institution, ordinarily will not pursue it again at the expense of the VA. However, the VA may approve repetition of all, or any part of the course when the VA determines that the repetition is necessary to accomplish the veteran's vocational rehabilitation. A veteran repeating a course under chapter 31 is subject to the same requirements for satisfactory pursuit and completion of the course as are other veterans taking the course unless a longer period is needed because of the veteran's reduced work tolerance. (38 U.S.C. 1504 (a)(7))

(b) *Review course.* A veteran who has completed a course of training under chapter 31 may pursue a review course, such as a bar review course, if it is specifically organized and conducted as a review course. (38 U.S.C. 1504)(a)(7)

(c) *Auditing a subject.* Auditing, as defined in § 21.4200(i), may not be authorized as a part of any rehabilitation plan. However, if an individual repeats a course under the conditions described in paragraph (a) of this section, the course shall not be considered an audited course, if pursued in the same manner as a subject offered for credit. The individual must meet the

same requirements as other students, and not be a mere listener. (38 U.S.C. 1780(a))

§ 21.134 Limitations on flight training.

Authorization of flight training under chapter 31 is subject to the same limitations applicable to flight training under chapter 34, including the following:

(a) *Prior to October 1, 1981.* A veteran in a nondegree flight training program prior to October 1, 1981, may continue in his or her program until rehabilitation to the point of employability, interruption of more than six months, or discontinuance, whichever is earliest. (38 U.S.C. 1504(c))

(b) *After October 1, 1981.* After October 1, 1981, flight training may only be authorized in degree curriculums in the field of aviation that includes required flight training. (38 U.S.C. 1504(c))

§ 21.145 [Removed]

4. Section 21.145 is removed and a new center heading and §§ 21.140 through 21.156 are added as follows:

Special Rehabilitation Services

§ 21.140 Evaluation and improvement of rehabilitation potential.

(a) *General.* The purposes of these services are to:

(1) Evaluate if the veteran:

(i) Has an employment handicap;

(ii) Has a serious employment handicap; and

(iii) Is reasonably feasible for a vocational goal or an independent living goal.

(2) Provide a basis for planning:

(i) A program of services and assistance to improve the veterans potential for vocational rehabilitation or independent living;

(ii) A suitable vocational rehabilitation program; or

(iii) A suitable independent living program.

(3) Reevaluate the vocational rehabilitation or independent living potential of a veteran participating in a rehabilitation program under chapter 31, as necessary.

(4) Enable a veteran to achieve:

(i) A vocational goal; or

(ii) An independent living goal. (38 U.S.C. 1504(a))

(b) *Periods during which evaluation and improvement services may be provided.* Evaluation and improvement services may be provided concurrently, whenever necessary, with a period of rehabilitation services, including:

(1) Initial evaluation or reevaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) A program of independent living services; or

(5) Employment services, incidental to obtaining or maintaining employment. (38 U.S.C. 1504(a))

(c) *Duration of full-time assistance.* If evaluation and improvement services are furnished on a full-time basis as a preliminary part of the period of rehabilitation to the point of employability, or as the vocational rehabilitation program, the duration of such assistance may not exceed 12 months. (38 U.S.C. 1504(a)(1))

(d) *Scope of services.* Evaluation and improvement services include:

(1) Diagnostic services;

(2) Personal and work adjustment training;

(3) Medical care and treatment;

(4) Independent living services;

(5) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(6) Orientation, adjustment, mobility and related services; and

(7) Other appropriate services. (38 U.S.C. 1504(a)(1))

§ 21.142 Adult basic education.

(a) *Definition.* The term "adult basic education" means an instructional program for the undereducated adult planned around those basic and specific skills most needed to help him or her to function adequately in society. (38 U.S.C. 1504(a)(1))

(b) *Purposes.* The purposes of providing adult basic education are to:

(1) Upgrade a veteran's basic educational skills;

(2) Provide refresher training; or

(3) Remedy deficiencies which prevent the veteran from undertaking a course of education or vocational training. (38 U.S.C. 1504(a)(1))

(c) *Periods during which basic adult education may be provided.* Basic adult education may be authorized, as necessary, during:

(1) Rehabilitation to the point of employability;

(2) Extended evaluation; and

(3) Indepandent living services. (38 U.S.C. 1504(a)(1))

§ 21.144 Vocational course in a sheltered workshop or rehabilitation facility.

(a) *General.* A vocational course in a sheltered workshop or rehabilitation facility may be an institutional, on-job, or combination course which has been modified to facilitate successful pursuit by a person with a disability that would otherwise prevent or impair the person's participation in the course. (38 U.S.C. 1504(a)(7))

(b) *Authorization.* A vocational course in a sheltered workshop or rehabilitation facility may be authorized when the training offered is a sound method of restoring a veteran's employability. (38 U.S.C. 1504(a)(7))

§ 21.146 Independent instructor.

(a) *Defintion.* An independent instructor course is a full-time course of vocational training which the veteran pursues with an individual instructor, who, independently of a training institution or on-job training establishment, furnishes and conducts a vocational course at a suitable place of training. (38 U.S.C. 1504(a)(7))

(b) *Limitations on including an independent instructor course in a rehabilitation plan.* A veteran and his or her case manager may include an independent instructor course in a rehabilitation plan only when either or both of the following conditions exist:

(1) Training is not available through an established school, on-job training establishment, rehabilitation facility or sheltered workshop within a reasonable commuting distance from the veteran's home; or

(2) The veteran's condition or other circumstances do not permit the veteran to attend an otherwise suitable facility within commuting distance.

(c) *Training in the home.* Training in the home is a specialized type of independent instructor course which the vetern pursues in his or her home if:

(1) He or she is unable to pursue training at an otherwise suitable facility because of the effects of his or her disability;

(2) Based on proper medical opinion, the veteran is able to pursue the prescribed training; and

(3) The veteran's home provides a favorable educational environment with adequate work and study space. (38 U.S.C. 1504(4)(7))

(d) *Planning an individual instructor course.* The case manager, the veteran, and the instructor should jointly plan the training program for a veteran for whom an independent instructor course is prescribed. (38 U.S.C.1504 (a)(7))

(e) *Assuring employment.* Since the customary channels leading to employment may not be readily available to a veteran requiring an individual instructor course, the IEAP (Individualized Employment Assistance Plan) shall indicate thorough consideration of plans and prospects for seeking and obtaining employment upon completion of training. (38 U.S.C. 1504(a)(7))

(f) *Rate of pursuit.* A veteran in an independent instructor program shall

pursue training at a rate comparable to the rate at which similar training is pursued on an institutional basis, unless the veteran's work tolerance is reduced by the effects of his or her disability. (38 U.S.C. (a)(7))

§ 21.148 Tutorial assistance.

(a) *General.* A veteran may be provided individualized tutorial assistance if the VA determines that special assistance beyond that ordinarily given by the facility to students pursuing the same or a similar subject is needed to correct a deficiency in a subject. (38 U.S.C. 1507(a)(7))

(b) *Authorization of tutorial assistance.* Tutorial assistance may be provided during any period of rehabilitation services authorized by the VA. (38 U.S.C. 1504(a)(7))

(c) *Use of relatives precluded.* Tutorial assistance at VA expense may not be provided by a relative of the veteran. The term "relative" has the same meaning as under § 21.376 pertaining to the use of a relative as an attendant. (38 U.S.C. 1692)

(d) *Payment at the chapter 34 rate.* If a veteran has elected payment at the educational assistance rate payable under chapter 34, he or she may not be provided individualized tutorial assistance under provisions of chapter 31. (38 U.S.C. 1508(f))

§ 21.150 Reader service.

(a) *Limitations on vision.* A veteran considered to have a visual impairment necessitating reader service includes a veteran:

(1) Whose best corrected vision is 20/200 in both eyes;

(2) Whose central vision is greater than 20/200 but whose field of vision is limited to such an extent that the widest dimeter of a visual field subtends to an angle no greater than 20 degrees; or

(3) With impaired vision, whose condition or prognosis indicates that the residual sight will be adversely affected by the use of his or her eyes for reading. (38 U.S.C. 1504(a)(14))

(b) *Periods during which reader service may be provided.* Reader service necessary to the development of a rehabilitation plan, or the successful pursuit of a rehabilitation program may be provided during:

(1) Initial evaluation or reevaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) Independent living services; or

(5) Employment services, including an initial employment period of up to three months. (38 U.S.C. 1504(a)(14))

(c) *Reader responsibility.* The reader should be able to do more than read to the veteran. The reader should have an understanding of the subject matter based upon prior training or experience which allows him or her to:

(1) Read printed material with understanding; and

(2) Test the veteran's understanding of what has been read. (38 U.S.C. 1504(a)(14))

(d) *Extent of service.* The number of hours of service will be determined in each case by the amount of reading necessitated by the course and the efficacy of other equipment with which the veteran has been furnished to enable him or her to read printed material unassisted. (38 U.S.C. 1504(a)(14))

(e) *Recording.* The VA will not normally pay for recording textbooks or other materials as a part of reader service since excellent recording services are provided by volunteer organizations at no cost. (38 U.S.C. 1504(a)(14))

(f) *Selecting a relative as a reader.* Utilization of a relative of the veteran as a reader is subject to the limitations on use of a relative as an attendant under § 21.376. (38 U.S.C. 1508)

§ 21.152 Interpreter service.

(a) *General.* The main purpose of interpreter service is to facilitate instructor-student communication. The VA will provide interpreter service as necessary for the development and pursuit of a rehabilitation program. This service will be provided if:

(1) A VA physician determines that:

(i) The veteran is deaf or his or her hearing is severely impaired; and

(ii) All appropriate services and aids have been furnished to improve the veteran's residual hearing; or

(2) A VA physician determines that the veteran:

(i) Can benefit from language and speech training; and

(ii) Agrees to undertake language and speech training. (38 U.S.C. 1504(a)(14))

(b) *Periods during which interpreter service may be provided.* Interpreter service may be furnished during:

(1) Initial evaluation or reevaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) Independment living services; or

(5) Employment services, including the first three months of employment. (30 U.S.C. 1504(a)(14))

(c) *Selecting the interpreter.* Only certified interpreters or persons meeting generally accepted standards for interpreters shall provide interpreter service. When an individual is not certified by a State or professional association, the VA shall seek the assistance of a State certifying agency or a professional association in ascertaining whether the individual is qualified to serve as an interpreter. (38 U.S.C. 1504(a)(14))

(d) *Relatives.* Interpreter service at VA expense may not be provided by a relative of the veteran. The term "relative" has the same meaning as under § 21.376 pertaining to the use of relatives as attendants. (38 U.S.C. 1692)

§ 21.154 Special transportation assistance.

(a) *General.* A veteran, who because of the effects of disability has transportation expenses in addition to those incurred by persons not so disabled, shall be provided a transportation allowance to defray such additional expenses. The assistance provided in this section is in addition to provisions for interregional and intraregional travel which may be authorized under provisions of §§ 21.370 through 21.376. (38 U.S.C. 1504(a)(13))

(b) *Periods during which special transportation allowance may be provided.* A special transportation allowance may be provided during:

(1) Extended evaluation;

(2) Rehabilitation to the point of employability;

(3) Independent living services; or

(4) Employment services, including the first three months of employment. (38 U.S.C. 1504(a)(14))

(c) *Scope of transportation assistance.* (1) Transportation assistance includes mileage, parking fees, reasonable fee for a driver, transportation furnished by a rehabilitation facility or sheltered workshop, and other expenses which may be incurred in local travel;

(2) The veteran's monthly transportation allowance may not exceed the lesser of actual expenses incurred or one-half of the subsistence allowance of a single veteran in full-time institutional training, unless extraordinary arrangements, such as transportation by ambulance, are necessary to enable a veteran to pursue a rehabilitation program. (38 U.S.C. 1504(a)(13))

(d) *Determining the need for a transportation allowance.* The case manager will determine the need for a transportation allowance. The assistance of a medical consultant shall be utilized, as necessary, in determining the need for special transportation assistance and developing transportation arrangements which do not unduly tax the veteran's ability to travel and pursue a rehabilitation program. (38 U.S.C. 1513(a)(13))

(e) *Use of a relative precluded.* A relative of the veteran may not be paid

any part of a special transportation allowance. The term "relative" has the same meaning as under § 21.376 pertaining to the use of a relative as an attendant. (38 U.S.C. 1504(a)(13))

§ 21.155 Services to a veteran's family.

(a) *General.* The VA shall provided certain services to a veteran's family if the services are necessary to the implementation of the veteran's rehabilitation plan. The term "family" includes the veteran's immediate family, legal guardian, or any individual in whose home the veteran certifies an intention to live. (38 U.S.C. 1504(a)(11)

(b) *Scope of services to a veteran's family.* The services which may be furnished to the family are generally limited to consultation, homecare training, counseling, and mental health services of brief duration which are designed to enable the family to cope with the veteran's needs. Extended medical, psychiatric or other services may not be furnished to family members under these provisions. (38 U.S.C. 1504(a)(11)

(c) *Providing services to a veteran's family.* VR&C Service will:

(1) Identify services which family members may need to facilitate the rehabilitation of the veteran; and

(2) Arrange for provision of the services which have been identified. (38 U.S.C. 1504(a)(11))

(d) *Resources for provision of services to family members.* (1) The established program and services which are furnished by DM&S (Department of Medicine and Surgery) to family members of veterans eligible for chapter 31 should be used to the extent practicable; but

(2) If services are not readily available through regular DM&S programs, necessary services will normally be secured through arrangements with other public and nonprofit agencies. (38 U.S.C. 1504(a)(11))

§ 21.156 Other incidental goods and services.

(a) *General.* Other incidental goods and services may be authorized if the case manager determines them to be necessary to implement the veteran's rehabilitation plan. For example, a veteran pursuing an engineering degree may not be required to have a calculator for any specific subject in his or her course, but there is substantial evidence that lack of a calculator places the veteran at a distinct disadvantage in successfully pursuing the course. (38 U.S.C. 1504(a)(10))

(b) *Limitation on cost.* The costs of incidental goods and services should normally not exceed five percent of training costs for any twelve month period. (38 U.S.C. 1504(a)(10))

5. A new center heading and new §§ 21.160 and 162 are added as follows:

Independent Living Services

§ 21.160 Independent living services.

(a) *Purpose.* The purpose of independent living services is to assist eligible veterans whose ability to function independently in family, community, or employment is so limited by the severity of disability (service and nonservice-connected) that vocational or rehabilitation services need to be appreciably more extensive than for less disabled veterans. (38 U.S.C. 1501)

(b) *Definitions.* The term "independence is daily living" means the ability of a veteran, without the services of others or with reduced level of the services of others, to live and function within the veteran's family and community. (38 U.S.C. 1501(2))

(c) *Situations under which independent living services may be furnished.* Independent living services may be furnished:

(1) As part of a program to achieve rehabilitation to the point of employability;

(2) As part of an extended evaluation to determine the reasonable feasibility of achieving a vocational goal;

(3) Incidental to a program of employment services; or

(4) As the whole of a rehabilitation program. (38 U.S.C. 1504)

(d) *Services which may be authoirized.* The services which may be authorized as part of an IILP (Individualized Independent Living Plan) include:

(1) Any appropriate service which may be authorized for a vacational rehabilitation program as that term is defined in § 21.35(i), except for a course of education or training as defined in § 21.120; and

(2) Independent living services offered by approved independent living centers and programs which are determined to be necessary to carry out the veteran's plan including:

(i) Evaluation of independent living potential;

(ii) Training in independent living skills;

(iii) Attendant care;

(iv) Health maintenance programs; and

(v) Identifying appropriate housing accommodations. (38 U.S.C. 1504(b))

(e) *Coordination with other VA elements and other Federal, State, and local programs.* Implementation of programs of independent living services and assistance will generally require extensive coordination with other VA and non-VA programs. The resources of VA medical centers shall be utilized as prescribed in § 21.242. If appropriate arrangements cannot be made to provide these services through VA medical centers, other governmental and private nonprofit programs may be utilized to sercure necessary services if the program meets the requirements of § 21.296. (38 U.S.C. 220, 1520)

§ 21.162 Participation in a program of independent living services.

(a) *Approval of a program of independent living services.* A program of independent living services and assistance is approved when:

(1) All steps required by § 21.90 and § 21.92 to the development and preparation of an IILP (Individualized Independent Living Plan) have been completed; and

(2) The Director, Vocational Rehabilitation and Counseling Service, concurs in the IILP. (38 U.S.C. 1509)

(b) *Special considerations affecting approval by the Director, Vocational Rehabilitation and Counseling Service.* The Director, Vocational Rehabilitation and Counseling Service, shall consider the following factors before approving the participation of a veteran in an independent living program:

(1) Conformity of the proposed plan with provisions of pargraph (a)(1);

(2) If the VA resources available limit the number of veterans who may be provided a program of independent living services and assistance, the first priority shall be given to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of service-connected disability;

(3) A substantial proportion of veterans provided with programs of independent living services and assistance shall be receiving long-term care in VA hospitals and nursing homes;

(4) The veterans provided programs of independent living and assistance shall be from all geographic areas of the country; and

(5) If a veteran's independent living plan could be approved, but for one of the other requirements of this section, the veterans shall have priority over other veterans with the same or lower ratings for service-connected disability applying during the following fiscal year. (38 U.S.C. 1520)

(c) *Limitations.* (1) A program of independent living services and assistance may not be approved after September 30, 1985. Programs authorized prior to that date may be continued until completion or other termination;

(2) Any contract for services initiated before September 30, 1985, may be continued in effect for the purpose of providing necessary services and assistance;

(3) The limitations on provision of independent living services to veterans for whom such services constitute the whole of a program are not applicable to veterans being provided independent living services as part of a rehabilitation program during periods identified in § 21.160(c)(1), (2), and (3). (38 U.S.C. 1504(b), 1520)

Center headings and §§ 21.200—21.209 [Removed]

6. Center headings "Vocational Rehabilitation Training Under Chapter 31, Title 38, United States Code" and "Status of Veterans Prior to Induction Into Training", and §§21.200 through 21.209 are removed.

Center headings and §§ 21.211, 21.221,1 21.223, 21.225, 21.226, 21.227 [Removed]

7. Center headings: "SELECTING THE TRAINING FACILITY", "THE INDIVIDUAL TRAINING PROGRAM" and "INDUCTING THE VETERAN INTO TRAINING" and §§ 21.211, 21.221, 21.223, 21.225, 21.226 and 21.227 are removed. A new center heading is added. Sections 21.210, 21.212, 21.220, 21.222, and 221.224 are revised, and sections 21.214, 21.216, 21.218 and 21.219 are added, so that the revised and added material reads as follows:

Supplies

§ 21.210 Supplies.

(a) *Purpose of furnishing supplies.* Supplies are furnished to enable a veteran to pursue rehabilitation and achieve the goals of his or her program. (38 U.S.C. 1504(a) (7) and (12))

(b) *Definition.* The term "supplies" includes books, tools, and other supplies and equipment which the VA determines are necessary for the veteran's rehabilitation program. (38 U.S.C. 1504(a) (7) and (12))

(c) *Periods during which supplies may be furnished.* Supplies may be furnished during:

(1) Extended evaluation;

(2) Rehabilitation to the point of employability;

(3) Employment services; and

(4) An independent living services program. (38 U.S.C. 1504(a) (7) and (12))

(d) *Supplies precluded.* Notwithstanding the provisions of paragraph (c) of this section, supplies may not be furnished to a veteran who has elected, or is in receipt of payment at the educational assistance rate paid under chapter 34. (38 U.S.C. 1508(a))

§ 21.212 General policy in furnishing supplies during periods of rehabilitation.

(a) *Furnishing necessary supplies during a period of rehabilitation services.* A veteran will be furnished supplies that are necessary for a program of rehabilitation services. For example, a veteran training in a school will be furnished the supplies needed to pursue the school course. If additional supplies are subsequently needed to secure employment, they will be furnished during the period of employment services as provided in § 21.214(d). (38 U.S.C. 1504(a) (7) and (12))

(b) *Determining supplies needed during a period of rehabilitation.* Subject to other provisions in §§ 21.210 through 21.222, the VA will authorize only those supplies which are required:

(1) To be used by similarly circumstanced non-disabled persons in the same training or employment situation;

(2) To mitigate or compensate for the effects of the veteran's disability while he or she is being evaluated, trained or assisted in gaining employment; or

(3) To allow the veteran to function more independently and thereby lessen his or her dependence on others for assistance. (38 U.S.C. 1504(a) (7) and (12))

(c) *When supplies may be authorized.* Supplies should generally be authorized subsequent to the date of enrollment in training or beginning date of other rehabilitation services unless there are compelling reasons to authorize them earlier. Supplies may not be authorized earlier than the date the veteran's rehabilitation plan is approved by the VA and the veteran is accepted by the facility or individual providing services. (38 U.S.C. 1504(a) (7) and (12), (b))

(d) *Supplies needed, but not specifically required.* The VA may determine that an item, such as a calculator, while not required by the school for the pursuit of a particular school subject, is nevertheless necessary for the veteran to successfully pursue his or her program under the provisions of § 21.156 pertaining to incidental goods and services. The item may be authorized if:

(1) It is generally owned and used by students pursuing the course; and

(2) Students who do not have the item would be placed at a distinct disadvantage in pursuing the course. (38 U.S.C. 1504(a) (7) and (12))

(e) *Supplies for special projects and theses.* The amount of supplies that the VA may authorize for special projects, including theses, may not exceed the amount generally needed by similarly circumstanced nonveterans in meeting course or thesis requirements. (38 U.S.C. 1504(a) (7) and (12))

(f) *Reimbursement.* Reimbursement for supplies is governed by provisions of 41 CFR 8–15, Contract Cost Principles and Procedures. (38 U.S.C. 1504(a) (7) and (12), (b))

(g) *Responsibility for authorization of supplies.* The case manager is responsible for the authorization of supplies, subject to requirements for prior approval contained in § 21.258 and other instructions governing payment of program charges. (38 U.S.C. 1506(e))

§ 21.214 Furnishing supplies for special programs.

(a) *General.* A veteran pursuing one of the following types of vocational rehabilitation programs is eligible for any types of supplies listed in § 21.212. The following paragraphs clarify the applicability of the general provisions of § 21.212 to these special situations. (38 U.S.C. 1504(a) (7) and (12))

(b) *Supplies furnished to veterans pursuing training in the home.* The VA may furnish to veterans training in the home:

(1) Books, tools, and supplies which schools or training establishments that train individuals outside the home for the objective the veteran is pursuing at home ordinarily require all students and trainees to possess personally;

(2) Supplies and equipment which are essential to the prescribed course of training because the veteran is pursuing the course at home. Equipment in this category consists of items which ordinarily are not required by a school or training establishment;

(3) Special equipment such as a vise or drafting table;

(4) Supplies needed to enable the veteran to function more independently in his or her home and community. (38 U.S.C. 1504(a) (7) and (12), (b))

(c) *Supplies furnished to a veteran in farm cooperative training.* The books and related training supplies which the VA may furnish a veteran in farm cooperative training depend upon the type of instruction he or she is receiving:

(1) When organized, group instruction is part of a veteran's course, the VA will furnish those books and supplies which the school requires all students in the school portion of the course to own personally or on a rental basis;

(2) When all instruction is given on the veteran's farm by an individual instructor, the VA will furnish only those textbooks and other supplies which would ordinarily be required by a school to a student. (38 U.S.C. 1504(a)(7))

(d) *Obtaining and maintaining employment.* A veteran being furnished

employment services may receive supplies which:

(1) The employer requires similarly circumstanced nonveterans to own upon beginning employment. Such supplies may be provided to the extent that the items were not furnished during the period in which the veteran was training for the objective, or the items that were furnished for training purposes are not adequate for employment;

(2) The VA determines are special equipment necessary for the veteran to perform his or her duties, subject to the obligation of the employer to make reasonable accommodations to the disabling effects of the veteran's condition. (38 U.S.C. 2012)

(e) *Self-employment.* The supplies and services which may be furnished, subject to the requirements prescribed under § 21.258, to a veteran for whom self-employment has been approved as the occupational objective is generally limited to the following supplies and services necessary to begin operations:

(1) Minimum stocks of materials, e.g., inventory of saleable merchandise or goods, expendable items required for day-to-day operations, and items which are consumed on the premises;

(2) Essential equipment, including machinery, occupational fixtures, accessories, and appliances; and

(3) Other incidental services such as business license fees. (38 U.S.C. 1504(a)(12))

(f) *Supplies and related assistance which may not be furnished for self-employment.* The VA may not authorize assistance for:

(1) Purchase of, or part payment for land and buildings;

(2) Making full or part payment of leases or rentals;

(3) Purchase or rentals of trucks, cars, or other means of transportation;

(4) Stocking a farm for animal husbandry operations. (38 U.S.C. 1504(a)(12))

§ 21.216 Special equipment.

(a) *General.* Special equipment should be authorized as necessary to enable a veteran to mitigate or overcome the effects of disability in pursuing a rehabilitation program. The major types of special equipment which may be authorized include:

(1) *Equipment for educational or vocational purposes.* This category includes items which are ordinarily used by nondisabled persons pursuing evaluation or training, modified to allow for use by disabled persons, e.g., calculators with speech capability for blinded persons.

(2) Sensory aids and prostheses. This category includes items which are specifically designed to mitigate or overcome the effects of disability. They range from eyeglasses and hearing aids to closed-circuit TV systems which amplify reading material for veterans with severe visual impairments.

(3) Modifications to improve access. This category includes adaptations of environment not generally associated with education and training, such as adaptive equipment for automobiles or supplies necessary to modify a veteran's home to make either training or self-employment possible. (38 U.S.C. 1504(a)(7) and (12). (b)) (April 1, 1981)

(b) *Coordination with other VA elements in securing special equipment.* In any case in which the veteran needs special equipment and is eligible for such equipment under other VA programs, such as medical care and treatment at VA medical centers, the items will be secured under that program. The veteran must be found ineligible for needed special equipment under other programs and benefits administered by VA before the item may be authorized under chapter 31. (38 U.S.C. 1515) (April 1, 1981)

§ 21.218 Methods of furnishing supplies.

(a) *Supplies furnished by the school or facility.* The VA will make arrangements for the school or other facility furnishing a veteran training, rehabilitation assistance, or employment under chapter 31 to provide supplies to the extent practicable. This method is the one most likely to assure that supplies are available and can be secured expeditiously. A facility may be considered to be furnishing supplies when the facility itself is the supplies, or the facility has designated a supplier. Prior authorization of supplies by the case manager is required except for standard sets of books, tools, or supplies which the facility requires all trainees or employees to have. (38 U.S.C. 1504(a) (7) and (12))

(b) *Issuance of supplies not furnished by the facility.* The VA will issue authorized supplies directly to the veteran, if the supplies are not furnished by the facility providing training, rehabilitation services, or employment. (38 U.S.C. 1504(a) (7) and (12))

Cross-Reference: See 41 CFR 8-15, Contract cost principles and procedures.

§ 21.219 Supplies consisting of clothing, magazines and periodicals, and items which may be personally used by the veteran.

(a) *Furnishing protective articles and clothing.* Protective articles or apparel worn in place of ordinary clothing will be furnished at VA expense when the school or training establishment requires similarly circumstanced nonveterans to use the articles of apparel. No other clothing will be supplied. (38 U.S.C. 1504(a)(7))

(b) *Furnishing magazines and periodicals.* Appropriate past issues of magazines, periodicals, or reprints may be furnished in the same manner as text material when relevant to the course or training. (38 U.S.C. 1504(a)(7))

(c) *Furnishing items which may be personally used.* Musical instruments, cameras, or other items which could be used personally by the veteran may only be furnished if required by the facility to meet requirements for degree of course completion. (38 U.S.C. 1504(a)(7))

§ 21.220 Replacement of supplies.

(a) *Lost, stolen, misplaced or damaged supplies.* The VA will replace articles which are necessary to further pursuit of the veteran's program and which are lost, stolen, misplaced, or damaged beyond repair through no fault of the veteran:

(1) The VA will make an advancement from the Vocational Rehabilitation Revolving Fund to a veteran to replace articles for which the VA will not pay if the veteran is without funds to pay for them;

(2) If a veteran refuses to replace an article indispensable to the program after the VA determines that its loss or damage was his or her fault, the veteran's refusal may be considered as noncooperation under § 21.364;

(3) If the veteran's program is discontinued under provisions of § 21.364(b), he or she will be reentered into the program only when he or she replaces the necessary articles. (38 U.S.C. 1504(a)(7) and (12))

(b) *Personally purchased supplies.* The VA will not generally reimburse a veteran who personally buys supplies. The VA may pay for the required supplies which a training facility or other vendor sells to a veteran if the facility chooses to return to the veteran the amounts he or she paid so that the charges stand as an unpaid obligation of the VA to the facility. If the facility does not agree to such an arrangement, the VA may still pay the veteran if the facts and equities of the case are demonstrated. (38 U.S.C. 1515)

(c) *Supplies used in more than one part of the program.* The VA will generally furnish any nonconsumable supplies only one time, even though the same supplies may be required for use by the veteran in another subject or in another quarter, semester, or school year. (38 U.S.C. 1504(a)(7))

§ 21.222 Release of, and repayment for training and rehabilitation supplies.

The value of supplies authorized by the VA will be repaid under the provisions of this section.

(a) *Consumable supplies.* The VA will require a veteran to pay for consumable supplies, unless:

(1) The veteran fails to complete the rehabilitation program through no fault of his or her own;

(2) The employment objective of the rehabilitation plan is changed as a result of reevaluation by VA staff; or

(3) The total value of the supplies for which repayment is required is less than $100. (38 U.S.C. 1504)

(b) *Nonconsumable supplies (general).* (1) With the exception noted in paragraph (c) of this section, the VA will not require a veteran to pay for nonconsumable supplies if:

(i) The veteran and VA change the long-range goal of the rehabilitation plan and those supplies are not required for the veteran's pursuit of training for the new goal;

(ii) The veteran's failure to complete the program was not his or her fault;

(iii) The veteran was pursuing the program at a facility which recovers nonconsumable supplies from veterans through contractual arrangements with the VA, and the veteran returned to the facility all the nonconsumable supplies furnished at VA expense;

(iv) The veteran reenters the Armed Forces or is in the process of reentering the Armed Forces;

(v) The veteran satisfactorily completed one-half or more of a noncollege degree course (or at least two terms in the case of a college course) for which the VA furnished the supplies;

(vi) The veteran certifies that he or she is using in current employment the supplies furnished during training;

(vii) The total value of the supplies for which repayment is required is less than $100;

(viii) The veteran dies;

(ix) The veteran is furnished supplies during a period of employment services but loses the job through no fault of his or her own;

(x) A veteran discontinued from an "independent living services" program is using supplies and equipment to reduce his or her dependence on others; or

(xi) The veteran is declared rehabilitated.

(2) The amount which a veteran must repay will be the lesser of the current value of the supplies, or the original cost of the supplies. The VA will accept supplies in lieu of repayment of the value of the supplies if the VA has authorized a change of objective. (38 U.S.C. 1504(a)(7) and (12))

(c) *Training in the home and self-employment.* (1) In addition to the reasons for not requiring repayment or return of nonconsumable supplies listed in paragraph (b) of this section, the VA will not require a veteran to pay for or return nonconsumable supplies which:

(i) VA furnished to equip his or her home as a place of training; and

(ii) The veteran has completed enough of his or her training program to be considered employable, and has been declared rehabilitated to the point of employability.

(2) A veteran in a self-employment program not in the home is declared rehabilitated; or

(3) The veteran dies and the Director, VR&C Service determines that the facts and equities of the family situation warrant waiver of all or a part of the requirements for repayment. (38 U.S.C. 1504(a)(12))

§ 21.224 Prevention of abuse.

Supplies are to be furnished under the most careful checks by the case manager as to what is needed by the veteran to pursue his or her program. Determinations of the supplies needed to enable the veteran to successfully pursue his or her rehabilitation program are made under the provisions of §§ 21.210 through 21.222. (38 U.S.C. 1511)

Center heading and §§ 21.230–21.239 [Removed]

8. The center heading "SUPPLIES" and §§ 21.230 through 21.239 are removed.

Center heading and §§ 21.241, 21.243, 21.244 and 21.245 [Removed]

9. The center heading "SUPERVISION OF THE INDIVIDUAL VETERAN" and §§ 21.241, 21.243, 21.244 and 21.245 are removed; a new center heading is added; and §§ 21.240 and 21.242 are revised to read as follows:

Medical and Related Services

§ 21.240 Medical treatment, care and services.

(a) *General.* A chapter 31 participant shall be furnished medical treatment, care and services which the VA determines are necessary to develop, carry out and complete the veteran's rehabilitation plan. The provision of such services is a part of the veteran's entitlement to benefits and services under chapter 31, and is limited to the period or periods in which the veteran is a chapter 31 participant. (38 U.S.C. 1504, 1507)

(b) *Scope of services.* The services which may be furnished under chapter 31 include the treatment, care and services described in part 17 of this title. In addition the following services may be authorized under chapter 31 even if not included or described in part 17:

(1) Prosthetic appliances, eyeglasses, and other corrective or assistive devices;

(2) Services to a veteran's family as necessary for the effective rehabilitation of the veteran;

(3) Special services (including services related to blindness and deafness) including:

(i) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(ii) Orientation, adjustment, mobility and related services;

(iii) Telecommunications, sensory and other technical aids and devices. (38 U.S.C. 1504(a)(6), (10), (11), (14), (15))

(c) *Eligibility.* A veteran is eligible for the services described in paragraph (b) of this section during periods in which he or she is considered a chpater 31 participant. These periods include:

(1) Initial evaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) Independent living services program;

(5) Employment services; and

(6) Other periods to the extent that services are needed to begin or continue in any of the statuses described in subparagraphs (1) through (5) of this paragraph. Such periods include but are not limited to services needed to facilitate reentry into rehabilitation following:

(i) Interruption; or

(ii) Discontinuance because of illness or injury. (38 U.S.C. 1504)

Cross-Reference: See § 17.48(g). Participating in a rehabilitation program under chapter 31.

§ 21.242 Resources for provision of treatment, care and services.

(a) *General.* VA medical centers are the primary resources for the provision of medical treatment, care and services for chapter 31 participants which may be authorized under the provisions of § 21.240. The availability of necessary services in VA facilities shall be ascertained in each case. (38 U.S.C. 1515)

(b) *Hospital care and medical service.* Hospital care and medical services provided under chapter 31 shall only be furnished in facilities over which the VA has direct jurisdiction, except as authorized on a contract or fee basis under the provisions of part 17 of this title. (38 U.S.C. 1515(b))

Cross-References: See § 17.30(l). Hospital care. § 17.30(m) Medical services.

Center Heading and § 21.253 [Removed]

10. The center heading "VOCATIONAL REHABILITATION BOARD" and § 21.253 is removed; §§ 21.250, 21.252, 21.254, and 21.256 are revised; a new center heading and new §§ 21.257 and 21.258 are added so that the revised and added material reads as follows:

Employment Services

§ 21.250 Overview of employment services.

(a) *General.* Employment services shall be provided if:

(1) Eligibility for employment servies exists;

(2) The employment services which are needed have been identified; and

(3) The services which have been identified are incorporated in the veteran's IWRP (Individualized Written Rehabilitation Plan) or IEAP (Individualized Employment Assistance Plan). (38 U.S.C. 1507, 1517)

(b) *Definitions.* (1) The terms "program (period) of employment services" includes the counseling, medical, social, and other placement and postplacement services provided to a veteran under 38 U.S.C. chapter 31 to assist the veteran in obtaining or maintaining suitable employment. The term "program of employment services" is used only if veteran's eligibility under chapter 31 is limited to employment services.

(2) The term "job development" means a comprehensive professional service to assist the individual veteran actually to obtain a suitable job, and not simply the solicitation of jobs on behalf of the veteran. Continuing and mutually beneficial relationships with employers should be established by VA staff through referral of suitable employees and supportive services (e.g., adjustment counseling and job modification). Job development activities by VA staff are intended to provide disabled workers with a chance for suitable employment with cooperating employers. (38 U.S.C. 1501, 1507, 1516, 1517)

(c) *Determining eligibility for, and the extent of, employment services.*

(1) A veteran's eligibility for employment services shall be determined under provisions of § 21.47 if he or she is not found to have an employment handicap under provisions of § 21.52;

(2) The duration of the period of employment services is determined under provisions of § 21.72;

(3) An IEAP (Individualized Employment Assistance Plan) shall be prepared under provisions of § 21.88;

(4) A veteran shall be placed in and removed from "Employment Assistance Status" under provisions of § 21.194. (38 U.S.C. 1501, 1517)

§ 21.252 Job development and placement services.

(a) *General.* Job development and placement services may include:

(1) Direct placement assistance by the VA;

(2) Utilization of the job development and placement services of:

(i) DVOP (Disabled Veterans Outreach Program) specialists;

(ii) Programs authorized under the Rehabilitation Act of 1973, as amended;

(iii) The State Employment Services and the Veterans Employment Service of the Department of Labor;

(iv) The Office of Personnel Management; and

(v) The services of any other public or nonprofit organization having placement services available. (38 U.S.C. 1517)

(b) *Promotion of employment and training opportunities.* As funding permits, VA employees engaged in the administration of chapter 31 will promote the establishment of employment, training, and related opportunities to accomplish the purposes described in § 21.1. (38 U.S.C. 1501)

(c) *Advocacy responsibility.* The VA shall take reasonable steps to ensure that a veteran being provided employment services receives the benefit of any applicable provision of law or regulation providing for special consideration or emphasis or preference of the veteran in employment or training, especially programs and activities identified in the preceeding paragraphs of this section. (38 U.S.C. 220)

(d) *Interagency coordination.* VA employees providing assistance to chapter 31 participants shall coordinate their job development, placement, promotional, and advocacy activities with similar or related activities of:

(1) The Department of Labor and State employment security agencies as provided by written agreement or other arrangement;

(2) The State Approving agencies;

(3) Other public and nonprofit agencies providing employment and related services. (38 U.S.C. 1516, 1517)

§ 21.254 Supportive services.

(a) *General.* Supportive services which may be provided during a period or program of employment services include a broad range of medical treatment, care and services, supplies, license and other fees, special services, including services to the blind and deaf, transporation assistance, services to the veteran's family, and other appropriate services, subject to the limitations provided in VA regulations governing the provisions of these services under chapter 31. (38 U.S.C. 1504(a))

(b) *Exclusions.* The following benefits may not be provided to the veteran by the VA during a period or program of employment services:

(1) Subsistence allowance, or payment of an allowance at the eductional assistance rate paid under chapter 34 for similar training;

(2) Education training services, other than brief courses such as review courses necessary for licensure;

(3) Revolving Fund Loan; and

(4) Work-study allowance. (38 U.S.C. 1504(a))

(c) *Disabled veterans trained for self-employment under a State rehabilitation agency.* A service-disabled veteran who has trained for self-employment under the auspices of a State rehabilitation agency may be provided supplemental equipment and initial stocks and supplies similar to the materials supplied to the most severely disabled veterans in self-employment programs under chapter 31, if the following conditions are met:

(1) The veteran is eligible for employment assistance under provisions of § 21.47;

(2) An official of the State rehabilitation program with responsibility for administration of self-employment programs certifies that:

(i) The veteran has successfully completed training for a self-employment program;

(ii) The assistance needed is not available through the State rehabilitation program, or other non-VA sources;

(iii) The assistance requested is a part of the veteran's IWRP (Individualized Written Rehabilitation Plan) developed by the State rehabilitation program;

(3) The requirements of § 21.258 pertaining to self-employment for the most severely disabled veterans are met; and

(4) The Director, VR&C Service approves the request if the cost of

supplies is more than $2,500. The approval of the Director is required prior to authorization of supplies. (38 U.S.C. 1517(b))

§ 21.256 Incentives for employers.

(a) *General.* The VA may make payments to employers to enable a veteran who has been rehabilitated to employability to begin and maintain employment or to provide on-job training. The purpose of such payment is to facilitate the placement of veterans who are generally qualified for employment but may lack some specific training or work experience which the employer requires or who are difficult to place due to their disability. The specific conditions which must be met before this option may be considered are contained in paragraphs (b) through (d) of this section. (38 U.S.C. 1516(b))

(b) *Requirements for payments to employers.* Payments may be made to employers to provide on-job training or to begin and maintain employment if all of the following conditions are met:

(1) The veteran is in need of an on-job training situation or is generally qualified for employment but such on-job situation or employment opportunity is not otherwise available despite repeated and intensive efforts on the part of VA and the veteran to secure such opportunities. These conditions are also considered to be met when:

(i) There are few employers within commuting distance of the veteran's home who can provide a training or employment opportunity consistent with the veteran's plan; and

(ii) The veteran reasonably could not be required to seek on-job or employment opportunities in other areas due to the effects of his or her disability, family situation, or other pertinent factors; and

(iii) The available local employers will only provide a training or employment opportunity if the VA agrees to reimburse for direct expenses to the degree permitted under this section.

(2) The training establishment or employer is in compliance with provisions of § 21.290 (a) and (b), pertaining to the approval of courses and facilities.

(3) The VA entered into an agreement with the employer in writing prior to the beginning of the period of on-job training or employment, whereby the employer will be reimbursed for direct expenses approved under provisions of paragraph (c) of this section.

(4) The on-job training program or employment of the veteran does not displace a current employee or prevent the recall of a laid-off employee. (38 U.S.C. 1510(b))

(c) *Limitation on payment.* Payments to the employer may only be made for the employer's direct expenses as a result of hiring the veteran and generally may not exceed one-half of the wage paid to other employees in the same or similar job. Direct expenses include:

(1) Instruction;

(2) Instructional aids;

(3) Training materials and supplies provided to the veteran;

(4) Minor modification of equipment to the special limitation of the veteran;

(5) Significant loss of productivity of the employer caused by using the veteran as opposed to a nondisabled employee. (38 U.S.C. 1516(b))

(b) *Duration.* The period for which the employer is paid may not exceed the period necessary to accomplish on-job training or to begin and maintain employment at the journeyman level for at least 2 months. The period for which payment may be authorized may not exceed 9 months, unless the Director, VR&C Service, approves a longer period. (38 U.S.C. 1516(b))

(e) *Benefits and services.* (1) An eligible veteran on whose behalf payments are made to the employer shall be provided all other chapter 31 benefits and services furnished to other veterans receiving employment services. A veteran may not be paid a subsistence allowance during the period in which job training or work experience is furnished under this section.

(2) If the program in which the veteran is participating meets the criteria for approval of on-job training under chapter 34, the veteran may be paid educational assistance under chapter 34 to the extent that he or she has remaining eligibility and entitlement under chapter 34. (See § 21.264) (38 U.S.C. 1516(b))

(f) *Non-duplication.* The VA will not make payments under the provisions of this section to an employer receiving payments from any other program for the same training or employment expenses. (38 U.S.C. 1516(b))

§ 21.257 Self-employment.

(a) *General.* Vocational rehabilitation will generally be found to have been accomplished by the veteran when he or she achieves suitable employment in the objective selected, and secures employment in the objective selected in an existing business, agency or organization in the public or private sector. Rehabilitation of the veteran may be achieved through self-employment in a small business, if the veteran's access to the normal channels for suitable employment in the public or private sector is limited because of his or her disability or other circumstances in the veteran's situation warrant consideration of self-employment as an additional option or alternative. (38 U.S.C. 1504(a)(12))

(b) *Self-employment plan.* VA staff will conduct a comprehensive survey and analysis of the feasibility of self-employment prior to authorization of a rehabilitation plan leading to self-employment. The analysis and self-employment plan developed on the basis of such analysis shall be made a part of the veteran's chapter 31 record. The survey and plan shall include:

(1) An analysis of the economic viability of the proposed small business plan;

(2) A cost analysis which specifies the amount and type of assistance, if any, which the VA would be committed to furnish;

(3) Provision for development of a market for the veteran's services during the period of rehabilitation to the point of employability, and/or employment services;

(4) A suitable occupational objective in which employment can normally be secured in the public or private sector;

(5) Training necessary for the operation of a successful small business;

(6) Availability of non-VA financing, including the veteran's financial resources, local banks and other sources;

(7) Coordination with the Small Business Administration to secure special consideration under section 8 of the Small Business Act, as amended;

(8) The location of the site selected for the business and the cost of the site, if any. (38 U.S.C. 1504(a)(12))

§ 21.258 Special assistance for veterans in self-employment.

(a) *General.* A veteran in self-employment program is eligible for certain special assistance in addition to the services for which veterans in a vocational rehabilitation program are generally eligible under the provisions of § 21.252. A veteran may be provided the assistance described under § 21.214 to the extent of his or her eligibility for such services as determined under paragraphs (b) and (c) of this section and § 21.254(d). (38 U.S.C. 1516, 1517)

(b) *Special services for the most severely disabled veterans.* Special services listed in § 21.214(d) shall be provided as necessary for the most severely disabled veterans. The term "most severely disabled veteran" means a veteran who has been determined to have a serious employment handicap and limitations on employability arising from the effects of disability (service-connected and nonservice-connected),

which necessitates selection of self-employment as the veteran's vocational goal. This category includes veterans requiring:

(1) Homebound training and self-employment; or

(2) Self-employment for other reasons even though the veteran is able to pursue training on other than a homebound basis, e.g., lack of suitable employment opportunities in the area. (38 U.S.C. 1504(a)(12))

(c) *Special services for other veterans.* Special services described in § 21.214(d) may be furnished to a veteran with a serious employment handicap if the veteran also meets the following conditions:

(1) Self-employment is clearly shown to be the soundest method of achieving rehabilitation, and the cost of assistance requested under the provision of § 21.214(d) will not exceed $15,000, except as approved by the Director, VR&C Service; or

(2) Self-employment is selected as an alternative to retraining the veteran in another occupation, and the cost of a self-employment program will not exceed the cost of retraining in another occupation. (38 U.S.C. 1504(a)(12))

(d) *Assisting a veteran with an employment handicap to become self-employed.* A veteran with an employment handicap may not be furnished any of the special services described in § 21.214(d). However, if it is determined that consideration of self-employment is warranted, the VA may provide:

(1) Incidental training in the management of a small business;

(2) License or other fees required for employment and self-employment; and

(3) The tools and supplies which would ordinarily be required for the veteran to begin employment in the field in which the veteran has trained. (38 U.S.C. 1504(a)(12))

(e) *Approval of the Director, VR&C (Vocational Rehabilitation and Counseling) Service.* The prior approval of the Director, VR&C Service is required in all cases considered under this section in which the cost of special assistance furnished under § 21.214(d) will exceed $2,500. The approval of the Director is required prior to final agreement with the veteran on the inclusion of self-employment in the veteran's plan. (38 U.S.C. 1504(a)(12))

11. New center headings and new §§ 21.380, 21.382, 21.390, 21.400, 21.402, 21.420 and 21.430 are added as follows:

Personnel Training and Development

§ 21.380 Establishment of qualifications for personnel providing assistance under chapter 31.

(a) *General.* Notwithstanding any other provision of law or regulation, the VA shall establish qualification standards for DVB personnel providing evaluation, rehabilitation, and case management services to eligible veterans under chapter 31 including:

(1) Counseling psychologists;

(2) Vocational rehabilitation specialists; and

(3) Other staff providing professional and technical assistance. (38 U.S.C. 1518(c))

(b) *Rehabilitation Act of 1973.* The VA shall consider qualification standards established for comparable personnel under the Rehabilitation Act of 1973 when setting agency standards. (38 U.S.C. 1518(c))

§ 21.382 Training and staff development for personnel providing assistance under chapter 31.

(a) *General.* The VA shall provide a program of ongoing professional training and development for staff of the VR&C Service engaged in providing rehabilitation services under chapter 31. The objective of such training shall be to insure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of disabled persons. The areas in which training and development services may be provided to enhance staff skills include:

(1) Evaluation and assessment;

(2) Medical aspects of disability;

(3) Psychological aspects of disability;

(4) Counseling theory and techniques;

(5) Personal and vocational adjustment;

(6) Occupational information;

(7) Placement processes and job development;

(8) Special considerations in rehabilitation of the seriously disabled;

(9) Independent living services;

(10) Resources for training and rehabilitation; and

(11) Utilizing research findings and professional publications. (38 U.S.C. 1518)

(b) *Training and development resources.* For the purpose of carrying out the provisions of paragraph (a) of this section the VA may:

(1) Employ the services of consultants;

(2) Make grants to an contract with public and private agencies, including institutions of higher learning, to conduct workshops and training activities;

(3) Authorize individual training at institutions of higher learning and other appropriate facilities; and

(4) Utilize chapter 41 of title 5 U.S.C. and related instructions to provide training and staff development activities on a group and individual basis. (38 U.S.C. 1518(b)) (October 1, 1980)

(c) *Interagency coordination.* VA shall coordinate with the Commissioner of the Rehabilitation Services Administration and the Assistant Secretary for Veterans' Employment in planning and carrying out personnel training in areas of mutual programmatic concern. (38 U.S.C. 1518(c))

Rehabilitation Research and Special Projects

§ 21.390 Rehabilitation research and special projects.

(a) *General.* The VA shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the VA may conduct research and development, provide support for research and development, or both conduct and provide support for the development and conduct of:

(1) Studies and research concerning the psychological, educational, social, vocational, industrial, and economic aspects of rehabilitation; and

(2) Projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans. (38 U.S.C. 1519(a))

(b) *Grants.* The VA may make grants to or contract with public or nonprofit agencies, including institutions of higher learning, to carry out the provisions of paragraph (a) of this section. (38 U.S.C. 1519(b))

(c) *Research by VR&C (Vocational Rehabilitation and Counseling) Service.* Research by VR&C Service directed to problems affecting service delivery, initiation and continuation in rehabilitation programs, and other areas directly affecting the quality of service to veterans being provided assistance under chapter 31 shall be encouraged. (38 U.S.C. 1519(a))

(d) *Interagency coordination.* The VA shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the National Institute of Handicapped Research in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding

rehabilitation studies, research, and special projects of mutual programmatic concern. (38 U.S.C. 1519(c)

Veteran's Advisory Committee on Rehabilitation

§ 21.400 Veterans' Advisory Committee on Rehabilitation.

(a) *General.* The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation. (38 U.S.C. 1521(a))

(b) *Purpose.* The purposes of the Veteran's Advisory Committee on Rehabilitation, hereafter referred to as the committee, are to:

(1) Assess the rehabilitation needs of service and nonservice-disabled veterans; and

(2) Review the programs and activities of the VA designed to meet such needs; (38 U.S.C. 1521(c))

(c) *Members.* The committee shall include:

(1) Members of the general public;

(2) Appropriate representation of veterans with service-connected disabilities; and

(3) Persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation, and employment and training programs. (38 U.S.C. 1521(a))

(d) *Members terms.* The Administrator shall appoint members of the committee for three-year terms. Members may be reappointed for additional three-year terms. (38 U.S.C. 1521(a)

(e) *Chairperson.* The Administrator will designate one of the members of the committee to chair the committee. (38 U.S.C. 1521(a))

(f) *Ex-officio members.* The committee shall also include ex-officio members named by the agencies. The ex-officio members shall include one representative from:

(1) The Department of Medicine and Surgery;

(2) The Department of Veterans Benefits;

(3) The Rehabilitation Services Administration and one from the National Institute for Handicapped Research of the Department of Education; and

(4) The Assistant Secretary of Labor for Veterans' Employment of the Department of Labor. (38 U.S.C. 1521(a))

§ 21.402 Responsibilities of the Veterans' Advisory Committee on Rehabilitation.

(a) *Consultation with the Administrator.* The Administrator shall regularly, but not less than twice yearly, consult with and seek the advice of the committee with respect to the administration of veterans' rehabilitation programs authorized under title 38, United States Code. (38 U.S.C. 1521 (b), (c))

(b) *Submission of an annual report.* The committee shall:

(1) Submit to the Administrator an annual report on the rehabilitation programs and activities of the VA; and

(2) Submit such other reports and recommendations to the Administrator as the committee determines appropriate. (38 U.S.C. 1521(c))

(c) *Contents of the committee's annual report.* The committee's annual report shall include:

(1) An assessment of the rehabilitation needs of veterans; and

(2) A review of the programs and activities of the VA designed to meet needs identified in subparagraph (1) of this paragraph. (38 U.S.C. 1521c))

(d) *Administrator's annual report.* The findings of the committee shall be incorporated in the Administrator's annual report submitted to the Congress under 38 U.S.C. 214. In addition the Administrator shall submit together with this annual report a copy of all reports and recommendations of the committee submitted to the Administrator since the previous annual report was submitted to the Congress. (38 U.S.C. 1521(c))

Informing the Veteran

§ 21.420 Informing the veteran.

(a) *General.* The VA will inform a veteran in writing of findings affecting receipt of benefits and services under chapter 31. This includes veterans:

(1) Requesting benefits and services; or

(2) In receipt of benefits and services. (38 U.S.C. 1502)

(b) *Notification.* (1) Each notification should include the decision or finding, the reasons, including fact and law, for the decision, the effective date of the decision or finding; and

(2) The veteran's appeal rights, if any. (38 U.S.C. 1502)

(c) *Prior notification of adverse action.* The VA shall give the veteran a period of at least 30 days to indicate his or her disagreement with an adverse action. If the veteran disagrees he or she shall be given the opportunity to:

(1) Meet informally with a representative of the VA;

(2) Review the basis for the VA decision, including any relevant written documents or material; or

(3) Submit to the VA any material which he or she may have relevant to the decision. (38 U.S.C. 1502)

(d) *Adverse action.* An adverse action is one which:

(1) Denies chapter 31 benefits, when such benefits have been requested;

(2) Reduces or otherwise diminishes benefits being received by the veteran; or

(3) Terminates receipt of benefits for reasons other than scheduled interruptions which are a part of the veteran's plan. (38 U.S.C. 1502)

Accountability

§ 21.430 Accountability for authorization and payment of training and rehabilitation services.

(a) *General.* The VA shall maintain policies and procedures which provide accountability in the authorization and payment of program costs for training and rehabilitation services. The procedures established under this section are applicable to all program costs except subsistence allowance (or the optional allowance at chapter 34 rates). Policies and procedures governing payment of subsistence allowance are governed by §§ 21.260 through 21.276, and §§ 21.320 through 21.334. (38 U.S.C. 1515(a)(4))

(b) *Determining necessary costs for training and rehabilitation services.* The estimates of program costs during a calendar year or lesser period shall be based upon the services necessary to carry out the veteran's rehabilitation plan during that period (§§ 21.80 through 21.98). The estimates will be developed by the DVB case manager. If additional approval is required, the DVB case manager shall secure such additional approval prior to authorization of services. (38 U.S.C. 1515(a)(4))

(c) *Limitations.* The limitations for authorization of program costs, exclusive of subsistence allowance (optional allowance) are:

(1) The DVB case manager may not authorize payment of program costs which will exceed $2,500 per year. If program costs for a year exceed $2,500, additional concurrence and review is required as specified in subparagraphs (2) through (4) of this paragraph;

(2) Program costs which will be greater than $2,500 but not more than $7,500 per year may be approved by the Vocational Rehabilitation and Counseling officer;

(3) Program costs which will be greater than $7,500 per year, but not more than $15,000 per year may be approved by the Director, VA Regional Office; and

(4) Program costs which will exceed $15,000 per year, may by approved by the Director, VR&C Service. (38 U.S.C. 1515(a)(4))

Cross-References: See § 21.156, Other incidental goods and services. § 21.258, Special assistance for veterans in self-employment.

Center heading and §§ 21.700–21.735 [Removed]

12. The center heading "COUNSELING" and §§ 21.700 through 21.735 are removed.

[FR Doc. 83-26737 Filed 9-30-83; 8:45 am]
BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 18)]

Exemption; Poultry, Meat and Dairy Products

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules (exemption).

SUMMARY: Georgia Poultry Federation petitioned the Commission to exempt from regulation under 49 U.S.C. 10505 the rail transportation of poultry and poultry products. Exemption of poultry and poultry products is proposed to provide the railroads with rate flexibility to compete with motor carriage which transports the predominant share of these products. The Commission has expanded the proposed exemption to include fresh and similarly processed meat and dairy products.

DATES: Comments are due November 2, 1983. The Commission intends to issue its final decision within 60 days of submission of comments.

COMMENTS: Send original and 10 copies of comments referring to Ex parte No. 346 (Sub-No. 18) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: See the Appendix for list of commodities included. Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423 or call 289-4357 (D.C. Metropolitan area) toll free (800) 424-5403.

This action does not significantly affect the quality of human environment or conservation of energy resources. We also certify that the proposed exemption will not have a significant economic impact on a substantial number of small entities, since the commodities involved move predominantly by motor carriers.

List of Subjects in 49 CFR Part 1039

Intermodal transportation, Railroads, Agricultural Commodities.

(49 U.S.C. 10321 and 10505 and 5 U.S.C. 553)

Dated: September 19, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix

49 CFR Chapter X is proposed to be amended by adding the following commodities to the list of commodities in § 1039.11(a):

§ 1039.11 Miscellaneous commodities exemptions.

(a) * * *

STCC No.	STCC tariff	Commodity
20-11	6001-K, eff. 1-1-83, as amended.	Fresh meat.
20-14-1.	do	Hides and Skins.
20-14-4.	do	Animal refuse, tankage, or meat meal.
20-15	do	Fresh dressed poultry.
20-17	do	Processed poultry.
20-21	do	Creamery Butter.
20-23	do	Condensed, Evaporated or Dried Milk.
20-25	do	Cheese and Special Dairy Products.
20-26	do	Processed Whole Milk.
20-99-926.	do	Freeze-dried poultry.
20-99-977.	do	Freeze-dried meat.
20-99-978.	do	Freeze-dried salad ingredients.
20-99-983.	do	Fresh and salted meat and products mixed, not hung.
20-99-984.	do	Fresh and salted meat and products mixed, hung and not hung.
20-99-929.	do	Butter and honey mixed.

* * * * *

[FR Doc. 83-26386 Filed 9-30-83; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 48, No. 192
Monday, October 3, 1983

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

ACTION

Information Collection Request Under Review by OMB

Summary: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter and other documents] may be obtained from the agency clearance officer.

Information about this proposed collection: Agency Clearance Officer-William W. Lovelace, 202–634–9310.

Agency Address: ACTION, 806 Connecticut Ave., NW., Washington, D.C. 20525.

Office of ACTION issuing proposal:
Office of Policy and Planning
Title of Form: Nomination Form for "The President's Volunteer Action Awards"
Type of Request: Reinstatement
Frequency of Collection: Annual
General Description of Respondents:
Individuals with Nominations for Awards
Estimated Number of Annual Responses: 2,500
Estimated Annual Reporting or Disclosure Burden: 2,500 hours
Respondent's Obligation to Reply:
Voluntary

Person responsible for OMB Review:
James L. Thomas, 202–395–6880

William W. Lovelace,

Action Clearance Officer.

[FR Doc. 83–26882 Filed 9–30–83; 8:45 am]

BILLING CODE 6050–01–M

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Deposting of Stockyard; DeSmet Livestock Exchange

It has been ascertained, and notice is hereby given, that the livestock market named herein, originally posted on the respective date specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer comes within the definition of a stockyard under said Act and is, therefore, no longer subject to the provisions of the Act.

Facility number, name, and location of stockyard	Date of posting
SD–112 DeSmet Livestock Exchange, DeSmet, South Dakota.	Sept. 26, 1983.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register.** This notice shall become effective upon publication in the **Federal Register.**

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 28th day of September 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83–26936 Filed 9–30–83; 8:45 am]

BILLING CODE 3410–02–M

Proposed Posting of Stockyard; Correction

On September 29, 1983, a notice was published in the **Federal Register** (48 FR 44598) giving notice of the proposed posting for certain stockyards listing their facility number, name, and location of stockyards.

This notice is to correct the previous notice by removing DeSmet Livestock Exchange, DeSmet, South Dakota.

The notice should have read:

SD–112 DeSmet Livestock Exchange, DeSmet, South Dakota.

Done at Washington, D.C., September 28, 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83–26937 Filed 9–30–83; 8:45 am]

BILLING CODE 3410–02–M

COMMISSION ON CIVIL RIGHTS

Arizona Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arizona Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 6:00 p.m. on October 14, 1983, at the Marriott Hotel, 180 West Broadway, Tucson, Arizona 85701. The purposes of this meeting are to discuss a proposal for a State Employment project; review responses received from the State Board of Regents on Affirmative Action in Universities; and receive a report on the SAC Chairs' Conference.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Richard Zazuetta, 5253 East Cholla, Phoenix, Arizona 85028, (602) 261–5911; or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 27, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–26953 Filed 9–30–83; 8:45 am]

BILLING CODE 6335–01–M

Minnesota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations

of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on October 17, 1983, at the Ruth Hawkins YMCA, 1801 James Avenue North, Minneapolis, Minnesota 55411. The purposes of this meeting are to receive a report on Minority Affairs at the University of Minnesota; discuss recommendations for updating the mental health project; and review a position paper on problems of Chicano/Latino medical students.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Ruth A. Myers, 1006 East Second Street, Apartment #L, Duluth, Minnesota 55805, (608) 263–1642; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 27, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-26954 Filed 9-30-83; 8:45 am]

BILLING CODE 6335-01-M

Nebraska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Nebraska Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 1:00 p.m. on October 24, 1983, at the InterNorth East Annex Building, 2027 Dodge Street, Omaha, Nebraska. The purpose of this meeting is to develop program plans for fiscal year 1984 and to discuss the Omaha Police-Community Relations Follow-up Study.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. James M. McClymond, 1213 South 113th Court, Omaha, Nebraska 68154, (402) 348–4258; or the Central States Regional Office, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri, (816) 374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 27, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-26955 Filed 9-30-83; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Vermont Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 10:00 p.m. on Novermber 4, 1983 and will convene again at 9:00 a.m. and will end at 4:30 p.m. on November 5, 1983, at Lake St. Catherine Inn, Box 129, Poultney, Vermont 05764. The purpose of this meeting is to explore ideas for Committee projects and receive reports from Civil Rights leaders on issues that they feel are important for the Committee to study.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson and Powell, P.C., Burlington, Vermont 05401, (802) 658–4300; or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 27, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-26956 Filed 9-30-83; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 2:30 p.m. and will end at 5:00 p.m. on October 24, 1983 at the Wisconsin Union, 800 Langdon Street, Madison, Wisconsin 53706. The purpose of this meeting is to receive a report from the Chairperson on the national Chairpersons' conference and reports from subcommittee chairs on meetings they held.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Herbert M. Hill, 2127 Van Hise Avenue, Madison, Wisconsin (608) 263–1642; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 27, 1983.

John I. Binkley,

Advisory Committee Management Officer

[FR Doc. 83-26952 Filed 9-30-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-007]

High Capacity Pagers From Japan; Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Antidumping Duty

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of allowance of security in lieu of estimated duty pending early determination of antidumping duty.

SUMMARY: The Department of Commerce has determined that it has sufficient information from Oi Electric Company to conduct an expedited review of the antidumping duty order on high capacity pagers from Japan with respect to such merchandise manufactured by Oi Electric Company. The Department will determine the appropriate foreign market values and United States prices by November 14, 1983. We will permit Oi Electric Company to post bonds or other security in lieu of the cash deposit of estimated antidumping duties for high capacity pagers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and on or before November 14, 1983.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Amy Dale or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1983, the Department of Commerce ("the Department") published in the **Federal Register** an antidumping duty order on high capacity pagers from Japan (48 FR 37058). The

Department announced that, in addition to deposit of estimated normal customs duties, Customs officers were to require a cash deposit of estimated antidumping duties on all merchandise entered, or withdrawn from warehouse, for consumption on or after August 16, 1983.

On August 12, 1983, Oi Electric Company requested that the Department waive the requirement for cash deposit of estimated antidumping duties and conduct an expedited review pursuant to section 736(c) of the Tariff Act of 1930 ("the Tariff Act").

Before granting a waiver of cash deposits of estimated antidumping duties we must be satisfied that we will be able to determine the appropriate foreign market values and United States prices within 90 days after the date of publication of the order. The Department is satisfied that it will be able to do so.

Accordingly, the Department is instructing the Customs Service to waive cash deposits of estimated antidumping duties and accept bonds or other security for high capacity pagers manufactured by Oi Electric Company entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and on or before November 14, 1983.

Interested parties may submit written comments within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days after the date of publication. The Department will determine the results of this expedited review by November 14, 1983, including the results of its analysis of any such comments or hearing.

This notice of Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Antidumping Duty is published in accordance with section 736(c)(2)(A) of the Tariff Act (19 U.S.C. 1673 e(c)).

Dated: September 23, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-26948 Filed 9-30-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-357-042; A-351-043]

Printed Vinyl Film From Argentina and Brazil; Final Results of Administrative Reviews of Antidumping Findings

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of final results of administrative reviews of antidumping findings.

SUMMARY: On June 8, 1983, the Department of Commerce published the preliminary results of its administrative reviews of the antidumping findings on printed vinyl film from Argentina and Brazil. The reviews covered the three known exporters of this merchandise to the United States and the period August 1, 1981 through July 31, 1982.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analyses, the final results are unchanged from those presented in the preliminary results of reviews.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Elizabeth Wright or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 26504-5) the preliminary results of its last administrative reviews of the antidumping findings on printed vinyl film from Argentina and Brazil (38 FR 22794, August 24, 1973). The Department has now completed those administrative reviews.

Scope of the Reviews

Imports covered by the reviews are shipments of printed vinyl film, also known as printed polyvinyl chloride sheeting, currently classifiable under item 771.4312 of the Tariff Schedules of the United States Annotated.

The reviews cover the three known exporters of Argentinean and Brazilian printed vinyl film to the United States and the period August 1, 1981 through July 31, 1982. There were no known shipments of this merchandise to the United States during the period and their are no known unliquidated entries.

Final Results of the Reviews

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analyses, the final results of our reviews are the same as those presented in the preliminary results of reviews, and we determine that a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, equal to the following percentages of the entered value shall be required on all shipments of printed vinyl film from those firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Exporter (country)	(Cash deposit (percent)
Plavinil Argentian S.A.I.C. (Argentina)	[1]0
Plasticos Plavinil, S.A. (Brazil)	[1]52
Vulcan Material Plastico, S.A. (Brazil)	[1]0

[1] No shipments during the period.

For any future entries of Brazilian printed vinyl film from a new exporter not covered in this or prior administrative review, whose first shipment occurred after July 31, 1982, and who is unrelated to any covered firm, a cash deposit of 52% shall be required. The Department shall not require a cash deposit of estimated antidumping duties on future shipments of Argentinean printed vinyl film from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after July 31, 1982, and who is unrelated to any reviewed firm. These deposits requirements shall remain in effect until publication of the final results of the next administrative reviews. The Department intends to begin immediately the next administrative reviews.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative reviews.

These administrative reviews and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675 (a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: September 23, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-26949 Filed 9-30-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-104]

Strontium Nitrate From Italy; Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of final results of administrative review of antidumping duty order.

SUMMARY: On June 23, 1983, the Department of Commerce published the preliminary results of its administrative

review of the antidumping duty order on strontium nitrate from Italy. The review covered the one known exporter of this merchandise to the United States, Societa Bario e Derivati S.p.A., and the period June 25, 1981 through May 31, 1982.

We gave interested parties an opportunity to comment on the preliminary results. We received a comment from a domestic interested party, Chemical Products Corporation. Based on our analysis of the comment, the final results of review are unchanged from the preliminary results.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Cynthia C. Connell or Susan M. Crawford, Office of Compliance, International Trade Administration, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–1130.

SUPPLEMENTARY INFORMATION:

Background

On June 23, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 28694–5) the preliminary results of its administrative review of the antidumping duty order on strontium nitrate from Italy (46 FR 32864, June 25, 1981). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of strontium nitrate, a chemical compound $Sr(NO_3)_2$, currently classifiable under item 421.7400 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of Italian strontium nitrate to the United States, Societa Bario e Derivati S.p.A., and the period June 25, 1981 through May 31, 1982.

Analysis of Comment Received

We invited interested parties to comment on our preliminary results. We received a comment from a domestic interested party, Chemical Products Corporation.

Comment: Chemical Products Corporation claimed that the Department erred in comparing two U.S. sales made in October and November 1981 with only one third-country sale to West Germany made in July 1981. Had the Department considered a weighted-average of the July 1981 sale of the two sales to West Germany in April 1982, in calculating foreign market value, the Department would have found both sales to the United States were made at less than foreign market value.

Department's Position: Under section 773(f) of the Tariff Act of 1930 ("the Tariff Act") we can weight-average sales in calculating foreign market value when a significant volume of sales is involved. In the absence of a significant volume of sales, we ordinarily use a recent third-country sale preceding a given U.S. sale date for comparison purposes. When no such sale is available, it is our policy to use a recent third-country sale following the given U.S. sale date for comparison purposes. In view of our preference for using third-country sales preceding the U.S. sale date for comparison purposes, we chose the July 1981 sale.

Final Results of the Review

Based on our analysis of the comment received, the final results of review are the same as the preliminary results, and we determine that no dumping margins exist for the period June 25, 1981 through May 31, 1982.

The Department shall instruct the Customs Service not to assess dumping duties on entries of Italian strontium nitrate with purchase dates during the period of review.

The Department shall not require a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on any shipments of Italian strontium nitrate entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: September 22, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-26850 Filed 9-30-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-423-065]

Viscose Rayon Staple Fiber From Belgium; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on viscose rayon staple fiber from Belgium. The review covers the one known exporter of this merchandise to the United States and the period December 1, 1981 through November 30, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

The Department has tentatively determined to revoke the finding because the one known exporter of this merchandise to the United States is no longer in business and because there have been no shipments of this merchandise to the United States for more than four years.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Ron Nichols or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 33309–10) the final results of its last administrative review of the antidumping finding on viscose rayon staple fiber from Belgium (43 FR 55240, November 27, 1978) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of viscose rayon staple fiber,

except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments), currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of Belgian viscose rayon staple fiber to the United states, Fabelta Zwijnaarde N.V., and the period December 1, 1981 through November 30, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Preliminary Results of the Review and Tentative Determination to Revoke

The one known exporter of this merchandise to the United States, Fabelta Zwijnaarde N.V., is no longer in business and there have been no shipments of this merchandise to the United States for more than four years. In accordance with § 353.54(c) of the Commerce Regulations, we tentatively determine on our own initiative to revoke the finding on viscose rayon staple fiber from Belgium.

If this revocation is made final it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and sections 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-26851 Filed 9-30-83; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations With the Government of Japan to Review Trade in Category 444

September 28, 1983.

On August 29, 1983 the Government of the United States requested consultations with the Government of Japan with respect to Category 444 (women's, girls', and infants' wool suits). This request was made on the basis of the Agreement of August 17, 1979, as amended and extended, between the Governments of the United States and Japan relating to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may request the Government of Japan to limit exports in Category 444, produced or manufactured in Japan and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983 at a level of 15,992 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Category 444 under the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement with the Government of Japan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in Category 444, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-26946 Filed 9-30-83; 8:45 am]

BILLING CODE 3510-DR

Controlling Imports of Certain Cotton Apparel Products From Haiti

September 29, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs, effective on October 3, 1983. For further information contact Carl Ruths (202/377-4212).

Background

Federal Register notices dated July 18 and August 17, 1983 (48 FR 33331 and 38065) announced that the Government of the United States had requested consultations with the Government of Haiti, under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of March 25 and April 1, 1982, concerning cotton nightwear and cotton dresses in Categories 351 and 336. The notices further advised that if no solution were agreed upon between the two governments within a prescribed period, entry and withdrawal from warehouse for consumption of cotton textile products in Categories 351 and 336, produced or manufactured in Haiti and exported during the respective twelve-month periods which began on June 29 and July 27, 1983 might be restrained at levels of 100,463 dozen and 62,264 dozen, respectively. In view of the extended consultation period and in the absence of a final agreement concerening these two categories, the Government of the United States has decided to control imports in the two categories at the designated levels.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Effective Date: October 3, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 29, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of February 23, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton textile products, produced or manufactured in Haiti.

Effective on October 3, 1983, the directive of February 23, 1983 is hereby amended to include levels of restraint of 100,463 dozen for cotton textile products in Category 351, exported on or after June 29, 1983 and for the twelve-month period extending through June 28, 1984, and 62,264 dozen for cotton textile products in Category 336, exported on and after July 27, 1983 and for the twelve-month period extending through July 26, 1984.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-26988 Filed 9-30-83; 8:45 am]

BILLING CODE 3510-DR-M

Controlling Imports of Certain Cotton Apparel Products From Mexico

September 29, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 3, 1983. For further information contact William Boyd, International Trade Specialist, 202/377-4212.

Background

Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and Mexico, the Government of the United States has decided to control imports of cotton dresses in Category 336, produced or manufactured in Mexico and exported during the agreement year which began on January 1, 1983 at the agreement limit of 22,075 dozen. The limit is being adjusted to account for imports in the category during the period January 1–July 31, 1983 which have amounted to 20,392 dozen. As the data become available, further charges will be made to account for the period which began on August 1 and extends through the effective date of this action, as well as thereafter. The letter from the Chairman of CITA to the Commissioner of Customs, which follows this notice implements this action.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 29, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 3, 1983, entry into the United States for consumption and withdrawal from warehouse for comsumption of cotton textile products in Category 336, produced or manufactured in Mexico and exported on and after January 1, 1983 and extending through December 31, 1983, in excess of 22,075 dozen.[1]

Textile products in Category 336 which have been exported to the United States prior to January 1, 1983 shall not be subject to this directive.

Textile products in Category 336 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-26989 Filed 9-30-83; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Restraint Level for Certain Cotton, Wool, and Man-Made Fiber Apparel Products From Mauritius

September 29, 1983.

ACTION: Establishing an import restraint level of 115,000 dozen for cotton, wool, and man-made fiber knitwear apparel products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, produced or manufactured in Mauritius and exported to the United States during the twelve-month period beginning on October 1, 1983 and extending through September 30, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 2 and 5, 1981 between the Governments of the United States and Mauritius establishes a twelve-month period of restraint for cotton, wool, and man-made fiber knitwear apparel products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, during the agreement period beginning on October 1, 1983 and extending through September 30, 1984. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, produced or manufactured in Mauritius and exported during the twelve-month period, in excess of 115,000 dozen.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the

[1] The levels of restraint have not been adjusted to account for any imports after June 28 or July 26, 1983.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1982. During the period January 1–July 31, 1983 imports in this category have amounted to 20,392 dozen.

bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 29, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 2 and 5, 1981, as amended, between the Governments of the United States and Mauritius, and in accordance with Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 1, 1983 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, produced or manufactured in Mauritius and exported during the twelve-month period beginning on October 1, 1983 and extending through September 30, 1984, in excess of 115,000 dozen.

In carrying out this directive textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, which have been exported to the United States during the twelve-month period beginning on October 1, 1982 and extending through September 30, 1983, shall, to the extent of any unfilled balance, be charged against the level of restraint established for such goods during that twelve-month period. In the event the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

The level set forth above is subject to adjustment in the future according to the provisions of the bilateral agreement of October 2 and 5, 1981, between the Governments of the United States and Mauritius, which provide, in part, that (1) the level may be exceeded by not more than 10 percent for carryover and carryforward and (2) the two governments agree to consult on any question arising in the implementation of the bilateral agreement. Any appropriate adjustments under the provisions of the agreement, referred to above, will be made to you by letter

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19824)).

In carrying our the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Mauritius and with respect to imports of cotton, wool and man-made fiber textile products from Mauritius has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Water C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–28887 Filed 9–30–83; 8:45 am]
BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Domestic Household Goods Program

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of change in procedures for soliciting rates for interstate shipments of Department of Defense (DOD) household goods.

SUMMARY: The Military Traffic Management Command (MTMC) is consideing the modification of procedures associated with the acquisition of rates for interstate shipments of household goods, effective with the 6-month cycle commencing with May 1, 1984. The MTMC rate solicitation will replace basic military rate tenders (MBTs, MRTs, GRTs) now published by the Moving Industry Rate Bureaus or Associations.

This change in acquisition procedures, from using collectively set bureau rates to an MTMC solicitation document requiring all carriers and forwarders independently and individually to file rate submissions, is in the overall best interest of the Department of Defense (such as increasing competition and protecting DOD shipper interests) and reflects our recent experience of a significantly increasing number of independent rate filings coming into MTMC from individual carriers.

The Personal Property Traffic Management Regulation (PPTMR), DOD 4500.34–R, is proposed to be changed as follows: *Chapter 2, Glossary of Terms and Chapter 6 para 6001h.* by adding the following:

Household goods domestic rate solicitation: An acquisition procedure for the solicitation of rates for domestic shipment of DOD household goods which requires submission of individual rate tenders by individual carriers through independent action. The government solicitation contains terms and conditions and may contain baseline rates and charges.

The MTMC acquisition official concerned will determine when and under what circumstances in achieving economy, efficiency and cost effectiveness as directed under DoD Directives 4500.9 and 4500.34, the foregoing acquisition procedure will be utiliized instead of submission of Military Basic Tenders by carrier bureaus and associations authorized elsewhere in this regulation or in pertinent MTMC instructions for filing tenders for personal property shipments.

Where a determination is made to utilize the household goods domestic rate solicitation procedure, solicitations for competitive rates will be sent to and responsive tenders will be received from DoD-approved individual carriers and licensed freight forwarders. Traffic requirements will be granted to those low rate responsible carriers and freight forwarders whose tenders are responsive and most advantageous to the government. A responsible carrier is one who:

(a) Is listed on the DoD list of approved carriers and freight forwarders;

(b) Has appropriate operating authority and licenses;

(c) Has adequate financial resources;

(d) Has the ability to comply with required delivery performance schedules;

(e) Has a satisfactory record of performance and integrity and is otherwise qualified under applicable law and regulations.

Tenders or rate bureaus and associations engaged in collective ratemaking functions inconsistent with the government's goal to maximize competition, will not be solicited nor received.

Chapter 1, para 1002c is proposed to be changed by adding the following: Rates for household goods transportation services may be solicited on a competitive basis. Any and all rates received may be rejected because of unreasonbly high price or other reasons. Any other MTMC sponsored regulations that may require changing will be changed, if this should be necessary due to human oversight.

DATE: A briefing for Industry will be held at the National Guard Association Memorial, 1 Massachusetts Avenue NW., Washington, D.C. 20006 at 1:00 pm on October 7, 1983, to explain the new procedures and answer questions.

COMMENTS: Written comments will be considered if submitted before noon on October 17, 1983.

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman, HQ Military Traffic Management Command, ATTN: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, VA 22041.

ADDRESS COMMENTS TO:

Commander, HQ, Military Traffic Management Command, ATTN: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041 (File: SFRA).

This request for comments and the resulting determinations are being made under the authority of 10 U.S.C. 2301-2314 and DoD Directive 4500.9 and DOD 4500-34-R.

Nathan R. Berkley,

Colonel, GS, Director of Personal Property.

September 28, 1983.

[FR Doc. 26932 Filed 9-30-83; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Performance of Commercial Activities: Announcement of Program Cost Studies

Correction

In FR Doc. 83-24217 beginning on page 40541 in the issue of Thursday, September 8, 1983, make the following corrections:

1. On page 40543, in the second column, under "Naval Surface Weapons Center, Dahlgren, VA," the sixth through the twelfth lines should have read:

"Machine Parts
Buildings and Structures (Other Than Family Housing)
Recreational Library
Other Recreational, Morale and Welefare Activities".

2. Also on page 40543, in the second column, the first three entries under "Navy Regional Data Automation Facility, Norfolk, VA," namely, "Railroad Facilities,""Insect and Rodent Control", and "Other Utilities", should have appeared as the last three entries under "Naval Surface Weapons Center, Dahlgren, VA," above.

BILLING CODE 1505-01-M

DEPARTMENT OF EDUCATION

Training Personnel for the Education of the Handiapped Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Application Notice Establishing Closing Date for Transmittal of Fiscal Year 1984 New Applications.

Applications are invited for new projects under the Training Personnel for the Education of the Handicapped program.

Authority for this program is contained in Sections 631, 632, and 634 of Part D of the Education of the Handicapped Act.

(20 U.S.C. 1431, 1432, and 1434)

Applications may be submitted by State educational agencies, institutions of higher education, and other nonprofit institutions or agencies.

The purpose of the program is to improve the quality and increase the supply of special educators and support personnel.

The Secretary published final regulations for the Training Personnel for the Education of the Handicapped program on May 24, 1983 (48 FR 23206).

Prospective applicants are advised that the Congress is considering legislation to amend the statutory authority for Part D of the Education of the Handicapped Act which authorizes programs for training personnel for the education of handicapped persons. If such legislation is enacted with respect to fiscal year 1984 appropriations which requires a substantive change in any of the priorities or other requirements for new projects, applicants will be given the opportunity to amend or resubmit their applications.

Closing date for transmittal of applications: Applications for new awards should be mailed or hand delivered on or before November 28, 1983.

Applications delivered by mail: Applications must be addressed to the Department of Education, Application Control Center, Attention: (insert appropriate CFDA Priority Number), 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: Hand-delivered applications must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: An applicant for a grant may propose a project period of up to 36 months. Generally, awards will be made for a period of 24 months to 36 months. Since fiscal year 1984 appropriation levels have not been determined yet, accurate estimates of funding under each priority are not available. It is expected that funding will be available to award new grants at the funding levels indicated below under the application notice for each priority.

These estimates of funding levels do not bind the Department to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application Notices

The regulations provide that the Secretary, in any fiscal year, may establish one or more of the following seven priorities:

(a) Preparation of special educators;

(b) Preparation of leadership personnel;

(c) Preparation of related services personnel;

(d) State educational agency programming;

(e) Special projects;

(f) Specialized training of regular educators; and

(g) Preparation of trainers of volunteers, including parents.

The Secretary proposes to award grants under each of these priorities in fiscal year 1984. Because there is a pressing national need to integrate

services in education, health, and rehabilitation for handicapped adolescents and young adults, and because there is extreme variability in the quality and level of services available for newborn and infant handicapped children, the Secretary especially urges the submission of applications (i) to prepare personnel to assist handicapped students in the transition from school to employment and community living and (i) to prepare personnel to provide services to newborn and infant handicapped children. The Secretary also urges the submission of applications to prepare personnel to educate minority or underserved populations and provide training for members of groups that have been traditionally underrepresented. Applications that meet these invitational priorities, however, will not receive a competitive or absolute preference over other applications that describe projects for the training of personnel for the education of handicapped children in accordance with the seven priorities listed below.

84.029BH—Handicapped—Preparation of Special Educators—New Projects

Program information: The Special Educators priority supports projects designed to provide training for personnel engaged or preparing to engage in employment as special educators of handicapped children or as supervisors of such educators. This priority includes the preparation of early childhood specialists, special educators of the handicapped, special administrators and supervisors, speech-language pathologists, audiologists, physical educators, and vocational educators. Awards will be made for preservice training only.

Available funds: About 50 percent of the funds made available for new training personnel for the education of the handicapped awards for fiscal year 1984 will be made available for this priority. The average grant is expected to be about $50,000.

84.029DH—Handicapped—Preparation of Leadership Personnel—New Projects

Program information: The Leadership Personnel priority supports doctoral and post-doctoral preparation of professional personnel to conduct training of teacher trainers, researchers, administrators, and other specialists. Awards will be made for preservice training only.

Available funds: About 17 percent of the funds made available for new training personnel for education of the handicapped awards for fiscal year 1984 will be made available for this priority. The average grant is expected to be about $79,000.

84.029FH—Handicapped—Preparation of Related Services Personnel—New Projects

Program information: The Related Services Personnel priority supports the preparation of individuals who provide developmental, corrective, and other supportive services as may be required to assist a handicapped child to benefit from special education. This priority supports the preparation of paraprofessional personnel, career educators, recreation specialists, health services personnel, school psychologists, social service providers, physical therapists, occupational therapists, and other related services personnel. Awards will be made for preservice training only.

Available funds: About eight percent of the funds made available for new training personnel for the education of the handicapped awards for fiscal year 1984 will be made available for this priority. The average grant is expected to be about $40,000.

84.029HH—Handicapped—State Educational Agency Programming—New Projects

Program information: The State Educational Agency Programming priority supports projects dealing with unique State-wide training in all or several of the need areas identified by the Comprehensive System of Personnel Development (CSPD), and may include training in management and organizational design which enhances the ability of States to provide comprehensive services to handicapped children. Only State Educational Agencies are eligible to sumbit applications under this priority. Awards will be made for preservice and/or inservice training.

Available funds: About eight percent of the funds made available for new training personnel for the education of the handicapped awards for fiscal year 1984 will be made available for this priority. The average award is expected to be about $80,000.

84.029KH—Handicapped—Special Projects—New Projects

Program information: The Special Projects priority supports the development, evaluation, and distribution of imaginative or innovative approaches to personnel preparation, and includes development of materials to prepare personnel to educate handicapped children. Awards will be made for preservice and/or inservice activities.

Available funds: About five percent of the funds made available for new training personnel for the education of the handicapped awards for fiscal year 1984 will be made available for this priority. The average grant is expected to be about $77,500.

84.029SH—Handicapped—Specialized Training of Regular Educators—New Projects

Program information: The Specialized Training of Regular Educators priority supports projects that provide deans or equivalent administrators from institutions of higher education or local educational agency officials the skills necessary to promote development of regular classroom teachers, administrators, and supervisors. The purpose is to provide quality education to handicapped children who receive part of their education in regular classes.

Available funds: About five percent of the funds made available for new training personnel for the education of the handicapped awards for fiscal year 1984 will be made available for this priority. The average award is expected to be about $40,000.

84.029PH—Handicapped—Preparation of Trainers of Volunteers, Including Parents—New Projects

Program information: This priority supports the preparation of trainers of volunteers, including parents, to assist in the provision of educational services to handicapped students. In addition to the preparation of volunteers and parents by experienced professionals, this priority may support projects which emphasize the training of parents by parents.

Available funds: About seven percent of the funds made available for new training personnel for the education of the handicapped awards for fiscal year 1984 will be made available for this priority. The average award is expected to be about $50,000.

Application forms: Application forms and program information packages for new applications are scheduled for October 12, 1983 mailing. These materials may be obtained by writing to the Division of Personnel Preparation, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Room 4805, Donohoe Building, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. However, the program information is intended only to aid applicants in

applying for assistance. Nothing in the program information packages is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary urges that the narrative portion of the application not exceed 75 pages in length. The Secretary further urges applicants to submit only the information that is requested.

Applicable regulations: Regulations applicable to this program announcement include the following:

(a) Regulations governing the Training Personnel for the Education of the Handicapped (34 CFR Part 318); and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT:

Dr. Herman Saettler, Acting Director, Division of Personnel Preparation, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Donohoe Building, Room 4805, Washington, D.C. 20202. Telephone: (202) 245-9886.

(20 U.S.C. 1431, 1432, 1434)

(Catalog of Federal Domestic Assistance No. 84.029, Training Personnel for the Education of the Handicapped Program)

Dated: September 28, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-26918 Filed 9-30-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Advisory Committee on Federal Assistance for Alternative Fuel Demonstration Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Federal Assistance for Alternative Fuel Demonstration Facilities.

Date and Time: Monday, October 31, 1983—3:00 p.m. to 6:00 p.m.

Place: Flamingo Hilton and Tower, 3555 Las Vegas Blvd., South, Las Vegas, Nevada 89109.

Contact: Patricia Dickinson, Office of Oil, Gas, Shale and Coal Liquids, U.S. Department of Energy, Germantown, Maryland 20545, Room D-119, Mail Stop D-107, Telephone: (301) 353-2700.

Purpose: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to the development of alternative fuels.

Tentative agenda:

- Welcome
- Cool Water Coal Gasification Project Presentation
- Great Plains Coal Gasification Project (GPCGP) Status Review Presentation
- California Energy Commission (CEC) Presentation
- Regional Environmental, Health Safety, and Socioeconomic (EHS&S) Impact Presentation
- Scientific Community Presentation
- Regional and Institutional EHS&S Impact Report Presentation
- Advisory Committee Deliberations
- Public Commentary and Discussion (10 minute rule)
- Closing Remarks

Public participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Mr. Keith N. Frye at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 100 Independence Avenue, SW., Washington, D.C. between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on September 27, 1983.

Howard H. Raiken,

Deputy Advisory Committee Mangement Officer.

[FR Doc. 83-26881 Filed 9-30-83; 8:45 am]

BILLING CODE 6450-01-M

Dose Assessment Advisory Group; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Dose Assessment Advisory Group.

Date and time: Thursday, October 20, 1983—8:30 a.m. to 4:30 p.m. Friday, October 21, 1983—8:30 a.m. to 3:30 p.m.

Place: Department of Energy, Nevada Operations Office Auditorium, 2753 South Highland Drive, Las Vegas, Nevada.

Contact: Marshall Page, Jr., Deputy Project Manager, Off-Site Radiation Exposure Review Project, Nevada Operations Office, U.S. Department of Energy, Post Office Box 14100, Las Vegas, Nevada 89114, Telephone: 702/734-3194.

Purpose of the group: To provide the Secretary of Energy and the Manager, Nevada Operations Office (NV), with advice and recommendations pertaining to the Off-Site Radiation Exposure Review Project (ORERP). This project concerns the evaluation and assessment of the amount of radiation received by members of the off-site population surrounding the Nevada Test Site (NTS) as a result of the nuclear test operations conducted at the NTS.

Tentative agenda:

October 20, 1983:

—Welcome and Introduction
—Report of Subcommittee on Source Term Ratios
—Report of Subcommittee on Coordination and Information Center
—Comments on DAAG Recommendations
—Update on Phase II, ORERP Project
—Update on EML Plutonium Analysis
—NURE Mapping Update/Extended Pattern Analysis
—Computation Methodology for Exposure Rate/Time of Arrival
—Radiation Exposure of Sheep which died following the 1953 Nuclear Test in Nevada
—Pathway Model Progress Report
—Internal Dose Progress Report
—External Dose Progress Report
—University of Utah Milk Project
—Milk Distribution Project Board
—Discussion and Comment by DAAG Members
—Public Comments and Questions (5-Minute Rule)

October 21, 1983:

—Data Analysis Progress Report
—CIC Progress Report
—Small Boy Fallout Pattern Analysis
—Aerial Measurement Update
—Smoky Fallout Pattern Analysis
—Meteorological Modeling
—Discussion and Comment by DAAG Members
—Public Comments and Questions (5-Minute Rule)

Public participation: The meeting is open to the public. The Chairperson of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Marshall Page, Jr., at the address or telephone number listed above.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on September 27, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-26879 Filed 9-30-83; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: National Petroleum Council.

Date and time: Thursday, November 10, 1983—9:30 a.m.

Place: the Madison Hotel, Dolley Madison Ballroom, 15th and M Streets, NW., Washington, D.C.

Contact: Gerald J. Parker, Office of Oil, Gas and Shale Technology, U.S. Department of Energy, Mail Stop D–122, GTN, Washington, D.C., Telephone: 301/353–3032.

Purpose of Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative agenda:

—Call to Order by Chairman of the National Petroleum Council.
—Remarks by the Secretary of Energy.
—Reports of the Study Committees of the National Petroleum Council:
a. Committee on Enhanced Oil Recovery
b. Committee on Petroleum Inventories and Storage Capacity
—Consideration of Any Other Business Properly Brought Before the National Petroleum Council.
—Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gerald J. Parker at the address or telephone number listed on the previous page. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on September 27, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-26880 Filed 9-30-83; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Offer of New Regionwide Conservation Program Contracts

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of contract offers.

SUPPLEMENTARY INFORMATION: The Bonneville Power Administration has offered new regionwide electric energy conservation contracts to its power sales customers. These contracts are intended to replace the existing short-term conservation contracts which expire on September 30 of this year. Both residential weatherization and street and area lighting contracts were offered. These offers were effective on August 1, 1983. This action culminated a process of negotiation and public involvement which began in January of this year.

Copies of the generic contracts are available from the BPA Public Involvement office or from any of the other BPA addresses listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph F. Cade, Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212, 503–230–3478. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington, 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9138.

Issued in Portland, Oregon, on September 23, 1983.

Peter T. Johnson,

Administrator.

[FR Doc. 83-26822 Filed 9-30-83; 8:45 am]

BILLING CODE 6450-01-M

Interim Extension of the Deadline by Which the Alumax Pacific Corporation Must Declare Its Intent To Place Load on the Bonneville Power Administration

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of interim deadline extension. *BPA File No.:* Alx–1.

SUMMARY: The Alumax Pacific Corporation (Alumax) holds a contract with the Bonneville Power Administration for delivery of power to the corporation's proposed aluminum reduction plant to be located near Umatilla, Oregon. The contract requires Alumax to notify BPA by October 1, 1983, if it wishes to eventually receive power for the plant. Alumax wishes to extend that deadline by 2 years. BPA is granting Alumax a 120-day extension in order to allow time to more fully study the matter and to receive public comments on alternate proposals which may be devised by BPA.

Responsible Official: Thomas M. Noguchi, Director, Division of Customer Service.

DATES: Under the interim deadline extension, Alumax must declare its intent to place load on BPA by January 31, 1984.

ADDRESSES: Address queries on this matter to Ms. Donna L. Geiger, BPA Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503–230–3478. Oregon callers outside of Portland may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:.

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920

Riverside Avenue, Spokane, Washington 99201, 509–446–2518.
Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860.
Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 590–662–4377, extension 379.
Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.
Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.
Mr Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.
Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9138.

SUPPLEMENTARY INFORMATION:

I. Alumax Requests Extension

Alumax holds a 20-year power sales contract with BPA designed to provide electricity for an aluminum reduction plant Alumax proposed to build and operate in Umatilla, Oregon. The contract requires that Alumax commit itself by October 1, 1983 to receive power under the contract. On July 25, 1983, Alumax asked BPA to delay the October 1, 1983, deadline to October 1, 1985.

II. Public Comments Received

On August 18, 1983, BPA requested public comment on this matter (48 FR 37510). BPA received more than 70 comments in the comment period, which closed September 12, 1983. Commenters from the Umatilla, Oregon area generally supported extending the deadline. Commenters from other areas generally expressed reservations or opposed extension of the deadline.

A number of commenters suggested BPA further analyze the implications of an extension on future Northwest power resource needs and on BPA rates. Other commenters suggested BPA impose amendments on Alumax reflecting the value of a deadline extension.

III. Interim Deadline Extension Granted

BPA agrees that further time is needed to adequately analyze the implications of a deadline extension and to design an appropriate course of action. BPA has therefore granted Alumax an extension of the October 1, 1983, deadline to January 31, 1984. During this period, BPA will study its options, propose a course of action, request public comments on that proposal, and determine its final course of action on this matter.

IV. Further Comments To Be Requested

BPA intends to complete its study and propose a course of action by mid-November 1983. The proposed course of action will be circulated for public comment to BPA customers, all persons who have commented on the Alumax deadline issue to date, and others whom BPA believes may be interested. Persons who receive this notice by mail from BPA need take no action now; they will automatically receive the proposed course of action when it is available, and will be asked to comment on it.

Other persons may comment on BPA's proposed course of action when available by contacting the BPA Public Involvement office now and expressing interest in the Alumax extension. The BPA Public Involvement office location is listed above under **ADDRESSES.**

V. Final Action To Be Published

BPA will consider the comments it receives on its proposal in making its final determination on Alumax's request for a 2-year extension of the October 1, 1983, deadline. BPA will publish a notice of its final action on this matter in the **Federal Register** on or after January 31, 1984.

Issued in Portland, Oregon, on September 27, 1983.

Peter T. Johnson,

Administrator.

[FR Doc. 83-26983 Filed 9-29-83; 11:24 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-83-013; FC Case No. 52036-9234-01, 02-82]

Order Granting to New York State Electric & Gas Corp. an Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a temporary public interest exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or "the Act") to the New York State Electric & Gas Corporation (NYSEG). The temporary exemption permits the use of petroleum as the primary energy source in two oil-fired auxiliary boilers to be used from September 1983 to December 1984 to provide heating and start-up functions during the construction of a coal-fired electric powerplant at NYSEG's Somerset Station, Somerset, New York. The final exemption order and detailed information on the proceeding is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The order shall take effect on December 2, 1983. (section 702(a), FUA). The temporary exemption granted in the order shall extend from September 1983 through December 1984.

The public file containing a copy of the order, other documents and supporting materials on this proceeding is available for inspection upon request at: Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-033, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-1316

Marya Rowan, Office of General Counsel, Department of Energy, Forrestal Building, Room 6B-235, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967

SUPPLEMENTARY INFORMATION: On May 24, 1983, NYSEG petitioned ERA under section 211(c) of FUA and 10 CFR 503.25 for a temporary public interest exemption to permit the use of petroleum as the primary energy source in two 189 MM/Btu/hr. oil-fired auxiliary boilers to be used to provide heat for the turbine boiler room and start-up functions during the construction of the main coal-fired electric powerplant at its Somerset Station, Somerset, New York. The temporary exemption which ERA has granted extends from September 1983 to December 1984. Following the expiration thereof, a permanent exemption will not be required as the auxiliary boiler will perform support functions for the main powerplant which are not prohibited by FUA.[1]

Basis for Temporary Exemption Order

The temporary exemption order is based upon evidence in the record

[1] See: Definition of primary energy source in 10 CFR 500.2. During the operation of the coal-fired powerplant, oil consumption of the auxiliary units when performing ignition, start-up, flame stabilization, testing and other control functions will not exceed twenty-five percent (25%) of the total annual Btu heat input of the auxiliary units and the electric powerplant. Such use will, therefore, not be prohibited by FUA. SEE also, *Associated Electric Cooperative, et al.*, Interpretation 1980-42 (45 FR 82572, December 15, 1980).

including NYSEG's certification to ERA, in accordance with 10 CFR § 503.25(c), that the use of oil in the two auxiliary boilers is required during the construction of the Somerset coal-fired electric powerplant (an alternate-fuel fired unit), and that the units will be operated on oil as their primary energy source only during the construction period of such unit.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of the Petition and Availability of Certification in the **Federal Register** on August 2, 1983 (48 FR 35007), commencing a 45-day public comment period.

Copies of the petition were provided to the Environmental Protection Agency and to the Federal Trade Commission for comments as required by section 701 (f) and (g) of the Act. During the comment period, interested persons were also afforded an opportunity to request a public hearing. The comment period closed on September 17, 1983; no comments were received and no hearing was requested.

NEPA Compliance

Under section 763 of FUA, the grant of a temporary exemption to a major fuel burning installation is not deemed to be a major Federal action for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969.

Order Granting Temporary Public Interest Exemption

Based upon the entire record of this proceeding, ERA has determined that NYSEG has satisfied the eligibility requirements for the requested temporary exemption, as set forth in 10 CFR § 503.25. Therefore, pursuant to section 211(c) of FUA, ERA hereby grants a temporary public interest exemption to NYSEG to permit the use of petroleum as the primary energy source for its two auxiliary boilers at the Somerset Station, Somerset, New York, from September 1983 to December 1984, in conjunction with the construction of an alternate fuel-fired powerplant at that site.

Pursuant to section 702(c) of the Act and 10 CFR § 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register**

Issued in Washington, D.C., on September 22, 1983.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-26927 Filed 9-30-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Period of June 13 Through July 1, 1983

During the period of June 13 through July 1, 1983, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

September 23, 1983.

Goodman Oil Company, Boise, Idaho, HEE-0071, petroleum

Goodman Oil Company filed an Application for Exception from the provisions of the EIA reporting requirements. The exception request, if granted, would permit Goodman to be exempt from filing Form EIA-782B, "Monthly No. 2 Distillate Sales Report." On July 1, 1983, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 83-26923 Filed 9-30-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 29 Through September 2, 1983

During the week of August 29 through September 2, 1983 the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Modification and/or Rescission

Economic Regulatory Administration, 09/02/83, HRR-0045, HRD-0122

The Economic Regulatory Administration (ERA) filed a Motion for Reconsideration of the January 3, 1983 interlocutory Decision and Order issued by the Office of Hearings and Appeals (OHA) in *Sun Co.*, 10 DOE ¶82,542 (1983). In that Decision, OHA had determined that a Consent Order entered into between DOE and Sun Company, Inc. (Sun) served to reduce the potential overcharge liability of MAPCO, Inc. (MAPCO), the recipient of a Proposed Remedial Order, with respect to a property in which Sun held a working interest and MAPCO was the operator.

The OHA determined that the ERA's Motion for Reconsideration should be granted and that the previous interlocutory Decision and Order should be vacated. Important matters discussed in the Decision and Order include: (i) the question of whether an operator's ability to obtain contribution from working interest owners is properly considered in determining liability for overcharges, (ii) whether questions of contribution are more appropriately considered in an exception proceeding rather than an enforcement proceeding, (iii) whether a consent order entered into by the DOE and a working interest owner of a property prevents the DOE from bringing an enforcement action against a third party operator of that property, and (iv) the applicability of principles of agency law to operators and working interest owners.

Refund Application

Standard Oil Company (Indiana)/Jurgens Oil Company, 09/01/83, RF21-6719

The DOE issued a Decision and Order concerning four Applications for Refund filed by two firms that are both resellers and consumers of Amoco middle distillates. These firms elected to apply for a refund based upon the presumption of injury and the

formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the two applicants should receive a refund based upon the total volume of its Amoco middle distillate purchases. The refunds granted in this proceeding total $254.

Dismissals

The following submissions were dismissed:

Name and Case No.

City of Babbitt, RF21-7284
Ben Shimek, HRH-0020
Petco, Inc. Interstate, RF21-7011
Pilot Freight Carriers, Inc. RF21-12016
Quincy Oil, Inc., DRA-0336
R. S. Trailer Repair, RF21-10753
Stark's Triangle Service, RF21-6819
Ward Oil Company, RF21-10804
Watonwan County, RF21-5746
White Oil Company, RF21-4820, RF21-11429

The following Amoco Refund Application was dismissed on the grounds that the applicant had already received a refund directly from Amoco:

Name and Case No.

North Hennepin Community College, RF21-10602

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

September 23, 1983.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

[FR Doc. 83-26924 Filed 9-30-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 12 Through September 16, 1983

During the week of September 12 through September 16, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

J.C. Yamas Co., 9/12/83, HFA-0175

The J.C. Yamas Company filed an Appeal from a partial denial by the Director of the Office of Petroleum and Oil Shale Reserves of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Director had correctly determined that the portions of the documents withheld contained predecisional materials which were part of the agency's deliberative processes. The DOE concluded that this information was therefore properly withheld under FOIA Exemption 5. Accordingly, the Appeal was denied.

Remedial Order

Mobil Oil Corporation, 9/13/83, HRO-0016

Mobil Oil Corporation filed a Statement of Objections to a Proposed Remedial Order issued to the firm by the Office of Special Counsel. In the PRO, the OSC alleged that Mobil had received over $2 million in refunds of supplemental fees that the firm had previously paid in the connection with imported crude oil. Although Mobil had originally included the payments of supplemental fees within its cost of crude oil, the firm did not later reduce its crude oil costs to fully reflect all of its refunds. Mobil asserted in its Statement of Objections that subsequent to the issuance of the PRO, the firm refiled all of its Refiner Monthly Cost Allocation Reports to reflect the refunds received and that it has thus taken the action sought by the OSC in the PRO. The OSC then filed a Motion to Dismiss in which it stated that Mobil had in fact complied with the PRO. Accordingly, the DOE dismissed the remedial order proceeding.

Dismissals

The following submissions were dismissed:

Name and Case No.

Gary Energy Corporation, BRO-1344, HRO-0134
J. S. Beebe, HCX-0033
Lee Way Motor Freight, Inc., RF21-2746
Office of Special Counsel/Atlantic Richfield Co., HRZ-0101
Russell W. McAtee, RF21-10091

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

September 23, 1983.

[FR Doc. 83-26925 Filed 9-30-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of September 9 Through September 16, 1983

During the Week of September 9 through September 16, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

September 23, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 9 through Sept. 16, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 25, 1983	Dorchester Gas Corporation, Dallas, Texas	HRS-0038	Request for Stay. If granted: The August 3, 1983 Decision and Order (Case Nos. HRD-0052 and HRH-0045) would be stayed regarding the scheduling of an evidentiary hearing, pending completion of a grand jury investigation of the petitioner's operations.
Sept. 9, 1983	Department of Interior, Washington, D.C.	HED-0165, HEH-0165	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Laketon Asphalt Refining, Inc. in response to the July 5, 1983 Proposed Decision and Order (Case No. HEE-0051) issued to the Department of Interior.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Sept. 9 through Sept. 16, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 12, 1983	Halliburton Company, Houston, Texas	HRD-0163, HRH-0163	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the November 5, 1982 Proposed Remedial Order (Case No. HRO-0111) issued to Vessels Gas Processing Company.
Sept. 12, 1983	National Caucus of Labor Committees, New York, New York	HFA-0183	Appeal of an Information Request Denial. If granted: The August 19, 1983 Freedom of Information Request Denial issued by the DOE Office of Safeguards and Security would be rescinded, and the National Caucus of Labor Committees would receive access to certain DOE information.
Sept. 13, 1983	National Hydrocarbons Group, Inc., Houston, Texas	HRD-0164, HRH-0164	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by National Hydrocarbons Group, Inc. in response to the May 13, 1983 Proposed Remedial Order (Case No. HRO-0164) issued to National Hydrocarbons Resources Corporation.
Sept. 14, 1983	Stripper Well Litigation, Wichita, Kansas	HEF-0025	Implementation of Special Refund Procedures. If granted: Pursuant to a September 13, 1983 court decision regarding the DOE stripper well exemption litigation (MDL 378), the Office of Hearings and Appeals would conduct factfinding to determine what parties were injured by overcharges and by what amounts, and to recommend to the court how restitution can best be achieved.
Sept. 15, 1983	Westport Petroleum Corporation, Denver, Colorado	HRD-0177	Motion for Discovery. If granted: Discovery would be granted to Westport Petroleum Corporation in connection with the Statement of Objections submitted in response to a Proposed Remedial Order (Case No. HRO-0177) issued to the firm.
Sept. 16, 1983	Dr. Jeffrey L. Turek, Blacksburg, Virginia	HFA-0184	Appeal of an Information Request Denial. If granted: The August 31, 1983 Freedom of Information Request Denial issued by the DOE Savannah River Operations Office would be rescinded, and Dr. Jeffrey L. Turek would receive access to copies of records pertaining to his nonselection for employment with the Savannah River Operations Office.
Sept. 16, 1983	Getty Oil Company, Washington, D.C.	HRZ-0167	Interlocutory Order. If granted: The Office of Hearings and Appeals would specify the procedural regulations that would be applied in the Getty Oil Company remedial order proceeding remanded from the U.S. District Court (Case No. HCX-0091) and establish a schedule for submissions.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 9 through Sept. 16, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
9/13/83	Palo Pinto/Indiana	RO5-19.
9/15/83	Tenneco/Airport Service Station/Munford Oil Co	RF7-110.
9/9/83 to 9/16/83	Amoco Refund Applications	RF21-12184 through RF21-12188.

[FR Doc. 83-26928 Filed 9-30-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AAA-FRL No. 2445-3]

EPA Master List of Debarred, Suspended or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred, Suspended, or Voluntaily Excluded Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter the names of, and other information concerning, those individuals and firms debarred, suspended, or voluntarily excluded from participation in EPA assisted programs. Assistance [grant and cooperative agreement) recipients and contractors under an EPA assistance award may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

DATE: This short list is current as of September 19, 1983.

FOR FURTHER INFORMATION CONTACT: Frank Dawkings of the EPA Compliance Staff, Grants Administration Division, at (202) 475-8025.

Dated: September 27, 1983.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division.

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS

Name and jurisdiction	File No.	Status[1]	From	To	Grounds
Anderson, Scott (Walnut Creek, CA)	83-0004-01	D	06-17-83	06-16-86	§ 32.200 (a), (b), (e), (f).
Ashland-Warren, Inc. (McMinnville, TN)	82-0401	D	9-22-82	5-6-85	§ 32.200 (a), (e).
Atlas Prestressing Corp. (Panorama City, CA)	83-0050-00	D	8-2-83	8-1-86	§ 32.200(a).
Boozer, Wharton, and Zeigler, Inc. (Sumter, SC)	83-0045-00	S	7-15-83	Open	§ 32.200(a).
Bowe, Walsh and Associates, Inc. (Melville, NY)	83-0040-00	D	4-14-83	4-13-86	§ 32.200(a), (e).
Bowers Excavating and Fencing, Inc. (Klamath Falls, OR).	83-0058-00	S	6-27-83	Open	§ 32.200 (b), (e), (i).
Bowers, Joe (Klamath Falls, OR)	83-0058-01	S	6-27-83	Open	§ 32.200 (b), (e), (i).
Bowers, John (Klamath Falls, OR)	83-0058-02	S	6-27-83	Open	§ 32.200(b), (e), (i).
Carpenter, Frank(Monroe, NC)	83-0403	VE	9-23-82	3-1-84	§ 32.200 (a), (b).
Crowder, Otis (Charlotte, NC)	82-0402	VE	9-23-82	11-16-83	§ 32.200 (a), (b).
Errichetti, Angelo J. (Camden, NJ)	83-0040-04	D	4-14-83	4-13-86	§ 32.200 (a), (b).
Harry Johnson Plumbing Company, Inc. (Walla Walla, WA).	83-0060-00	D	7-22-83	7-21-86	§ 32.200 (b), (c), (e), (i).
Herbert G. Whyte, Associates, Inc. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200 (b), (e).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS—Continued

Name and jurisdiction	File No.	Status[1]	From	To	Grounds
Houston, Arnold E., Jr. (Fayetteville, NC)	82-0404	VE10-21-82	11-2-83	§ 32.200 (a), (b), (f).	
Hunter, James C. (Gardena, CA)	83-0002-02	D	7-7-83	7-6-86	§ 32.200(a)
Jackson, Manly (San Jose, CA)	83-0048-02	D	6-27-83	6-26-86	§ 32.200(a).
Johnson, Mark (Walla Walla, WA)	83-0060-01	D	7-22-83	7-21-86	§ 32.200 (b), (c), (e), (i).
Keller, John (Timonium, MD)	83-0048-01	D	9-9-83	3-8-85	§ 32.200(a).
L.A. Reynolds Company (Winston Salem, NC)	83-0036-00	D	7-1-83	6-30-86	§ 32.200(a).
Long, Harold Delmar (Los Gatos, CA)	83-0050-01	D	7-7-83	7-6-86	§ 32.200(a).
Municipal & Industrial Pipe Services, Ltd. (Douglasville, GA).	82-0601, 82-0408	S	10-7-82	Open	§ 32.200 (b), (c), (e), (i).
Newman, Fred M. (Vienna, VA)	82-1101	VE	12-21-82	12-21-83	§ 32.200(b)
Post-Tensioning Service Corporation (Saratoga, CA)	83-0001-00	D	7-6-83	7-7-86	§ 32.200(a).
Reynolds, Jon R. (Winston Salem, NC)	83-0036-01	D	7-1-83	6-30-86	§ 32.200(a).
Richmond, Elwood P. (Grand Forks, ND)	83-0006-01	D	6-6-83	6-5-86	§ 32.200 (a), (f).
Richmond Engineering, Inc. (Grand Forks, ND)	83-0006-00	D	6-6-83	6-5-86	§ 32.200 (a), (f).
Richmond, Lloyde W., Jr. (Grand Forks, ND)	83-0006-02	D	6-6-83	6-5-86	§ 32.200 (a), (f).
Shepherd, Frank A. (Savannah, TN)	83-0046-01	S	7-15-83	Open	§ 32.200(a)
Stressteel Corporation (Wilkes-Barre, PA)	83-0051-00	D	8-2-83	2-1-85	§ 32.200(a).
Suburban Grading and Utilities, Inc. (Norfolk, VA)	83-0022-00	S	3-29-83	Open	§ 32.200(a).
Vanderhurst, William (Saratoga, CA)	83-0001-01	D	7-6-83	7-07-86	§ 32.200(a).
Walsh, Charles T. (Huntington Bay, NY)	83-0040-01	D	4-14-83	4-13-86	§ 32.200(a).
Walstad, Merrill (Huntington Beach, CA)	83-0003-03	D	6-27-83	6-26-86	§ 32.200(a).
Whyte, Herbert G. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200 (b), (e).
Wirt, David (Douglasville, GA)	82-0601, 82-0408	S	10-7-82	Open	§ 32.200 (b), (c), (e), (i).
Wirt, Gordon D. (Douglasville, GA)	82-0408	S	12-7-82	Open	§ 32.200 (c), (e), (i).
Wirt, Judith C. (Douglasville, GA)	82-0408	S	12-7-82	Open	§ 32.200 (c), (e), (i).
Womack, Jerry T. (Norfolk, VA)	83-0022-01	S	3-29-83	Open	§ 32.200(a).
Young, Frederick M. (Fayetteville, TN)	83-0025-01	S	7-19-83	Open	§ 32.200(a).
Zeigler, Beaty Stevens (Sumter, SC)	83-0045-01	S	7-15-83	Open	§ 32.200(a).

[1] D—Debarred; S—Suspended; VE—Voluntarily excluded.

[FR Doc. 83-28909 Filed 9-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66101; PH-FRL 2428-1]

Pesticides; Intent To Cancel Registrations; Empire International, et al.

Correction

In FR Doc. 83-24142 beginning on page 40434 in the issue of Wednesday, September 7, 1983, make the following corrections.

1. On page 40434, in the table, Registration No. 88-23, the city, "Coply OH", should read "Copley, OH".

2. On page 40436, Registration Nos. 57778-24" and "7392-17" should read "5778-24 and "7393-17" respectively.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 79-143; RM-2893; RM-3303; RM-3334; RM-3336; FCC 83-346]

Connection of Telephone Equipment, etc.; Withdrawal of Petition for Reconsideration; 4-Wire Telephone Network Connections and Interfaces

AGENCY: Federal Communications Commission.

ACTION: Termination of docket.

SUMMARY: The Commission has granted a request by the Utilities Telecommunications Council (UTC) to withdraw a petition for reconsideration filed by UTC of the Commission's decision in *Report and Order*, Docket No. CC 79-143, 45 FR 20830, March 31, 1980, concerning telephone connections. Since UTC's petition was the only matter remaining pending in Docket No. CC 79-143, the Commission has terminated the proceeding.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Esq., Domestic Services Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202) 634-1832.

In the matter of petitions seeking amendment of Part 68 of the Commission's rules concerning connection of telephone equipment, systems and protective apparatus to certain private line services, and related changes in § 68.303 Signal Power Limitations; and petition seeking amendment of Part 68 of the Commission's rules to accommodate 4-wire Telephone Network Connections and Interfaces: CC Docket No. 79-143, RM-2893, RM-3303, RM-3334, RM3336.

Adopted July 18, 1983.
Released July 20, 1983.
By the Commission.

1. Before the Commission is a motion filed December 7, 1981 by the Utilities Telecommunications Council (UTC) for withdrawal of its petition for reconsideration of the Commission's *Report and Order* in Docket No. CC 79-143, 76 FCC 2d 246 (1980), in the above-captioned proceeding (May 15, 1980, 45 FR 32115). For the reasons indicated below, we will grant UTC's motion.

2. Telephone terminal equipment that complies with the terminal standards set forth in Part 68 of the Commission's Rules, 47 CFR Part 68, may be registered and directly connected to the nationwide telephone network without the interposition of telephone company-provided protective devices. [1] In *Report and Order, supra*, the Commission expanded this registration program to encompass certain private line services. UTC filed a petition for reconsideration of the decision, urging that electric and other utilities be permitted to attach their terminal equipment to private line service without registratioin under Part 68. UTC argued that these utilities use numerous unique pieces of terminal equipment which would necessitate multiple filings with the Commission. In its motion for withdrawal, however, UTC states that in view of its recent experience with the registration program and new tariffs by the American Telephone and Telegraph Company governing interconnection of private line systems, most of its concerns have been eliminated.

3. In *Report and Order, supra*, the Commission denied arguments raised by UTC that exceptions under the Part 68 registration program should be created in favor of electric and other utilities. The Commission found that "exceptions to Part 68, other than for the national defense or security, are simply not in the public interest." 76 FCC 2d at 271. Moreover, in *Memorandum Opinion and Order* in Docket No. CC 78-331, FCC 82-528, released December 7, 1982, the Commission denied a petition by the Association of American Railroads requesting a similar exception for the railroads. We note that in that proceeding UTC also filed a petition seeking an exception to Part 68. However, it later submitted a motion to withdraw its petition for reasons identical to those offered here. The Commission granted that motion. We also will grant UTC's motion in the instant proceeding.

4. In view of our now having resolved all issued in this docket, it is appropriate that we terminate the proceeding.

[1] For decisions instituting the equipment registration program see Docket No. 19528, First Report and Order, 56 FCC 2d 593 (1975), and Second Report and Order, 58 FCC 2d 736 (1976).

5. Accordingly, it is ordered, that the "Motion to Withdraw Petition for Reconsideration" filed by the Utilities Telecommunications Counsel is granted.

6. It is further ordered, that the above-captioned proceeding is terminated.

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 83-26845 Filed 9-30-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; First Keystore Corp. and First National Bancorp, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Keystone Corporation,* Berwick, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Berwick, Berwick, Pennsylvania. Comments on this application must be received not later than October 27, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First National Bancorp, Inc.,* Monroe, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to the First National Bank of Monroe, Monroe, Wisconsin. Comments on this application must be received not later than October 26, 1983.

Board of Governors of the Federal Reserve System, September 27, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-26853 Filed 9-30-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company; M&F Financial Corporation

M&F Financial Corporation, Dumas, Arkansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring at least 80 percent of the voting shares of Merchants & Farmers Bank, Dumas, Arkansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

M&F Financial Corporation, Dumas, Arkansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage directly in the activity of providing real estate appraisal services. Applicant states that the proposed subsidiary would be performed from offices of Applicant in Dumas, Arkansas, and the geographic area to be served is Desha County, the eastern portion of Lincoln County, and the northern portion of Drew County, Arkansas. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than October 27, 1983.

Board of Governors of the Federal Reserve System, September 27, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-26854 Filed 9-30-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed De Novo Nonbank Activities; Union Trust Bancorp, et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Band Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views 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, deceased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include 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 that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Union Trust Bancorp,* Baltimore, Maryland (financing and insurance activities; Georgia): To engage, through its subsidiary, Landmark Financial

Services of Georgia, in making installment loans to individuals for personal, family or household purposes; in purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; in acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; in acting as agent in the sale of insurance protecting collateral held against the extensions of credit; and in making mortgage loans secured in whole or in part by mortgages or other liens in real estate. These activities will be conducted from an office located in Macon, Georgia, serving Macon and the surrounding area. Comments on this application must be received not later than October 25, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Harris Bankcorp, Inc.*, Chicago, Illinois (trust activities: United States): To engage, through its subsidiary, Harris Trust Company of New York, in performing or carring on any one or more of the functions or activities that may be performed or carried on by a trust company (including activities of a fiduciary, agency or custodial nature, in accordance with § 225.4(a)(4) Regulation Y. These activities would be conducted from an office in New York, New York, serving the United States. Comments on this application must be received not later than October 17, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Interstate Bancorp*, Los Angeles, California (management consulting advice concerning personnel operations, United States): To engage, through its subsidiary, First Interstate Institute, in providing management consulting advice concerning personnel operations, such as recruiting, training, evaluation, compensation and related human resource activities, for nonaffiliated bank and nonbank depository institutions. These activities would be conducted from offices in Los Angeles, California serving the United States. Comments on this application must be received not later than October 27, 1983.

Board of Governors of the Federal Reserve System, September 27, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-26855 Filed 9-30-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Mine Health Research Advisory Committee; Meeting

In accordance with Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Mine Health Research Advisory Committee
Date: October 27-28, 1983
Place: Ramada Inn, Conference Room C, Route 119 South and U.S. 48 East (near Interstate 79), Morgantown, West Virginia 26505
Time and Type of Meeting: Closed 8:30 a.m. to 10:00 a.m.—October 27; Open 10:00 a.m. to 4:30 p.m.—October 27; Open 8:30 a.m. to 12:00 noon—October 28
Contact Person: Roy M. Fleming, Sc.D., Executive Secretary, HHS North Building, Room 1060, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone: (202) 472-7134

Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health reserch, including grants and contracts for such research.

Agenda: Agenda items for the meeting will include announcements, consideration of minutes of previous meeting and future meeting dates, presentation and discussion on utility of coal mine dust data in epidemiologic studies, protocol of fourth round of the National Coal Study, respirator certification, and discussion of known mining health hazards. From 8:30 a.m. through 10:00 a.m. on October 27, the Committee will perform the final review of the mine health research grant applications for Federal assistance. This portion of the meeting will not be open to the public in accordance with the provisions set forth in Section 552b(c)(6), Title 5 U.S.C., and the Determination of the Director, Centers for Disease Control, pursuant to Pub. L. 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Viewpoints and suggestions from any interested parties are invited. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be schedule at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: September 28, 1983.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 83-26816 Filed 9-30-83; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 83N-0057; DESI 12186]

Oxethazaine, Aluminum Hydroxide Gel, and Magnesium Hydroxide; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of the new drug application (NDA) for Oxaine M (NDA 12-186), held by Wyeth Laboratories, on the ground that there is a lack of substantial evidence that each component of the combination drug contributes to the claimed effects of symptomatic relief of pain or heartburn associated with gastric or duodenal ulcers.

EFFECTIVE DATE: November 2, 1983.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 12186 and directed to the Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing (formerly Docket No. FDC-D-694) published in the **Federal Register** of July 18, 1974 (39 FR 26305), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the new drug application for Oxaine M Suspension labeled for the treatment of certain gastrointestinal disorders. The proposal was based on the lack of substantial evidence of effectiveness as required by section 505(e) of the Federal

Food, Drug, and Cosmetic Act (21 U.S.C. 355(e) and 21 CFR 314.111(a)(5) and 3.86 (now 300.50). In response to that notice, Wyeth Laboratories filed a hearing request for Oxaine M and submitted data, information, and analyses in support of its request. Because Wyeth Laboratories subsequently withdrew its hearing request, approval of the new drug application for this product is now withdrawn.

NDA 12-186; Oxaine M Suspension containing oxethazaine, aluminum hydroxide gel, and magnesium hydroxide; Wyeth Laboratories, Division American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101.

Any drug product that is identical, related, or similar to this product and is not the subject of an approved new drug application is covered by NDA 12-186 and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)) and under the authority delegated to him (21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982) finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is lack of substantial evidence that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 12-186 and all its amendments and supplements is withdrawn effective November 2, 1983.

Shipment in interstate commerce of the above product or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: September 27, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-25866 Filed 9-30-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 83P-0091, 83V-0119, and 83V-0181]

Availability of Approved Variance for Sunlamp Products

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for sunlamp products have been approved by the Deputy Director of FDA's National Center for Devices and Radiological Health (NCDRH) for certain specified sunlamps and sunlamp products manufactured or imported by three organizations. The intended use of the product is to produce ultraviolet radiation for tanning the skin.

DATE: The effective dates and termination dates of the variances are listed in the table below.

ADDRESS: The application and all correspondence on the various applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Norbert P. Heib, Jr., National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-44-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), each of the three organizations listed in the table below has been granted a variance from certain requirements of the performance standard for sunlamp products (21 CFR 1040.20). Approval has been granted for the listed products to vary as specified from that portion of § 1040.20(c)(2)(ii) requiring the maximum timer interval for a sunlamp product to be 10 minutes or less, or from § 1040.20(f)(1)(ii) and (2)(ii) that specifies the exact warning statement to be included in the user instructions for an ultraviolet lamp not accompanying a sunlamp product and § 1040.20(d)(1)(i) that specifies the exact warning statement to be on the sunlamp product. All other provisions of § 1040.20 remain applicable to the listed sunlamp products and ultraviolet lamps.

Each of the variances for the nominally ultraviolet-A (UVA) sunlamp products permit the listed manufacturer or importer to introduce into commerce sunlamp products that have less than 5 percent of their ultraviolet radiation at wavelengths shorter than 320 nanometers. FDA's experience with this kind of sunlamp product indicates that the relatively lengthy exposure recommended by the manufacturer does not result in severe, acute skin burns or corneal injury. Therefore, some of the requirements of § 1040.20 are not appropriate for these UVA products. Even though the skin hazard is reduced, there is still a need to wear protective eyewear to eliminate the unnecessary risk to chemically sensitized lenses or of cornea damage or of long-term development of lens opacities.

NCDRH has determined that suitable or alternate means of radiation protection will be provided by constraints on the physical and optical design and by warnings in the user manual and on the products for all of the variances in lieu of the requirements listed in the table that were determined to be inappropriate. Therefore, on the dates specified in the table below, FDA approved the requested variances by letter from the Deputy Director, NCDRH, to each manufacturer or importer listed in the table.

To associate the product with the variance granted to the manufacturer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) the docket number (which is the identifying number of the variance) and effective date of the variance as specified in the table below.

Docket No. and organization granted the variance	Sunlamp product	Paragraph in 21 CFR 1040.20 pertaining to variance	Effective date/ termination date
83P-0091 The Tanning Hut, Inc., 116 Wolf Road, Albany, NY 12205.	UVA Suntanning Enclosure Manufactured by the Tanning Hut, Inc.	(d)(1)(i), (f)(1)(ii), (f)(2)(ii).	May 11, 1983-May 11, 1988.
83V-0119 MA Solarium International a-s, 29 King Street, New York, NY 10014.	UVA Suntanning System	(d)(1)(i), (f)(1)(ii), (c)(2)(ii).	May 23, 1983-May 23, 1988.
83V-0181 Riviera Tan Spa Equipment Co., Inc., 1850 S. Main, South Jacksonville, IL 62650.	UVA Suntanning Booths Manufactured by Riviera Tan Spa Equipment Co., Inc.	(c)(2)(ii)	June 30, 1983-June 30, 1988

In accordance with § 1010.4, the application and all correspondence (including the written notice of approval) on the various applications have been placed on public display under the designated docket number in the Dockets Management

Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 26, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-26864 Filed 9-30-83; 8:45 am]

BILLING CODE4160-01-M

[Docket No. 79P-0055 et al.]

Availability of Approved Variances for Laser Light Shows

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration. (FDA) is announcing that the Deputy Director of FDA's National Center for Devices and Radiological Health (NCDRH) has approved variances from the performance standard for laser products for certain laser light shows, or light show projectors manufactured and produced by 14 organizations. The projector provides a laser display to produce a variety of special lighting effects principally to provide entertainment to general audiences.

DATES: The effective dates and termination dates of the variances are listed in the table below.

ADDRESS: The application and all correspondence on the various applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Norbert P. Heib, Jr., National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), each of the organizations listed in the table below has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products. Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product that is the manufacturer's particular variety of laser light show, or laser light show projector or both, assembled and produced by them. All the laser products will have levels of accessible laser radiation in excess of the class II levels permitted by § 1040.11(c) but not exceeding those required to perform the intended function of the product.

NCDRH has determined that suitable means of radiation protection will be provided by constraints on the physical and optical design of the products, and by procedures for personnel who will operate the products. Therefore, on the dates specified in the table below, FDA approved the requested variances by letter from the Deputy Director of NCDRH to each manufacturer listed in the table.

To associate the product with the variance granted to the manufacturer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) the docket number (which is the identifying number of the variance) and effective date of the variance as specified in the table below.

Docket No.	Manufacturing organization	Demonstration laser products	Effective date/termination date
79P-0055 (Amendment)	Audio Visual Imagineering, Inc., (Amendment) 7953 Twist Lane, Springfield, Va. 22153.	Audio Visual Imagineering AVI Laser Projection System Model Series S or B and shows produced, assembled, and operated by Audio Visual Imagineering which incorporate these laser projection systems. The laser projection systems may also be sold, leased, or loaned to other parties.	June 28, 1983-May 19, 1985.
80P-0156 (Extension)	Rarefied Media, Inc., Suite 906, 130 West 56th Street, New York, N. Y. 10019.	This variance is granted for the Series IV laser projectors manufactured by Rarefied Media, Inc. and for laser light shows assembled and produced only by Rarefied Media, Inc. containing the above projectors and under the direct control of regular employees of Rarefied Media, Inc. The projectors may be sold or leased to other prties.	Feb. 1, 1983-Feb.1, 1985.
80P-0203 (Amendment) (Reinstatement).	Laser Concepts, Div. of Omega Organization International, 3284 80th Avenue S.E., Mercer Island, Wash. 68040.	This variance is granted for laser light shows manufactured, assembled and produced by Laser Cocepts, Division of Omega Organization International and the Lumatron and Lumaria 440 laser projection systems incorporated in such shows. The projection systems contain Class III HeNe and Class IV Argon, Argon/Krypton, or Krypton lasers.	Apr. 22, 1983-Oct. 15, 1984.
81P-0044	Laser Art Prductions, 909 E. Traffieway Street, Springfield, Mo. 65802.	This variance is granted for the Laser Art Producations laser light show incorporating the Model Series LAP 265 laser projectors using krypton, argon, helium-neon, and/or helium-cadium lasers with a maximum power of up to 8 watts.	Apr. 25, 1983-Apr. 9, 1985.
81P-0195 (Extension)	Laser Dream Productions, 3318 Hancock Street, San Diego, Calif. 92110.	This variance is granted for the LaserDream Productions laser light shows incorporating their Personal Laser Projector Model 0002 and/or the Electronic Counter Co. Model 3600.	Apr. 6, 1983-July 29, 1965.
81P-0264 (Amendment)	Laserworld, Inc., P.O. Box 8021, Maitland, Fl. 32751.	This variance is granted for the LASERWORLD, Inc. laser light show incorporating a Coherent Inovations Laser Projector Model Rainbow 3 AK. This show will be presented in a theater or an outdoor, unenclosed area.	May 6, 1983-Sept. 9, 1983.
83P-0079	MCA Recreation Services d.b.a. Universal City Studios Tour, 100 Universal City Plaza, Universal City, Calif. 91608.	This variance is granted for Universal City Studios Tour laser display for "The Adventures of Conan" which incorporates two 16W Argon lasers. The display will be in a permanent, fixed installation using reflections form stationary mirrored surfaces, stationary irradition of a rotating mirror, and enhanced scattering effects.	June 13, 1983-June 13, 1983.
83V-0136	Tau Beta Pi Association, California Epsilon Chapter, 5801 Boelter Hall, UCLA Campus, Los Angeles, Calif. 90024.	This variance is granted for the Tau Beta Pi Association, California Epsilon Chapter LASERAMA laser light show incorporating the LASERAMA Laser Projector, Model 1983-1.	May 9, 1983-Aug. 9, 1983.
83V-0144	Stone Mountain Memorial Ass'n, P.O. Box 778, Stone Mountain, Ga. 30086.	This variance is granted for the Stone Mountain Memorial Association Laser Light Show "Night on Stone Mountain" incorporating Laser Media's Model LM Argon and Krypton projectors and Model LMS Argon projector.	May 31, 1983-May 31, 1985.
83V-0151	Precision Projection Systems, Inc., 11563 Radley Street, Artesia, Calif. 90710.	This variance is granted for Precision Projection Systems, Inc. laser light shows incorporating Laser Images certified Mark VI/600 Series krypton projectors and Model CS-2 argon projectors.	June 16, 1983-Dec. 16, 1983.
83V-0160	Peter Pan Venture II, c/o Theatre NOW, 1515 Broadway, New York, N. Y. 10036.	This variance is granted for laser light shows manufactured, assembled, and produced by Peter Pan Venture II and the model TG-01 laser projection system incorporated in such shows. The TC-01 projection system contains a Class IIIb HeNe laser.	May 31, 1983-May 31, 1985.
83V-0170	John Young Science Center, 810 E. Rollins Avenue, Orlando, Fl. 32803.	This variance is granted for the John Young Science Center laser light shows incorporating the Class IIIb JYSC Model Series ion laser projections.	June 17, 1983-June 17, 1985.

Docket No.	Manufacturing organization	Demonstration laser products	Effective date/termination date
83V-0182	South Florida Museum and Bishop Planetarium, 201 10th Street West, Bradenton, Fl. 33505.	This variance is granted for the laser light shows assembled and produced by Bishop Planetarium incorporating a Laser Systems Development Corporation certified Model C-3 Series laser projector. The projector is permanently installed in the planetarium.	June 15, 1983–June 15, 1985.
83V-0212	Laser Creations, Inc., P.O. Box 313, Denton, Tex. 76201.	This variance is granted for the Laser Creations, Inc. laser light show and the LUXME model series laser projector incorporated in this laser light show.	July 21, 1983–July 21, 1985.

In accordance with § 1010.4, the application and all correspondence (including the written notice of approval) on the various applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 26, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-26863 Filed 9-30-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado; Filing of Plats of Survey

September 23, 1983.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., September 23, 1983.

Sixth Principal Meridian

T.1 S., R. 73 W.

The plat representing the retracement of a portion of the subdivisional lines and the corrective dependent resurvey of the subdivisional line between Sections 25 and 26, T. 1 S., R. 73 W., Sixth Principal Meridian, Colorado, Group No. 726, was accepted September 2, 1983.

This survey was executed to meet certain administrative needs of this Bureau.

T. 21 S., R. 69 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of Section, T. 21 S., R. 69 W., Sixth Principal Merdian, Colorado, Group No. 553, was accepted September 14, 1983.

T. 20 S., R. 71 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the partial subdivision of Section 24, T. 20 S., R. 71 W., Sixth Principal Meridian, Colorado, Group No. 553, was accepted September 14, 1983.

T. 27 S., R. 70 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the partial subdivision of Section 20, T. 27 S., R. 70 W., Sixth Principal Meridian, Colorado, Group No. 493, was accepted September 14, 1983.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquires about these lands should be sent to the Colorado Stte Office, Bureau of Land Management, 1037–20th Street, Denver, Colorado 80202.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 83-26870 Filed 9-30-83; 8:45 am]

BILLING CODE 4310-84-M

[C-0124534]

Colorado; Proposed Withdrawal and Reservation of Public Minerals; Pinon Canyon Site, Forth Carson Military Reservation

Correction

In FR Doc. 83–23963 beginning on page 39703 in the issue of Thursday, September 1, 1983, make the following corrections:

1. On page 39703, column two, Sixth Principal Meridian, "sec. 24," should appear between lines sixteen and seventeen from the bottom.

2. On the same page column three, remove lines fifteen, sixteen, and seventeen.

BILLING CODE 1505-01-M

Wyoming; Availability of Divide Grazing, Final Environmental Impact Statement

AGENCY: Rawlins District Office, Rawlins, Wyoming, Bureau of Land Management, Interior.

ACTION: Notice of availability of final environmental impact statement (FEIS).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Land Management (BLM) has prepared a final impact statement for the grazing management program in the Divide and Medicine Bow Resource Areas, Rawlins District.

As stated in the FEIS, BLM proposes to allow livestock grazing on approximately 2,099,160 acres of public land in the BLM Divide and Medicine Bow Resource Areas, Rawlins District. BLM's Proposed Action is to continue present management until additional data from a proposed monitoring program becomes available. This will include actions that have been planned before the EIS. After the monitoring program has been completed, management actions, which will be based on all available data, will be implemented. In this EIS, BLM analyzed three alternatives (Enhance Watershed, Wildlife, and Soil Resources; Enhance Livestock Grazing; and No Action), in addition to the Proposed Action. Also, the affected environment has been described, and the environmental consequences of the Proposed Action and alternatives have been discussed.

Copies of the FEIS are available from the Rawlins District Office, P.O. Box 670, 1300 Third Street, Rawlins, Wyoming 82301. Public reading copies will be available for review at the following locations:

Wyoming State Office, 2515 Warren Ave., Cheyenne, Wyoming 82001

Carbon County Public Library, Carbon Building, Rawlins, Wyoming 82301

Encampment Branch Library, 620 Ranking, Encampment, Wyoming 82325

Hanna Library, 303 Third, Hanna, Wyoming 82327

Saratoga Public Library, 118 E. Bridge Ave., Saratoga, Wyoming 82331

Written comments on the FEIS should be submitted by October 30, 1983, to: District Manager, P.O. Box 670, Rawlins, Wyoming 82301. All written comments concerning the FEIS will be considered in the subsequent decision on the grazing management program for the

Divide and Medicine Bow Resource Areas.

David J. Walter,

District Manager.

[FR Doc. 83-28905 Filed 9-30-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 5201, Block 134, Ship Shoal Area, Offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 23, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-28917 Filed 9-30-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Consession Contract, Hatteras Island, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department, of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to negotiate a concession contract with Hatteras Island, Inc., authorizing it to continue the operataion of a fishing pier on Hatteras Island within the Cape Hatteras National Seashore for a period of ten years from January 1, 1983, through December 31, 1992.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Envirinmental Policy Act and no environmental document will be prepared.

Hatteras Island, Inc., purchased the private holdings formerly operated by Chicamacomico Enterprises, Inc., and requested the assignment of the concession rights as conferred by the National Park Service to Chicamacomico Enterprises, Inc., in a concession contract which expired by limitation of time, as no assignment of interest was made prior to the expiration of the concession contract. Hatteras Island, Inc., has no preferential right to any new concession authorized by the National Park Service. However, because of the physical limitations which exist, including access across private property, and the relationship of the fishing pier to the motel-restaurant complex, the National Park Service has determined that it will be in the public interest to negotiate a concession contract with Hatteras Island, Inc., authorizing it to provide the facilities and service inherent with an ocean fishing pier.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Dtreet, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: September 19, 1983.

Neal G. Guse,

Acting Regional Director, Southeast Region.

[FR Doc. 83-28919 Filed 9-30-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers, Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 83-23877 beginning on page 39526, in the issue of Wednesday, August 31, 1983, make the following correction:

In MC-135679 (Sub-3), Frank E. Hicks Trucking, Inc., on page 39533, second column, second and third lines, "and B explosives, household goods and commodities in bulk), between points in" should have read "and B explosives, and household goods), between points in".

BILLING CODE 1505-01-M

Handling of Insurance Filings

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: The Commission announces that effective October 1, 1983, all filings pertaining to insurance in accordance with 49 U.S.C. 10927 and 49 CFR 1043, will be handled by the Office of the Secretary. The Carrier Security and Process Agent Records System will be maintained at the Commission, Washington, DC Headquarters. All carrier insurance files will also be located in Washington, DC. Public inquiries concerning insurance coverage for a specific motor carrier, freight forwarder or broker or concerning their designated agent to accept service of process should be made to (202) 275-0783 or in writing to the address listed below.

EFFECTIVE DATE: October 1, 1983.

ADDRESS: Office of the Secretary, Room B-221, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: For Questions Regarding Insurance or Process Agent Filings: Janice Fort, (202) 275-0783 or General Information: Edward Fernandez, (202) 275-759

Dated: September 28, 1983

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-26965 Filed 9-30-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30219]

Prairie Central Railway Co.—Acquisition and Operation, Trackage Rights and Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of (1) 49 U.S.C. 10901 regarding the acquisition and operation by the Prairie Central Railway Company of abandoned lines of railroad between Paris and Decatur, IL, and between Paris and Lawrenceville, IL; and (2) 49 U.S.C. 11343 regarding the acquisition of Penn Central Corporation's interest in its trackage rights agreement with Illinois Central Gulf Railroad Company for use of the line of railroad between Decatur Junction and Decatur, IL, Penn Central's 50 percent ownership interest in the line of railroad between Hervey City and Decatur Junction, IL, and all interests that Penn Central has in any yard tracks, buildings, and joint facilities within Decatur, IL, subject to the standard employee protective conditions. A related securities issuance has also been exempted from the requirements of 49 U.S.C. 11301.

DATES: This exemption will be effective on September 29, 1983. Petitions to reopen must be filed by October 19, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30219 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representative: William C. Evans, Suite 1100, 1660 L Street, NW, Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403

Dated: September 23, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-26962 Filed 9-30-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30282]

Stone Container Corp. Exemption-Acquisition of Control of North Louisiana and Gulf Railroad Company and Central Louisiana and Gulf Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts the acquisition of control by Stone Container Corporation of The North Louisiana and Gulf Railroad Company and The Central Louisiana and Gulf Railroad Company from the requirement of prior approval under 49 U.S.C. 11343-11346, subject to standard labor protection provisions.

DATES: This exemption shall be effective on October 3, 1983. Petitions to reopen must be filed by October 24, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30282 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

Petitioners' representative:

(2) John F. DePodesta, Pepper, Hamilton & Scheetz, 1777 F Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. For a copy of the full decision write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: September 27, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-26963 Filed 9-30-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL AERONAUTICS AND SPACE ADMINSTRATION

[Notice 83-79]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force on Space Commercialization.

DATE AND TIME: October 18, 1983, 8:30 a.m. to 5 p.m., and October 19, 1983, 9 a.m. to 3 p.m.

ADDRESS: NASA Headquarters, Conference Room 625, 600 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB-4, National Aeronautics and Space Administration, Wasington, DC 20546 (202/755-8380).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force on Space Commercialization was established under the NASA Advisory Council to conduct a study of the directions NASA might consider to foster private ventures in space. The Task Force is chaired by Robert L. Johnson and currently has a total of 10 members.

The meeting will be closed to the public from 1 p.m. to 5 p.m. on October 18, 1983, and 9 a.m. to 3 p.m. on October 19, 1983, because, during these planning sessions, the members will consider the qualifications of candidates to participate in the study, either as additional Task Force members or as other contributors. Because this session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this session should be closed to the public.

For the open session, visitors will be admitted to the meeting room up to its capacity, which is approximately 40 persons, including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open—except for the closed session as noted in the followng agenda.

Agenda:

October 18, 1983

8:30 a.m.—Introduction and Overview
The Role of the Task Force
NASA's Related Activities
The STS Capability

Relevant NASA Studies
1:00 p.m.—Planning Session (closed)
5:00 p.m.—Adjourn

October 19, 1983

9:00 a.m.—Planning Session (closed)
3:00 p.m.—Adjourn

Dated: September 27, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-26858 Filed 9-30-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (83-80)]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Aeronautical Propulsion Technology.

DATE AND TIME: October 25, 1983, 8:30 a.m. to 5 p.m.; October 26, 8:30 a.m. to 5 p.m.

ADDRESS: Ames Research Center, Committee Room, Administration Building (N-200), Moffett Field, California.

FOR FURTHER INFORMATION CONTACT: Mr. Linwood C. Wright, National Aeronautics and Space Administration, Code RJP-2, Washington, DC 20546 (202/755-2380).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aeronautical Propulsion Technology was established to assist the NASA in identifying and examining advanced propulsion technology requirements for future aeronautical vehicles and to recommend program additions, deletions, or changes in scope or emphasis that may be found necessary to support the overall NASA aeronautical research and technology objectives. The Chairperson is Dr. Montgomerie C. Steele and there are thirteen members or the Subcommittee. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants.)

Type of meeting: Open.

Agenda

October 25, 1983

8:30 a.m.—Welcome and Introductory Remarks.
9 a.m.—Budget Review and Discussion.
10:30 a.m.—Advanced Turboprop Status and Findings.
1 p.m.—Propulsion R&T for Rotorcraft.
2:15 p.m.—Power Transfer Technology.
3:45 p.m.—Ceramic Materials Development.
5 p.m.—Adjourn.

October 26, 1983

8:30 a.m.—Digital, Propulsion Control Research.
10 a.m.—Altitude Wind Tunnel Rehabilitation Benefits.
1 p.m.—Committee Discussion and Formulation of Recommendations.
5 p.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 26, 1983.

[FR Doc. 83-26894 9-30-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice (83-81)]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Aircraft Controls and Guidance.

DATE AND TIME: October 25, 1983, 8:00 a.m. to 4:30 p.m.; October 26, 1983, 8:30 a.m. to 4:30 p.m.; October 27, 1983, 8:30 a.m. to 4:30 p.m.

ADDRESS: Langley Research Center, Building 1222, Hampton, Virginia 23665.

FOR FURTHER INFORMATION CONTACT: Mr. Duncan E. McIver, National Aeronautics and Space Administration, Code RTH-6, Washington, D.C. 20546 (202/755-3273).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aircraft Controls and Guidance was established to assist the NASA in assessing the overall program. Particular emphasis is placed on the responsiveness to the critical needs, significant technology gaps and exploiting new opportunities with high potential benefits. The subcommittee chaired by Mr. Duane McRuer, is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 100 persons including the subcommittee members and participants).

Type of meeting: Open

Agenda

October 25, 1983

8:00 a.m.—Registration.
8:30 a.m.—Introductory Remarks and Overview.
9:30 a.m.—Control System Design Requirements.
1:45 p.m.—Parameter Estimation, State Estimation and Optimal Guidance Techniques.
4:30 p.m.—Adjourn.

October 26, 1983

8:30 a.m.—Control System Design Techniques.
11:45 a.m.—Foreign Technology Summary.
1:15 p.m.—Recent Experiences in Implementation of Advanced Control Systems.
4:30 p.m.—Adjourn.

October 27, 1983

8:30 a.m.—Research Opportunities for the Future.
1:00 p.m.—Subcommittee Deliberation.
4:30 p.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 26, 1983.

[FR Doc. 83-26895 Filed 9-30-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice (83-82)]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee.

DATE AND TIME: October 25, 1983, 8 a.m. to 5 p.m.; October 26, 1983, 8:30 a.m. to 5 p.m.; and October 27, 1983, 8:30 a.m. to 12 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 226A, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space

Administration, Washington, DC 20546 (202/755-3653).

SUPPLEMENTARY INFORMATION: The NAC Space and Earth Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space and Earth Science programs. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants). Topics under discussion at this meeting will include a status report on FY 1984 Budget/Program Progress, Problems and Issues; an Overview of the Global Biology Program; Organization of Committee Studies of the Research and Analysis Program and the scientific uses of a Space Station; Update on Space Station Activities and Planning; and Commercialization of Earth Remote Sensing Systems.

Type of meeting: Open.

Agenda

October 25, 1983

8 a.m.—Introduction, Announcements, Meeting Logistics, and Other Administrative Matters.

8:30 a.m.—Status Report on FY 1984 Budget/Program Progress, Problems and Issues.

9:30 a.m.—Overview of Global Biology Program.

10:45 a.m.—Organization of Working Group Activities.

1 p.m.—Working Group Activities.

(A) Organization of SESAC Research and Analysis Study

(B) Organization of SESAC Task Force on Space Station Science.

3:30 p.m.—Update on Space Station Activities and Planning.

5 p.m.—Adjourn

October 26, 1983

8:30 a.m.—Solar and Space Physics/ Scientific Background and Space Science Board Strategy

10:15 a.m.—Continuation of Working Group Activities

3 p.m.—Report to SESAC by Working Group Chairpersons

5 p.m.—Adjourn.

October 27 1983

8:30 a.m —Commercialization of Earth Remote Sensing Systems

10 a.m —Comments on Mix of Flight Opportunities General Discussion of Committee Activities and Plans for next meeting.

12 p.m.—Adjourn

Richard L. Daniels,

Director Management Support Office, Office of Management

September 26, 1983

[FR Doc. 83-26896 Filed 9-30-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice (83-83)]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report form under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by October 13, 1983. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Christine Cabell, NASA Agency Clearance Officer, Code NSM-23, NASA Headquarters, Washington, D.C. 20546. David Reed, Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Christine Cabell, NASA Agency Clearance Officer (202) 755-8390, or David Reed, OMB Reviewer (202) 395-7231.

Report

Title: NASA Contractor Financial Management Reports
Control Number: 270-0003
Type of Request: Extension of An Existing Report
Frequency of Report: Monthly and Quarterly
Type of Respondent: Small and Large Businesses
Annual Responses: 15,400
Annual Reporting Hours: 184,800

Abstract-Needs/Uses: The NASA Form 533 series is the basic financial management medium for reporting data needed by project management for evaluation of contractor cost as it relates to schedule and technical performance. The NASA Contractor Financial Management Series reports actual and projected data assuring that contractor performance is realistically planned and supported by dollar resources.

John W. Boyd,

Associate Administrator for Management.

September 28, 1983.

[FR Doc. 83-26897 Filed 9-30-83; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-293]

Boston Edison Co. (Pilgrim Nuclear Power Station); Modification of January 13, 1981 and January 19, 1982 Orders

I

The Boston Edison Company (the licensee) is the holder of Facility Operating License No. DPR-35 which authorizes the licensee to operate the Pilgrim Nuclear Power Station at power levels not in excess of 1998 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Plymouth County, Massachusetts.

II

On January 13, 1981 the Commission issued an Order modifying the license requiring: (1) the licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NE00-24583-1] and the Acceptance Criteria contained in Appendix A to NUREG-0661; and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the **Federal Register** on January 28, 1981 (46 FR 9305) required that installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than September 30, 1982, or, if the plant is shut down on that date, before the resumption of power thereafter. On January 19, 1982, the Commission issued an Order modifying the completion date specified in Section V of the January 13, 1981 Order. The Order, published in the **Federal Register** on January 26, 1982 (47 FR 3650) changed the completion date to prior to the start of Cycle 7 (at the completion of the licensee's 1983 refueling outage).

III

On October 31, 1979, the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria significant progress has been made and all of the major modifications have been completed. However, in a May 10, 1983 letter, the licensee stated that additional time is needed to complete the modifications of: (1) The torus catwalk extension support legs, and (2) ring girder to torus shell weld near the T-quenchers to assure accident induced loads are within Mark I Containment Long Term Program acceptance criteria. This additional time is needed to permit the licensee to accomplish the goals of its long-term program for scheduling plant modifications. Rescheduling these modifications will enable the licensee to more effectively manage and control safety related modifications.

Both the catwalk extension support legs and ring girder to torus shell welds were shown to meet the acceptance criteria of the Mark I Containment Short Term Program, thus providing a safety factor of 2 based on ultimate strength. The licensee stated in its May 10, 1983 letter that, although calculated loads exceed the Mark I Containment Long Term Program Acceptance Criteria, failure would not occur and the pressure suppression chamber boundary would remain intact. The licensee has also stated that the catwalk extension support legs provide no safety related function and that their deformation under accident induced loading conditions would have no impact on safety related structures or equipment. In this regard, the staff concluded in December 1977 in NUREG–0408 "Mark I Containment Short Term Program" that a safety factor to failure of at least 2 exists in the containment system for each operating Mark I BWR facility and that each Mark I containment system would maintain its integrity and functional capability in the event of a design basis LOCA.

These modifications would be the only items identified in the Mark I long Term Program not completed in accordance with the provisions of the January 13, 1981 and January 19, 1982 Orders. The Commission believes that since all the modifications will have been completed except for the torus catwalk extension support legs and the ring girder to torus shell welds most of the intended margins of safety of the containment systems will have been achieved.

The Commission has therefore determined to permit an extension by approximately ten months of the previously imposed completion dates for needed plant modifications until prior to restart from the mid-Cycle 7 modification outage (now scheduled for February 1985). This Order continues in effect the Exemption to General Design Criteria 50 of Appendix A to 10 CFR Part 50, granted on January 13, 1981.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954 as amended, including Sections 103 and 161i and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS ORDERED that the completion date specified in Section V of the January 13, 1981 "Order for Modification of License and Grant of Extension of Exemption" as modified by the Order of January 19, 1982, for the items listed in Section III of this Order, is hereby changed to read as follows: "Prior to restart from the mid-Cycle 7 Modification Outage." The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the request shall also be sent to the Executive Legal Director at the same address.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981 "Order for Modification of License and Grant of Extension of Exemption" should be changed for the items listed in Section III of this Order to: "Prior to restart from the mid-Cycle 7 Modification Outage."

This Order shall become effective upon the licensee's consent or upon expiration of the period within which a hearing may be requested or if a hearing is requested by the licensee, on the date specified in an Order issued following further proceedings on this Order.

Dated at Bethesda, Maryland this 22nd day of September 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-26900 Filed 9-30-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Consideration of Issuance of Amendments to Facilities Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facilities Operating License Nos. DPR–39 and DPR–48, issued to Commonwealth Edison Company (the licensee), for operation of the Zion Nuclear Power Station, Unit Nos. 1 and 2 located in Zion, Illinois.

The amendment would revise the provisions in the technical Specifications to permit operation of the Unit Nos. 1 and 2 with only three of the four coolant loops, when needed, in accordance with the licensee's application for amendments dated January 27, 1977.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 31, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request 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 hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing

Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a 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 amendments under consideration. A petitioner who fails to file such a supplement which satisfied these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 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 (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: 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 Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to P. Steptoe, Esquire, Isham, Lincoln and Beale, Attorneys at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated January 27, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Dated at Bethesda, Maryland this 23rd day of September 1983.

For the nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-26901 Filed 9-30-83; 8:45 am]

BILLING CODE 7590-01-M

[ASLBP Nos. 78-389-03 OL, 80-429-02 SP; Docket Nos. 50-329 OL, 50-330 OL; 50-329 OM, 50-330 OM]

Consumers Power Co. (Midland Plant, Units 1 and 2); Rescheduled Evidentiary Hearings

September 27, 1983.

Notice is hereby given that, in accordance with the discussions at recent hearings (Tr. 20911-19), the evidentiary hearings scheduled for October 3-7, 1983 (see notice dated August 29, 1983) have been rescheduled for October 31-November 5 and November 7-10, 1983 (to the extent necessary to complete hearings on the issue dealing with the alleged violation of the Licensing Board's Order of April 30, 1982). Hearings will commence at 9:30 a.m. on October 31 and at 9:00 a.m. on other days and will be held at the Quality Inn, 1815 S. Saginaw Road, Midland, Michigan 48640.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 83-26902 Filed 9-30-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3 (Emergency Planning Proceeding)]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Second Discovery Conference

September 27, 1983.

Please take notice that a discovery conference of counsel will be held in this proceeding on Monday, October 3, 1983, commencing at 10:30 a.m., in the Nuclear Regulatory Commission Hearing Room, 4350 East-West Highway, Fifth Floor, Bethesda, Maryland 20014.

The attendance of the following is required: Long Island Lighting Co. ("LILCO"), Suffolk County ("the County"), NRC Staff and any other party subject to a discovery dispute on the agenda. All other parties are welcome to attend.

Those in attendance must have full authority to settle, compromise, argue and dispose of all pending discovery motions. Because of the failure of LILCO and the County to be represented at the First Discovery Conference by Counsel with full authority to settle and compromise the discovery disputes, LILCO and the County are ordered to have an executive or management official of each, who has full authority to settle, compromise and dispose of all pending discovery disputes, in attendance at the Second Discovery Conference.

The agenda for the Second Discovery Conference will include pending discover motions as follows:

1. Suffolk County Motion to Compel LILCO Responses to Interrogatory Concerning LERO Workers.

2. Suffolk County Motion to Compel Production of LERO Directors to be Deposed.

3. Any discovery motion received by the Board by the close of business on Wednesday, September 28, 1983

(responses to such motions shall be filed so that they are received by the Board by the close of business on Friday, September 30, 1983).

4. The future course of discovery in this proceeding and the resolution of future discovery disputes.

The Atomic Safety and Licensing Board.

James A. Laurenson,

Chairman, Administrative Law Judge.

[FR Doc. 83-26903 Filed 9-30-83; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued revisions to two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 21, "Design and Fabrication Code Case Acceptability, ASME Section III, Division 1," and Regulatory Guide 1.85, Revision 21, "Materials Code Case Acceptability, ASME Section III, Division 1," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides are periodically revised to update the listings of acceptable code cases and to include the results of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. a subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Publication Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 26th day of September 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Office of Nuclear Regulatory Research.

[FR Doc. 83-26904 Filed 9-30-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE U.S. TRADE REPRESENTATIVE

Caribbean Basin Economic Recovery Act; Opportunity To File Comments on Designation of Beneficiary Countries

Introduction: On August 5, 1983, the President signed into law the Caribbean Basin Economic Recovery Act to promote the economic development of 27 countries and territories in Central America, the Caribbean and Northern South America. The Act provides duty-free treatment for imports and tax incentives intended to promote the expansion of trade and investment in the Caribbean Basin. The Act provides the President with the authority to proclaim duty-free treatment for eligible articles and to designate countries eligible to receive such benefits. The President is currently in the process of deciding which Caribbean Basin nations meet the statutory designation criteria and on or about November, 1983, will notify Congress of the initial list of countries he intends to designate as beneficiaries under the Act. Interested members of the public are invited to submit comments regarding issues which might enter into the President's decision on designation.

Legal Authority for Designation of Beneficiary Countries

Section 211 of the Caribbean Basin Economic Recovery Act provides the authority for the President to grant duty-free treatment to eligible articles from designated Caribbean Basin countries for the purpose of establishing a one-way free trade arrangement. Pursuant to section 211 the President has the authority to implement duty-free treatment for eligible articles by proclamation. The authority became effective as of August 5, 1983, the date of enactment, and terminates on September 12, 1995.

Section 212 of the Act establishes the procedures to be followed in designating countries eligible to receive duty-free treatment. Section 212 defines beneficiary countries as those designated by Presidential proclamation. Subsection (b) of section 212 list those countries and territories which are eligible for designation. Prior to designation, the President must notify Congress of his intention to designate and give the basis for his decision. The statute imposes no time limits on desigantion or Congressional notification of intent to designate. However, once a country has been designated, the President must notify Congress at least sixty days prior to terminating the designation of such country.

The statute limits the President's authority in terms of the kinds of articles which would be eligible to receive duty-free treatment and sets forth the criteria that must be satisfied before a country may be designated as a beneficiary country. Under section 213, unless specifically excluded, all products will be eligible for duty-free treatment subject to the rules-of-origin requirements, conditions on sugar imports and import safeguard provisions. The two basic eligibility requirements are that the articles must be the growth, product or manufacture of a beneficiary country and must meet the rules-of-origin test. The rules-of-origin require that the sum of cost of materials produced in the beneficiary country plus the direct cost of processing operations performed in the beneficiary country must equal or exceed 35 percent of the appraised value of the article. Part of this requirement can be met through incorporations of U.S.-origin products (up to 15 percent of the required value). The products specifically excluded from duty-free treatment include: (1) Textile and apparel products covered by the Multifiber Arrangement; (2) all footwear, handbags, luggage, flat goods, work gloves and leather wearing apparel not designated as GSP eligible as of the date of enactment of the Act; (3) tuna, whether prepared or preserved in any manner; and (4) petroleum and petroleum products.

Section 212 establishes the parameters of the President's authority regarding country designation. First, the country must be on the following list of countries and territories provided in subsection (b) of section 212:

Anguilla	Suriname
Antigua and Barbuda	Cayman Islands
The Bahamas	Montserrat
Barbados	El Salvador
Belize	Grenada
Costa Rica	Guatamala
Trinidad and Tobago	Guyana
Dominica	Haiti
Dominican Republic	Netherlands Antilles
Jamaica	Saint Christoper-Nevis
Nicaragua	Turks and Caicos Islands
Panama	British Virgin Islands
Saint Lucia	Honduras
Saint Vincent and the Grenadines	

In addition to being on the list of countries provied in section 212, there are mandatory designation criteria which a country must meet. Subsection (b) of section 212 provides that a country must:

(1) Not be a communist country;

(2) Not have nationalized or expropriated U.S. property unless the President determines and notifies Congress that the country is providing for payment of prompt, adequate and effective compensation or is entering into negotiations to provide such compensation;

(3) Act in good faith in recognizing as binding, or in enforcing, arbitral awards in favor of U.S. citizens;

(4) Not be granting reverse preferences which have an adverse effect on U.S. commerce unless the President has received assurances that such preferential treatment will be reduced or eliminated;

(5) Not engage in the rebroadcast of U.S. copyrighted material through a government-owned entity without the express consent of the copyright holder;

(6) Cooperate with U.S. efforts to interdict unlawful narcotics trafficking; and

(7) Have signed a treaty, convention, protocol, or other international agreement providing for the extradition of U.S. citizens.

The criteria related to communist status, compensation or expropriation, compliance with arbitral awards, and rebroadcast may be waived if the President determines and reports to Congress that it is in the national economic or security interests of the U.S. to do so.

The third step in the designation process is that the President must, pursuant to subsection (c) of section 212, take into account ten factors:

(1) An expression by such country of its desire to be so designated;

(2) The economic conditions in such country, the living standards of its inhabitants and any other economic factors which he deems appropriate;

(3) The extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) The degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) The degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) The degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) The degree to which such country is undertaking selfhelp measures to promote its own economic development;

(8) The degree to which workers in such country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively;

(9) The extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent; and

(9) The extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this title.

These criteria are discretionary and are intended to be applied in a manner which promotes the purposes of the Act. Therefore, a country's failure to satisfy one or more of the conditions would not preclude the President from designating such country as a beneficiary country under the Act.

Time Period for Submission of Comments

Comments must be received within two weeks of the date of this notice and should be addressed to: Mr. Jon Rosenbaum, Assistant USTRfor the Americas, Office of the U.S. Trade Representative, Room 305, 600 17th Street, NW., Washington, D.C. 20506.

For further information contact Christine Bliss, Office of the General Counsel (202) 395-6800.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 83-26914 Filed 9-30-83; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-6271]

Application To Withdraw From Listing and Registration

September 27, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Avemco Corporation ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on September 14, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interest person may, on or before October 19, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26943 Filed 9-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19986; File No. SR-CBOE-83-23]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc.

July 20, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 5, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission the proposed rule change as described

herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposal is to establish a schedule of fees varying from $.80 to $6.00 per contract, increasing with the price and decreasing with the size of the order, to be charged members for orders in Standard & Poor's 500 options that are executed through the Order Book Official ("OBO"). CBOE states that its fees are designed to defray the costs of providing OBO services. CBOE also states that they are doubling the amounts charged on equity and Standard & Poor's 100 options in order of reflect the larger contract size and corresponding liability for OBO errors. As statutory basis for the proposed rule change CBOE relies upon Section 6(b)(4) of the Act relating to equitable allocation of reasonable charges among exchange members.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time with 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comment should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR–CBOE–83–23.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by its Secretary, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–26944 Filed 9–30–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20222; File Nos. 600–5 and 600–19]

Registration as Clearing Agencies of Boston Stock Exchange Clearing Corp., and New England Securities Depository Trust Co.

September 23, 1983.

In accordance with Sections 17A(a)(2) and 19(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78q–1 and s (the "Act") and Rule 17Ab2–1(c)(1) (17 CFR 240.17Ab2–1(c)(1)) thereunder, the Commission granted registration as a clearing agency to the Boston Stock Exchange Clearing Corporation ("BSECC") on December 1, 1975, and to the New England Securities Depository Trust Company ("NESDTC") on September 24, 1976, for a period of eighteen months or such longer time as the Commission may provide by order. Pursuant to Rule 17Ab2–1(c)(1), these clearing agencies, among others, were exempted temporarily from satisfying a number of requirements as to which the Commission is directed to make determinations by Section 17A(b)(3)(A)–(I) of the Act (the "Requirements"). Subsequently, the Commission, by order, extended these clearing agencies' existing temporary registrations on a number of occasions, with the most recent extension to expire on September 30, 1983.[1]

In connection with both temporary registrations, the Commission instituted proceedings to determine whether to grant or deny registration to both clearing agencies.[2] Since those proceedings were instituted, both clearing agencies have periodically consented to extensions of time within which the Commission is required to conclude its registration proceedings. Recently, both clearing agencies consented to an additional twelve month extension of time for concluding the proceedings. Accordingly, this order extends until September 30, 1984, the existing registrations of the clearing agencies to enable them to remain registered during that extended period.

During the last two years, BSECC has altered significantly its operations and procedures and currently is revising its rules, by-laws, and procedures to reflect these changes. BSECC has requested an extension of temporary registration to afford it time to complete and submit proposed rule changes to the Commission, pursuant to Rule 19b–4 (17 CFR 240.19b–4). In turn, NESDTC has indicated that it has ceased doing any business as a clearing agency and has requested that its registration be cancelled pursuant to Section 19(a)(3) of the Act. At this time, however, the Commission has not determined whether to grant deregistration to NESDTC. Instead, at the Commission staff's request, NESDTC has agreed to an extension of its temporary registration to afford the Commission time to review the nature and extent of residual activities and obligations, if any, and to determine whether additional steps or undertakings must be made by NESDTC or the Boston Stock Exchange, Inc., before granting deregistration.

It is, therefore, ordered that BSECC's and NESDTC's temporary registrations be, and they hereby are, extended until September 30, 1984.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–26942 Filed 9–30–83; 8:45 am]

BILLING CODE 8010–01–M

[1] Securities Exchange Act Release No. 18584 (March 22, 1982), 47 FR 13266 (March 29, 1982).

[2] Proceedings were instituted by the Commission on September 1, 1976, regarding BSECC and on June 23, 1977, regarding NESDTC

[Release No. 20221; File No. 600–1, et al.]

Depository Trust Co., et al.; Order

September 23, 1983.

In the matter of the full registration as clearing agencies of: The Depository Trust Company (File No. 600–1); Stock Clearing Corporation of Philadelphia (File No. 600–4); Midwest Securities Trust Company (File No. 600–7); The Options Clearing Corporation (File No. 600–8); Midwest Clearing Corporation (File No. 600–9); Pacific Securities Depository Trust Company (File No. 600–10); Pacific Clearing Corporation (File No. 600–11); National Securities Clearing Corporation (File No. 600–15); and Philadelphia Depository Trust Company (File No. 600–19).

Introduction

This Order concerns the registration of nine clearing agencies [1] pursuant to

[1] The Commission today is granting full registration to the Depository Trust Company ("DTC"); Stock Clearing Corporation of Philadelphia ("SCCP"); Midwest Securities Trust Company ("MSTC"); Options Clearing Corporation ("OCC"); Midwest Clearing Corporation ("MCC"); Pacific Securities Depository Trust Company ("PSDTC");

Continued

Section 17A of the Securities Exchange Act of 1934 (the "Act"),[2] and Rule 17Ab2-1.[3] The full registration of these clearing agencies constitutes an important step in the Commission's efforts to facilitate the development of a national system for the prompt and accurate clearance and settlement of securities transactions ("National System") under Section 17A of the Act. Granting these nine applications for clearing agency registration culminates eight years of cooperative efforts by the securities industry and the Commission to put in place central portions of the National System. Through the issuance of this Order, the Commission recognizes the significant steps that have been taken by various segments of the financial community toward achieving the goals established by Congress in Section 17A(a)(1) of the Act.

The remainder of this Order is organized as follows:

I. Background

A. The Paperwork Crisis and Resulting Legislation

During the late 1960's, the securities industry experienced a paperwork crisis that nearly brought the industry to a standstill and directly or indirectly caused the failure of a large number of broker-dealers. This crisis resulted from sharply increased trading volumes and historic industry inattention to securities processing, as illustrated by inefficient, duplicative and extensively manual clearance and settlement systems, poor records, insufficient controls over funds and securities, and use of untrained personnel to perform processing functions.[4] In the aftermath of the paperwork crisis, the securities industry, the Commission, and the Congress directed concerted attention to securities processing. Among other things, the Commission actively encouraged expanded participation in clearing corporations and securities depositories by all qualified broker-dealers and other financial intermediaries. Congress held extensive hearings to investigate the paperwork problems[5] and ultimately enacted the Securities Acts Amendments of 1975 (the "1975 Amendments").[6]

In Section 17A(a)(1) of the act, as amended, Congress found that:

> (A) The prompt and accurate clearance and settment of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds related thereto, are necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors.
>
> (B) Inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by acting on behalf of investors.
>
> (C) New data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement.
>
> (D) The linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors.[7]

Accordingly, in Section 17A(a)(2) of the Act, Congress directed the Commission to facilitate the development of the National System consistent with those findings. At the same time, Congress instructed the Commission to administer Section 17A with due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and the maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents.

B. Full Registration Proceedings

Although Section 17A(b)(1) of the Act required that all clearing agencies be registered with the Commission by December 1, 1975,[8] Congress provided that the Commission could not grant registration to clearing agencies unless they exhibited certain organizational characteristics and capabilities (the "Requirements")[9] or were otherwise exempted by the Commission.[10] Pursuant to this authority, on November 3, 1975,[11] the Commission adopted Rule 17Ab2-1[12] and Form CA-1[13] for the registration of clearing agencies. In accordance with Rule 17Ab2-1(c)(1),[14] thirteen clearing agencies applied for registration. The Commission granted temporary registration to all thirteen clearing agencies[15] after finding that each clearing agency (1) was organized to have, and had, the capacity to safeguard securities and funds in its custody or control or for which it was responsible;[16] (2) had rules that assured the safeguarding of securities or funds that were in its custody or control or for which it was responsible;[17] and (3) had rules that did not impose any schedule of prices, or fix rates or other fees, for services rendered by participants.[18] The Commission also instituted proceedings to determine whether the clearing agencies satisfied, or should be exempted from, the Requirements and could therefore be granted full registration pursuant to Rule 17Ab2-1(c)(2).[19] Since that time, in connection with the oversight of clearing agencies, the Commission staff has reviewed the registration applications and numerous supplements and the Commission has extended the temporary registrations by order on a number of occasions, with

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Pacific Clearing Corporation ("PCC"); National Securities Clearing Corporation ("NSCC"); and Philadelphia Depository Trust Company ("Philadep").

[2] Securities Exchange Act of 1934, *as amended*, 15 U.S.C. 78a *et seq.* (1976).

[3] 17 CFR 240.17Ab2-1.

[4] *See, e.g.*, Securities and Exchange Commission, *Study of Unsafe and Unsound Practices of Brokers and Dealers*, H.R. Doc. No. 231, 92d Cong., 1st Sess. 13 (1971).

[5] *See, e.g., Clearance and Settlement of Securities Transactions, Hearings on S. 3412, S. 3297, and S. 2551 Before the Subcom. on Banking, Housing and Urban Affairs*, 92d Cong. 2d Sess., 95-96 (1972).

[6] Pub. L. No. 94-29, 89 Stat. 97 (1975).

[7] 15 U.S.C. 78q-1.

[8] Section 17A(b)(1) of the Act.

[9] Section 17A(b)(3)(A)-(I) of the Act discussed *infra*.

[10] Section 17A(b)(1) of the Act.

[11] Securities Exchange Act Release No. 11787 (November 3, 1975), 40 FR 52356 (November 10, 1975).

[12] 17 CFR 240.17Ab2-1.

[13] 17 CFR 249b.200.

[14] Rule 17Ab2-1(c)(1) (17 CFR 240.17Ab2-1(c)(1)) authorizes the Commission to register a clearing agency "temporarily" (for 18 months or such longer time as the Commission may provide by order), and to exempt a temporarily registered clearing agency from satisfying one or more of the Requirements.

[15] On December 1, 1975, the Commission granted temporary registration to DTC, Bradford Securities Processing Services, Inc. ("BSPS"), SCCP, Boston Stock Exchange Clearing Corporation ("BSECC"), MSTC, OCC, MCC, PSDTC, PCC, and TAD Depository Corporation ("TAD"). Temporary Registration was granted to New England Securities Depository Trust Company ("NESDTC") on September 24, 1976; to NSCC on October 24, 1977; and to Philadep on October 24, 1979. The Commission terminated the registrations of BSPS and TAD at their request on March 22, 1982. Securities Exchange Act Release No. 18583 (March 22, 1982), 47 FR 13282 (March 29, 1982).

[16] Section 17A(b)(3)(A) of the Act.

[17] *Id.*

[18] Section 17A(b)(3)(E) of the Act.

[19] 17 CFR 240.17Ab2-1(c)(2).

the most recent extension to expire on September 30, 1983.[20]

As part of its efforts to provide guidance to the clearing agencies in structuring their organizations, systems, capacities, and rules to comply with the Requirements, the Commission proposed [21] and published [22] standards (the "Standards") to be used by the Division of Market Regulation (the "Division") in reviewing and making recommendations whether all or any clearing agencies should be granted full registration. The Standards illustrate specific objectives that each clearing agency's rules, procedures, or systems should achieve to be granted full registration.[23]

In response to the Commission's request in the Standards Release, twelve temporarily registered clearing agencies submitted amended Forms CA–1 in December 1980, along with rule proposals designed to comply with the Standards, or, in certain cases, requests for exemptive relief from certain of the Requirements or the Standards.[24]

C. Clearing Agency Functions and Organization

Section 3(a)(23)(A) of the Act defines a clearing agency as:

> any person who acts as an intermediary in making payments or deliveries or both in connection with transactions in securities or who provides facilities for comparison of data respecting the terms of settlement of securities transactions, to reduce the number of settlements of securities transactions, or for the allocation of securities settlement responsibilities. Such term also means any person, such as a securities depository, who (i) acts as a custodian of securities in connection with a system for the central handling of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred, loaned, or pledged by bookkeeping entry without physical delivery of securities certificates, or (ii) otherwise permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates.[25]

The clearing agencies that are the subject of this Order perform a wide variety of securities processing functions, but share many of the same legal and operational characteristics. These clearing agencies perform securities processing and operational and financial monitoring services for their participants, including banks, broker-dealers, and institutional investors. As self-regulatory organizations ("SROs") under the Act,[26] these clearing agencies have both the authority and the obligation, among other things, to deny participation to statutorily disqualified [27] or incompetent [28] applicants for membership, to discipline participants,[29] and to provide participants with due process when they may be adversely affected by those decisions.[30]

Different types of clearing agencies, however, provide differing clusters of services for their participants. Clearing corporations generally receive trade data respecting exchanges or over-the-counter ("OTC") trades between broker-dealers, and compare,[31] account for [32] and settle [33] the netted securities transactions. In connection with with Continuous set Settlement ("CNS")

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[20] Securities Exchange Act Release No. 18584 (March 22, 1982), 47 FR 13266 (March 29, 1982). The Commission today also is expecting the temporary registrations of BSECC and NESDTC until September 30, 1984 in a separate order

[21] *See* Securities Exchange Act Release No. 13584 (June 1, 1977), 42 FR 30066 (June 10, 1977); Securities Exchange Act Release No. 14531 (March 6, 1978), 43 FR 10288 (March 10, 1983).

[22] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980) ("Standards Release").

[23] For example, Section 17A(b)(3)(A) of the Act provides, among other things, that a clearing agency must have rules to assure the safeguarding of funds and securities in the clearing agency's custody control, or for which it is responsible. The Standards provide that a clearing agency, among other things, must have an internal audit department, that reviews objectively the clearing agency's operations and reports its findings to the clearing agency. Standards Release, 45 FR at 41926–28.

[24] TAD did not file a revised application for registration. As discussed at note 15 *supra*, the registrations of TAD and BSPS have been cancelled

[25] Section 3(a)(23)(A) of the Act, 15 U.S.C. 78c(a)(23)(a) broadly defines "clearing agency" and this definition may require entities, other than those that are the subject of this Order or the order extending temporary registration for two clearing agencies, discussed at note 20 *supra*, to apply for registration with the Commission. Examples of such entities might include securities custodians, transfer agent depositories, securities drafting and collection services, and entities providing other limited or specialized clearing services. By granting full registration to the nine named clearing agencies, the Commission does not intend to limit or narrow the Act's definition of clearing agency or the clearing agency registration requirements. Section 3(a)(23)(B) of the Act creates certain exclusions from the definition of clearing agency, and Section 17A(b)(1) of the Act grants the Commission power to exempt certain clearing agencies from the Act's registration requirements. In this connection, several banks or subsidiaries of bank holding companies that perform various securities processing functions have requested that the Commission exempt them from the clearing agency registration requirements, pursuant to this subsection. The Commission is addressing those requests in a separate proceeding.

[26] Section 3(a)(25) of the Act

[27] Section 17A(b)(4)(A) of the Act

[28] Section 17A(b)(4)(B) of the Act

[29] Section 17A(b)(3)(G) of the Act

[30] Section 17A(b)(5) of the Act

[31] "Comparison" is the process by which broker-dealers match trades previously executed in the marketplace. That process culminates in the production, and submission to the clearing agency's accounting operation, of trade data that have been matched by both sides to the trade. Street-side comparison of trade data between buying and selling broker-dealers should be distinguished from a similar matching of trade data between a broker and his institutional customer, commonly called the "confirmation and affirmation process". *See* note 36 *infra*.

Traditional comparison of exchange trades occurs either: (i) on the floor of the exchange when, following execution of the trade, parties to the trade "reconfirm" the terms of the trade and submit trade data manually, or on an automated basis, to the clearing corporation ("floor-derived comparison"); or (ii) after the end of the trading day, when buyer and seller independently submit trade data to a clearing corporation, which then attempts to match-up those data ("conventional comparison").

OTC street-side comparison is conventional and is performed for all clearing corporations by NSCC. The operating costs of the National OTC Comparison System are borne *pro rata* by the participating clearing corporations and their participants.

[32] The accounting process generates the money and securities settlement obligations of participants in clearing corporations. Several types of accounting systems are used by clearing corporations. The most sophisticated accounting system is the Continuous Net Settlement ("CNS") system, which severs the link between the original parties to the compared trades and interposes the system as the *contra* party. The system generates a single, daily net "buy" or "sell" position for each securities issue in which a participant has compared trades scheduled to settle on the fifth day after trade date and nets accumulated settlement obligations in that issue. As the *contra* side for each net settlement obligation, the clearing corporation's CNS system, rather than the original parties to the trades, becomes the entity obligated to deliver or receive securities and money. The clearing corporation protects itself against financial risk by, among other things, obtaining mark-to-the-market payments on open obligations from each participant whose failure to satisfy those open obligations would place the system at risk. Unlike CNS systems, daily balance order ("DBO") systems traditionally have not interposed clearing corporations between parties. Instead, a DBO system generates a daily net "buy" or "sell" position for each issue of securities in which a participant has a compared trade due to settle, and allocates among, and issues to, participants net daily settlement orders to deliver or receive. As a result, a participant may be required to deliver securities to, or receive securities from, a participant with which it had no trades. Although securities and money settlement are pursuant to DBOs, fails are treated as fails between the parties to the DBO and must be resolved between them (rather than with the system). Other accounting systems, such as trade-by-trade systems, do not net deliver and receive obligations and require that those obligations be settled directly between the original parties, contract-by-contract.

[33] Obligations generated by the accounting function are satisfied through the settlement process by the delivery and receipt of funds and securities. CNS money settlement occurs at the clearing corporation with net securities movements being made at the affiliated securities depository

systems,[34] clearing corporations guarantee participant obligations.

A securities depository is a "custodial" clearing agency that operates a centralized system for the handling of securities certificates. Depositories accept deposits of securities from broker-dealers, banks, and other financial institutions; credit those securities to the depositing participants accounts; and, pursuant to participant's instructions, effect book-entry movements of securities.[35] The physical securities deposited with a depository are held in a fungible bulk; each participant or pledgee having an interest in securities of a given issue credited to its account has a *pro rata* interest in the physical securities of the issue held in custody by the securities depository in its nominee name. Depositories collect and pay dividends and interest to participants for securities held on deposit. Depositories also provide facilities for payment by participants to other participants in connection with book-entry deliveries of securities and provide facilities for customer-side settlement of institutional trades through, for example, the National Institutional Delivery System ("NIDS").[36] Securities credied to a participant's or a pledgee's account may be withdrawn by the participant in physical form for delivery to persons who do not maintain accounts with the depository.[37]

In contrast to those two types of clearing agencies, OCC is unique. OCC issues options on equity securities, as well as on a variety of other financial instruments,[38] records participants' options positions, and determines participants' daily options net settlement obligations. OCC also receives exercise instructions from participants, randomly assigns exercise notices to participants with short positions in the exercised options, and facilitates settlement of the obligations arising from exercise. OCC provides rules and procedures for the settlement of stock index and other non-equity options obligations, and forwards trade data on individual equity option exercises and assignments to correspondent clearing corporations for settlement with other settling trades in those securities.

Clearing agencies that have applied for registration are owned and controlled in two basic ways. Most of the applicant clearing agencies are wholly-owned subsidiaries of affiliated national securities exchanges. For example, SCCP and Philadep are wholly-owned subsidiaries of the Philadelphia Stock Exchange Inc. ("Phlx").[39] Profits earned by the SCCP or Philadep that are not rebated to participants or retained by the clearing agencies are returned to the parent stock exchange. As with any corporation, Phlx, as shareholder, elects SCCP's and Philadep's boards of directors.[40]

Other clearing agencies, however, are owned and controlled by several entities. NSCC, for example, is owned by the New York Stock Exchange, Inc. ("NYSE"), the American Stock Exchange, Inc. ("AMEX"), and the National Association of Securities Dearlers, Inc. ("NASD"). The members of NSCC's board of directors, however, are elected by participants according to a formula linking the number of votes held by each participant to the participant's use of NSCC services.[41] DTC is owned by the NYSE, AMEX, NASD, and its participants. Participants are permitted to purchase stock, and hence vote for directors, in proportion to their use of DTC services.[42] OCC is owned by its participating options exchanges.[43]

II. Review Methodology

During the last several years, the Commission has given special attention to the Forms CA–1 submitted by each clearing agency. During the review, the Commission attempted to identify significant respects in which clearing agency rules, systems, and procedures appeared to be inconsistent with the Requirements. The Commission's review placed special emphasis on potential financial exposure to clearing agencies, their participants, and the public resulting from peculiarities in services provided or in the manner in which those services were organized. In addition to reviewing the Forms CA–1, the Commission's determinations were based on its continuous monitoring and oversight of the operations of each clearing agency and the exemplary history of the National System.

In conducting its review, the Commission has made every effort to take into account inherent differences among the clearing the agencies that are subject to this Order. In addition, in determining propriety of requests for exemptions from certain aspects of the Act, the Commission gave special attention to the unique characteristics of the requesting clearing agency. Thus, the Commission required uniformity among clearing agencies only where crucial to effectuate statutory goals and to protect investors and the public interest.

During the review process, the Commission staff had extensive conversations with the various clearing agencies concerning identified deficiencies in, or unique features of, their rules, systems, and procedures. In the cooperative spirit envisioned in the Act, each clearing agency has made many necessary changes to conform its rules, systems, and procedures to the Requirements and the Standards. The

[34] *See* note 32 *supra*. In addition, most clearing corporations provide non-automated settlement services, such as envelope delivery systems. Envelope delivery systems permit a delivering participant to pass securities in envelopes to the clearing corporation which, in turn, delivers the envelopes to designated receiving participants.

[35] *See, e.g.*, DTC, *Participant Operating Procedures*, §§ B and C. *See also* note 33 *supra*. Depositories also facilitate the pledging of securities between participants.

[36] In a typical institutional trade, an investment manager instructs a broker to execute a trade. After executing the trade, the broker sends to the investment manager a written statement, called a "confirm," specifying the terms of that trade. *See* Rule 10b–10 (17 CFR 240.10b–10). If the confirm matches the investment manager's instructions, *i.e.*, if the broker executed the trade properly, the investment manager will issue instructions, called an "affirm," to the custodian bank authorizing the bank to receive or deliver securities against payment to or by the executing broker. To promote timely customer-side settlement of institutional trades, various SROs have taken significant steps to encourage investment managers, brokers and custodian banks to confirm, affirm, and settle most institutional trades through the facilities of a securities depository. DTC, in cooperation with MSTC, PSDTC, and Philadep, operates an automated settlement system called the National Institutional Delivery Sysem ("NIDS"). The NIDS, in conjunction with depository interfaces, permits most institutional trades to be quickly, accurately, and cheaply confirmed, affirmed, and settled by a net book-entry movement and/or a single money obligation. See Securities Exchange Act Release No. 19227 (November 9, 1982), 47 FR 51658 (November 16, 1982).

[37] Certificates may be withdrawn (i) after re-registration in a name designated by the withdrawing party or (ii) in the name of a depository's nominee, in which case the nominee appoints the withdrawing party as attorney to effect transfer of the certificate. *See e.g.*, DTC, *Participant Operating Procedures*, §§ D and E.

[38] *See* note 151 *infra*. All options issued by OCC are registered with the Commission, pursuant to the Securites Act of 1933, *as amended*, 15 U.S.C. 77a–77aa (1976).

[39] *See* File No. 600–4 (SCCP), Form CA–1, Attachment A, at 1.

[40] Other regional clearing corporations and depositories are similarly organized and controlled. Because Section 17(A)(b)(3)(C) of the Act requires that the rules of the clearing agency assure fair representation of its shareholders (or members) and participants in the selection of its directors and the administration of its affairs, the regional clearing agencies have recently re-structured their by-laws, rules, and procedures to satisfy this requirement. *See* discussion in text accompanying notes 52–62 *infra*.

[41] *See* File No. 600–15 (NSCC), Form CA–1, at Exhibit A, Annex 1, at 18; Exhibit A, Annex 2, at 4; and Exhibit A, Annex 3.

[42] *See* File No. 600–1 (DTC) Form CA–1 at Exhibit A and Addendum 1.

[43] *See* File No. 600–8 (OCC), Form CA–1 at Exhibit A, Vol. I, and OCC By-laws, Art VII, §§ 1–5.

Commission wishes to commend the clearing agencies for their excellent and dedicated efforts, particularly during the last year, to up-date and refine their Forms CA–1.

The Commission's oversight of clearing agency compliance with the Act has not been confined to review of Forms CA–1. Indeed, in carrying out the Commission's general oversight responsibilities, the Commission has reviewed, pursuant to Section 19(b) of the Act, each of the many proposed rule changes filed by the clearing agencies. Those rule changes have concerned most of the major services and systems of each clearing agency, all of the recent enhancements to clearing agency services, and all schedules of fees.[44] Moreover, that rule review process is continuous, since clearing agencies periodically enhance their services in ways that require rule filings.[45]

The Commission also conducts, pursuant to Section 17(b) of the Act, routine or cause inspections of clearing agencies, which help ensure the continuing integrity of clearing agency operations. In connection with those inspections, the Commission has scrutinized the operations of most of the temporarily registered clearing agencies and has worked in a cooperative setting with each inspected clearing agency, as well as with the Board of Governors of the Federal Reserve System ("BGFRS"), as appropriate,[46] to refine and enhance clearing agency safety and efficiency. Inspections have provided an informed and important backdrop to the Commission's determination today to grant full registration to the subject clearing agencies, and they will continue to aid the Commission's on-going enforcement responsibilities concerning clearing agencies.

[44] During Fiscal Year 1983, the Division's Office of Securities Processing Regulation received and reviewed approximately 140 proposed rule changes filed by the various clearing agencies.

[45] In addition, the Commission staff daily reviews announcements of clearing agency system adjustments and other important events, received by the Commission pursuant to Rule 17a–22 (17 CFR 240.17a–22).

[46] DTC, PSDTC, and MSTC are limited purpose trust companies and members of the Federal Reserve System. The BGFRS, as an appropriate regulatory agency ("ARA"), has certain regulatory authority and responsibilities with respect to these clearing agencies. *See* Sections 3(a)(34)(B) and 19 of the Act. In addition, the Commission has consulted with the BGERS under appropriate circumstances, particularly when reviewing proposed rule changes filed by these depositories, pursuant to Section 19(b) of the Act, and Rule 19b–4 (17 CFR 240.19b–4) thereunder.

III. Scope of This Order and Its Effects on Clearing Agencies and Commission Oversight

This Order confirms that each clearing agency subject to the Order is operating in substantial compliance with the Act. The Commission recognizes that Congress did not intend the full registration proceedings to continue indefinitely, but, instead, anticipated that these proceedings should end as soon as the Commission could make the fundamental findings specified in the Requirements. The Commission does not intend this Order to suggest that no further modifications of the subject clearing agencies' rules, systems, procedures, and practices are needed now or in the future. Indeed, the findings made in this Order are intended to supplement the Commission's, or any other appropriate regulatory agency's, continuing authority under the Act to regulate evolving clearing systems.[47] The Commission will continue to use its oversight, inspection, and enforcement authority as necessary and appropriate to further the purposes of the Act, and, as necessary, will use its rulemaking authority under Sections 17A (d)(1) and (e) of the Act to ensure continued development of the National System. In any event, the Commission anticipates that in the future, the fully registered clearing agencies will make all needed adjustments in their rules, systems, and procedures in the cooperative spirit the Commission has experienced to date.

As a result, the self-regulatory obligations of the fully registered clearing agencies cannot end with this proceeding. Each clearing agency must continue to satisfy the Requirements and the Standards, including (i) filing with the Commission, pursuant to Rule 17a–22, any notice distributed to all clearing agency participants; (ii) filing any changes in rules, systems, or procedures as required by Section 19 of the Act and Rule 19b–4 thereunder;[48] and (iii) keeping its Form CA–1 submission current. In addition, all registered clearing agencies must continue to respect all conditions established, or undertakings related to, this Order and any other relevant undertaking or Commission Order.[49]

[47] Unlike with other SROs, the Commission does not have authority under Section 19(c) of the Act to abrogate, add to, or delete from, particular rules of particular registered clearing agencies.

[48] Proposed rule changes submitted by these clearing agencies currently pending before the Commission are not affected by this proceeding. Similarly, agreements limiting or governing the operations of any pilot programs instituted by any clearing agency remain in effect. *See, e.g.*, Securities Exchange Act Release No. 13706 (June 30, 1977), 42 FR 35715 (July 11, 1977); Securities Exchange Act Release No. 13741 (July 12, 1977), 42 FR 37062 (July 19, 1977); and Securities Exchange Act Release No. 19911 (June 24, 1983), 48 FR 30506 (July 1, 1983) (proposed rule changes that would permit depository participants to transmit and receive data using computer terminal systems); Securities Exchange Act Release No. 13337 (March 7, 1977), 42 FR 15159 (March 18, 1977); Securities Exchange Act Release No. 13375 (March 15, 1977), 42 FR 15996 (March 24, 1977); Securities Exchange Act Release No. 13392 (March 18, 1977), 42 FR 16690 (March 29, 1977); Securities Exchange Act Release No. 14109 (October 27, 1977), 42 FR 58691 (November 14, 1977) (proposed rule changes eliminating interface fees between depositories).

[49] *See, e.g.*, notes 117 and 119–21 *infra*. Similarly, issues raised in previous inspections that have not been resolved fully herein remain subject to inspection undertakings.

IV. Findings: Application of Statutory Standards to Clearing Agencies

A. Introduction

The following discussion explains in detail the specific obligations imposed by the Requirements, as interpreted by the Standards, that a clearing agency must satisfy before the Commission may grant it full registration. To avoid unnecessary repetition, this Order does not discuss each Requirement and each Standard with respect to each clearing agency; instead, each Requirement is discussed in conjunction with the clearing agency that presented illustrative issues respecting that Requirement.[50] This Order also discusses the amendments to by-laws, rules, systems, and procedures that each clearing agency has made (or has undertaken to make) to satisfy the Requirements and the Standards. Finally, the Order indicates that, subject to the conditions and undertakings noted in this Order, all clearing agencies subject to this Order substantially satisfy the Requirements.

B: MCC and MSTC

MCC and MSTC are wholly-owned clearing agency subsidiaries of the Midwest Stock Exchange ("MSE"). MCC and MSTC offer participants a wide range of integrated services referred to as the MST System. These services include trade recording; trade comparison, clearance, and settlement; CNS and trade-for-trade settlement accounting; clearance and settlement, through the Regional Interface Organization ("RIO"), of participants' trades with participants settling in other clearing corporations; safekeeping of bearer and registered municipal bonds; confirmation, affirmatin, and book-entry

[50] For example, the Requirement in Section 17A(b)(3)(A) of the Act that a clearing agency safeguard funds and securities is discussed primarily with respect to SCCP. SCCP has an unusual financing program that requires the continuous use of special protective measures.

settlement of institutional trades through NIDS; and facilities for borrowing and lending securities.

Staff review of MCC's and MSTC's applications and rules revealed substantial compliance with the Act and the Standards concerning registration of clearing agencies.[51] At the staff's request, however, MCC and MSTC amended a number of rules and by-laws to cure deficiencies respecting fair representation and due process.

1. *Fair Representation*

Section 17A(b)(3)(C) of the Act, concerning fair representation, requires:

[t]he rules of the clearing agency [to] assure a fair representation of its shareholders [or members] and participants in the selection of its directors and administration of its affairs. [The Commission may determine that the representation of participants is fair if they are afforded a reasonable opportunity to acquire voting stock of the clearing agency, directly or indirectly, in reasonable proportion to their use of such clearing agency.][52]

The Act does not define fair representation or set up particular standards of representation. Instead, it provides that the Commission must determine whether the rules of the clearing agency regarding the manner in which decisions are made give fair voice to participants as well as to shareholders in the selection of directors and the administration of its affairs. Interpreting the Act, the Standards require that:

[t]he rules of the clearing agency should (i) provide participants with a meaningful opportunity to be represented in the selection of the clearing agency's directors and the administration of its affairs and (ii) provide that participants shall be apprised of proposed rule changes in order to facilitate their comment on such changes to the Commission.[53]

a. *Nomination and Election of the Board of Directors.* With respect to providing participants with a meaningful opportunity to be represented in the selection of the board of directors and the administration of the clearing agency's affairs, the Standards counselled that each clearing agency's procedures be evaluated on a case-by-case basis. The Standards also described several methods by which a clearing agency could comply with the fair representation standard, including nominations for board of directors by a nominating committee which would be composed of, and selected by, participants or their representatives, or direct selection of a number of the directors by, and from among, the users.[54]

(i) *MCC*

Formerly, the MSE, MCC's sole shareholder, selected MCC's board of directors. Since the members of MCC's board were identical with those of the MSE's Board, as a practical matter, the selection of MCC's board was determined by the MSE election. Pursuant to MSE procedures, a nominating committee, elected by MSE members, nominated individuals to serve on the MSE's Board of Governors. The nominating committee selected its nominees with a view to choosing directors "interested in and knowledgeable about the various aspects of MSE operations and of the securities business and the activities of the Midwest Clearing Corporation. * * *"[55] MSE members, however, also could file a petition, signed by at least ten members, naming nominees other than those named by the nominating committee. At the MSE's annual meeting, each member was entitled to cast one vote for each open position.

The Commission believes that, at a minimum, fair representation requires that the entity responsible for nominating individuals for membership on a clearing agency's board of directors should be obliged by by-law or rule to make nominations with a view toward assuring fair representation of the interests of shareholders and of a cross-section of the community of participants. To this end, MCC amended its by-laws to establish a separate nominating committee comprised of participants that will nominate individuals for membership on MCC's board of directors. Furthermore, the new by-law would require that MCC's nominating committee make nominations to the board with a view toward providing fair representation of the interests of the shareholder and a cross-section of the community of participants.[56]

With respect to the process of selecting directors, because the Commission is unaware of any MCC participants that are not also MSE members, the Commission believes that the previous indirect method of selecting MCC board members has in practice enabled fair representation of participants at MCC. In the future, however, as more categories of participants join MCC without also becoming members of the MSE,[57] an opportunity for direct participation by all MCC participants in the selection of MCC's board is essential. Accordingly, MCC has amended its by-laws to allow participants to file a petition, signed by at least ten participants, to nominate as directors additional persons beyond those proposed by the nominating committee. In addition, at the annual meeting, the MSE, as sole shareholder, will be required to elect directors from among the individuals nominated to be directors, including those nominated by participants, and to vote its share in a manner that ensures representation of the interests of a cross-section of participants.

(ii) *MSTC*

MSTC's board of directors is currently divided into two classes, with Class A directors having a numerical majority over Class B directors. Class A directors are appointed by the sole shareholder, the MSE, and are selected by the MSE "with a view towards providing fair representation for the interests of . . . [the MSE] and of those members of [MSE] which are participants of . . . [MSTC]."[58]

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[51] MCC and MSTC recently filed amendments to their rules that relate to the Requirements. *See, e.g.*, Securities Exchange Act Release No. 18497 (August 9, 1982), 47 FR 36334 (August 19, 1982) and Securities Exchange Act Release No. 18948 (August 9, 1982), 47 FR 36335 (August 19, 1982) (allocation of losses due to participant defaults among the participant's fund, the contingency reserve fund, undivided corporate profits, and retained earnings); Securities Exchange Act Release No. 18823 (June 21, 1982), 47 FR 29512 (June 30, 1982) (MCC credits, and MSTC discounts, fees for participants settling trades in volume at the Midwest clearing agencies); Securities Exchange Act Release No. 18426 (January 18, 1982), 46 FR 8247 (January 22, 1982) (MCC guarantee of trades settling in the CNS accounting operation); Securities Exchange Act Release No. 18348 (December 17, 1981), 46 FR 62592 (December 24, 1981) and Securities Exchange Act Release No. 18340 (December 16, 1981), 46 FR 62594 (December 24, 1981) (allocation of income earned from investment of participant fund assets). In addition, Securities Exchange Act Release No. 19165 (October 21, 1982), 47 FR 49127 (October 29, 1982) noticed for comment amendments to MSTC's reversal and close-out authority that enable MSTC to reverse certain entries in the event of participant insolvency if MSTC ceases to act on behalf of the insolvent. Although MSTC plans to revise this authority, it has undertaken to administer existing rules consistent with broker participants' obligations under Rule 15c3-3 (17 CFR 240.15c3-3).

[52] 15 U.S.C. 78q-1(b)(3)(C).

[53] Standards Release, 45 FR at 41923.

[54] *See* Securities Exchange Act Release No. 14531 (March 6, 1978), 43 FR 10288 (March 10, 1978) and the Standards Release, 45 FR at 41923.

[55] Midwest Stock Exchange, Inc. Constitution, Article IV, Section 4(b)(iii), Midwest Stock Exchange Guide (CCH) ¶1034.

[56] Securities Exchange Act Release No. 20022 (July 29, 1983), 48 FR 36234 (August 9, 1983).

[57] For example, it is possible that, in the future, certain NIDS trades will be eligible for settlement in MCC's CNS accounting operation. In that event, NIDS users, particularly MSTC bank participants, may decide to join MCC.

[58] Midwest Securities Trust Company By-laws, Article III, Section 2, Midwest Stock Exchange Guide (CCH) ¶3032.

Class B directors may be selected in two ways. At least sixty days before each annual shareholders meeting, the MSE nominates six individuals for election as the six Class B directors. Copies of the nominating list are mailed to each MSTC participant that is not a MSE member ("non-member participant"). Non-member participants may file, within thirty days prior to the annual meeting, a petition signed by not less than three non-member participants to nominate additional persons as the Class B directors. If no nominating petition is filed by non-member participants, the MSE appoints as Class B directors the individuals named in its nominating list. If a nominating petition has been filed by non-member participants, MSTC sends each non-member participant a ballot setting forth the names of all nominees and the number of votes to which each non-member participant is entitled, determined by a formula set forth in the by-laws. At the annual meeting, the MSE appoints as Class B directors the six individuals receiving the highest number of votes.

MSTC has undertaken to revise its by-laws governing election of its board not only to conform to the Act and the Standard regarding fair representation, but also to make useful additional changes not directly related to the issue of fair representation.[59] Officials at MSTC have represented to the Commission that the revisions, when completed, will abolish all distinctions between MSE-member participants and non-member participants, and will provide all participants with an opportunity to nominate individuals for election to the board by petition. In that way, both types of participants—MSE-members as well as non-members—will have the same ability to nominate board members directly through the petition process.

MSTC also has represented to the Commission that the new by-laws would provide for a separate nominating committee within MSTC that, like its counterpart at MCC, will be required by the MSTC by-law to nominate with a view toward providing fair representation on MSTC's board of directors for the interests of the shareholder and a cross-section of the community of participants.[60] MSTC and MSE have represented that until MSTC's by-laws are amended, all nominations for board positions will continue to be made with a view toward providing fair representation for the interersts of both the shareholder and a cross-section of MSTC's participants.

b. *Participation in the Clearing Agency's Affairs*

The Act also requires that clearing agency rules ensure fair representation of participants in the administration of the clearing agency's affairs. The Standards recognize that to participate meaningfully in the administration of the clearing agency's affairs, participants must have sufficient information about those affairs. Accordingly, the Standards require clearing agencies to furnish participants with the next or a description of a proposed rule change and an account of its purpose and its effect so that participants may comment to the Commission in a timely manner.[61] The Standards further require that clearing agencies furnish participants with annual financial statements and an annual report on internal accounting control prepared by an independent public accountant. MCC and MSTC amended their rules in those respects to conform to the Act and the Standards.[62]

2. *Other Matters*

MCC and MSTC filed additional proposed rule changes with the Commission to address specific obligations established by the Requirements and the Standards.[63] These proposals include substantial amendments to MCC's and MSTC's disciplinary procedures and (i) will allow the clearing agency to impose on a participant any sanction specified in the Act; [64] and (ii) will insure that participants receive a hearing by an impartial panel [65] before a sanction may be levied (except when the clearing agency is authorized to act summarily).[66] The Commission believes these changes in MCC's and MSTC's disciplinary rules are consistent with the Requirements and the Standards.

Subject to fulfilling the undertakings noted above, the Commission has determined that MCC's and MSTC's rules, by-laws, and procedures are substantially consistent with the Requirements and the Standards. Accordingly, the Commission is granting MCC and MSTC full registration as clearing agencies under the Act.

C. SCCP—Philadep

SCCP and Philadep are wholly-owned clearing agency subsidiaries of the Phlx. SCCP offers its participants clearance and settlement services for all exchange trades and it provides comparison (through the National OTC Comparison System), clearance, and settlement services for OTC securities transactions, including settlement with other clearing agencies' participants through the RIO interfaces, and dividend and interest processing. Unlike most other clearing corporations, SCCP also offers margin financing for broker-dealer participants and serves as money settlement agent for Philadep, its affiliated depository. Philadep, as a regional depository facility and limited purpose trust company organized under the laws of Pennsylvania,[67] offers its participants, among other services, automated, book-entry transfer of securities positions, vault facilities, access to NIDS,[68] and securities lending services.

1. *Review of Forms CA–1*

a. *General Amendments to SCCP's and Philadep's Forms CA–1*

Review of SCCP's and Philadep's

[59] For example, MSTC expects to increase the size of its board of directors and is contemplating adding public members to the board.

[60] MSTC anticipates filing these revisions with the Commission during September 1983.

[61] Also, as a related matter, because of interdependence among clearing agencies within the National System, the Commission believes, and the Standards require, that notice of proposed rule changes should be given to other registered clearing agencies to enable them to review and comment on such changes in a timely manner. *See* discussion accompanying notes 159–60 *infra*.

[62] Securities Exchange Act Release No. 19744 (May 9, 1983), 48 FR 21689 (May 13, 1983); Securities Exchange Act Release No. 20223 (September 23, 1983), 48 FR [ ]; Securities Exchange Act Release No. 20224 (September 23, 1983), 48 FR [ ].

[63] *See, e.g.*, Securities Exchange Act Release Nos. 19980 and 19981 (July 18, 1983), 48 FR 34171 (July 27, 1983). These rule amendments established a 60-calendar day limitation on MCC's and MSTC's power to waive, suspend, or extend the time for doing any act under the rules or procedures, unless the waiver, suspension, or extension is ratified by the board of director's; disclosed the formulae used by MCC and MSTC to determine each participant's minimum required participant fund contribution; and clarified that notice to a participant that the clearing agency has ceased to act for it will be made by telephone, cable, or similar medium.

[64] Section 17A(b)(3)(G) of the Act.

[65] Sections 17A(b)(3)(C), (b)(5)(A), (b)(5)(B) and (b)(5)(C) of the Act.

[66] The Commission believes the Act requires that, when a clearing agency's management recommends that a participant be disciplined, the clearing agency must inform the participant of the specific charges against it, must notify the participant of the opportunity to be heard at a *de novo* trail by impartial adjudicators, and must keep a record of the proceeding. Except in cases of summary action or when the charged participant knowingly waives his right to a hearing, the clearing agency must provide the opportunity to be heard before imposing any final sanction. *See* Section 17A(b)(5)(A) of the Act.

[67] Philadep is the only temporarily registered depository that is not a member of the BGFRS.

[68] *See Securities Exchange Act Release No. 19029 (September 1, 1982), 47 FR 39775 (September 9, 1982).*

Forms CA–1 [69] disclosed several areas that concerned the Commission. These areas included procedures for disciplining participants, procedures for assuring fair representation of participants, standards for participant admission and participation, and systems for safeguarding participant funds and securities.

As a result, during the review of SCCP's Forms CA–1, SCCP submitted a proposed rule change that established an operations committee of the board of directors, with responsibility to review on an on-going basic SCCP's systems, services, margin rules, clearing fund, linkage with other clearing agencies, and other operations, as the committee may consider appropriate. SCCP also amended its rules to permit it to review the adequacy of participant contributions to the clearing fund more frequently than quarterly, should it be appropriate, and to authorize SCCP to demand and collect from participants money payments and other forms of further assurance of financial responsibility and operational capability. In addition, SCCP amended its rules to enable the reversal of certain CNS deliveries to insolvent participants. These general surveillance abilities, collateral requirements, and full procedures for closing-out outstanding obligations of insolvent participants are important safeguards that, in conjunction with SCCP's clearing fund assets and insurance against certificate related losses, substantially enhance SCCP's ability to protect itself and its participants.

SCCP and Philadep also filed proposed rule changes to require that applicants or participants, as appropriate, be given specific notice of the grounds under consideration for discipline, imposition of sanctions, limitation of access to SCCP's and Philadep's services, or denial of participation. These rule changes, among other things, provide applicants with an opportunity for a hearing prior to a determination to deny admission and exclude "associated persons" from the categories of participants against whom SCCP and Philadep may institute disciplinary proceedings.[70]

In addition, SCCP and Philadep filed rule changes establishing board of directors nominating committees that consist of participants and that are charged with the responsibility of assuring fair representation for a cross-section of participants. These changes, among other things, also establish at SCCP and at Philadep fifteen to seventeen member boards of directors (a majority of whom must be participants of SCCP or Philadep, respectively, and a majority of whom must be governors of the Phlx).[71] Those changes further require Phlx to consider fairly the interests of participants in nominating and electing SCCP's and Philadep's boards, and provide participants with an opportunity to nominate additional directors.[72] Finally, SCCP and Philadep filed proposed rule changes that enhance the process of reviewing applications for clearing agency membership, permit financially and operationally responsible sole proprietors to become participants, and create admissions committees to apply those standards.

All SCCP and Philadep rule changes filed during the course of the registration proceeding were published for comment and will be approved by the Commission as consistent with the requirements of the Act, and in particular, with Section 17A.[73]

b. *Use of the Clearing Fund to Finance Settlement Activity of Phlx Specialists*

(i) *Description of the Financing Program*

As a special service to SCCP participants, SCCP finances Phlx members' securities purchases and obtains the necessary funds by investing a percentage of SCCP's clearing fund assets in this financing program. In general terms, each day SCCP uses some clearing fund cash to help certain participants, primarily Phlx specialists, pay for purchases of Phlx-listed securities. To secure these loans, SCCP places a lien on the financed securities, and on certain other securities in specialists' margin accounts. Thus, in effect, SCCP invests the cash portion of its clearing fund in its financed participants' equity positions and secures those "investments" with equity collateral in the issues financed.

More specifically, SCCP uses the clearing funds cash in its "Operating Account" at a large commercial bank to finance those positions.[74] Activity in that account includes debits and credits related to SCCP clearance and settlement functions (such as money payments and receipts for SCCP participants' CNS activity) as well as cash clearing fund contributions. SCCP's financing activity generally is limited to the cash balance in the Operating Account, calculated daily, after all CNS and other clearance and settlement debits and credits have been made.[75]

Although SCCP uses the cash balance in its Operating Account to finance specialist, proprietary, and customer omnibus margin accounts, specialist margin accounts comprise approximately 90 percent of SCCP's financing activity. Because SCCP does not often engage outside financing, SCCP customarily charges its borrows interest rates slightly below the

[69] In addition to filing Forms CA–1, SCCP and Philadep have filed in recent years various rule changes concerning their participation in the National System, which the Commission separately approved. For example, the Commission approved SCCP proposed rule changes that: (1)permit SCCP participants to buy-in securities against SCCP (as guarantor of delivery) and authorize SCCP to conform the buy-in extension provisions to NASD and other clearing agency time frames (Securities Exchange Act Release No. 19230 (November 10, 1982), 47 FR 51969 (November 18, 1982)); (2) eliminate SCCP's pre-settlement guarantee (of delivery to the *contra* party) and mandatory pre-settlement marks-to-the-market relating to most trades between Phlx members (Securities Exchange Act Release No. 19668 (April 13, 1982), 48 FR 16795 (April 19, 1982)); and (3) enhance OTC trade comparison for SCCP participants by expediting the resolution of unmatched aged OTC transactions (Securities Exchange Act Release No. 18277 (November 20, 1981), 46 FR 58239 (November 30, 1981)). Furthermore, the Commission approved certain Philadep proposed rule changes that: (1) authorize Philadep to participate in NIDS (Securities Exchange Act Release No. 19209 (September 1, 1982), 47 FR 39775 (September 9, 1982); *see also* note 36 *supra*) and (2) enable participants to accept exchange and tender offers for certain securities issues without withdrawing the certificates from the depository (Securities Exchange Act Release No. 18967 (August 18, 1982), 47 FR 36742 (August 23, 1982)).

[70] Clearing agencies have limited disciplinary authority respecting "associated persons" of participants. *See, e.g.*, Section 19(d)(1) of the Act. *See also* Securities Exchange Act Release No. 17810 (May 19, 1981), 46 FR 28546 (May 27, 1981); Securities Exchange Act Release No. 18771 (May 28, 1982), 47 FR 24677 (June 7, 1982).

[71] To assure that result, at least one board member must be both a SCCP participant and a Phlx governor.

[72] *See* discussion *supra* in text accompanying notes 52–62 concerning fair representation of participants.

[73] The Commission expects to issue those orders at the end of the thirty-day statutory waiting period.

[74] SCCP maintains a separate corporate account for ordinary business-related items.

[75] At the end of each day, CNS credits and debits in the Operating Account should balance, leaving SCCP with the entire clearing fund cash for its financing activities.

For financing purposes, SCCP resorts to the aggregate cash clearing fund contributions in the Operating Account after all clearance and settlement obligations are satisfied. In the past, SCCP has obtained limited additional cash for financing purposes by rehypothecating, consistent with Rules 8c–1 and 15c2–1 (17 CFR 240.8c–1 and 15c2–1), up to 10 percent of the aggregate specialists' positions being financed. SCCP represented to the Commission that such specialist positions are not pledged routinely, but only when necessary to continue carrying financed positions.

prevailing broker-dealer call rate. Generally, SCCP marks-to-the-market specialists' net purchases from trade date forward, and finances, as of settlement date, up to 75 percent of those positions.[76] When settlement occurs, SCCP, on behalf of each specialist, fully pays the *contra* party by crediting that party's account. In turn, each specialist pays SCCP at settlement at least 25 percent of the purchase price of financed securities.[77]

Historically, SCCP has included a number of safeguards to protect SCCP and its participants from potential financial exposure associated with the insolvency of a specialist or the volatility of specialist securities issues. SCCP's primary protection—a lien on funds and margined securities issues in the specialist's margin account—enables SCCP, in the usual case, to liquidate all SCCP-financed positions and retain any needed proceeds.[78] SCCP also requires specialists to maintain "initial" equity as of trade date and to pay presettlement marks-to-the-market.[79] In addition, SCCP closely monitors the "concentration" of securities issues in each specialists's margin account.[80]

(ii) *The Exemption Request*

Because SCCP's financing program entails continuous and substantial use of clearing fund assets, SCCP, in its Form CA–1, requested an exemption from the Act and the Standards concerning limitations on use of clearing fund assets. SCCP argued that, by facilitating specialists' capabilities to make markets in Phlx-listed securities,[81] its financing activity facilitates the clearance and settlement process. Moreover, SCCP asserted, the funds are protected properly by SCCP's risk-limiting procedures.[82] Finally, SCCP argued that it would incur additional operating expenses of between $150,000 and $200,000 if it had to rely on outside financing.[83]

(iii) *Applicable Legal Standards*

Section 17A(b)(3)(F) of the Act requires the rules of the clearing agency to be designed, among other things:

> to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, . . . and, in general, to protect investors and the public interest . . .

The Act does not specify particular safeguards to be adopted by clearing agencies. The Standards, however, specify several safeguards, one of which is an adequate fund of liquid assets, contributed by participants in proportion to their use of clearing agency services, that can be used to indemnify the clearing agency and its participants against losses resulting from clearance and settlement activity (commonly referred to as the "clearing fund" or the "participants fund"). The Standards provide that the clearing fund should be used to protect:

> participants and the clearing agency (i) from the defaults of participants and (ii) from clearing agency losses (not including day-to-day operating expenses) such as losses of securities not covered by insurance or other resources of the clearing agency.[84]

The Standards further provide that the clearing fund should be:

> (i) composed of contributions based on a formula applicable to all users; (ii) in cash or highly liquid securities; and (iii) limited in the purposes for which it may be used.[85]

Since the fundamental purpose of the clearing fund is to protect clearing agencies against financial exposure resulting from participant defaults and clearing agency losses not covered by insurance or other resources of the clearing agency,[86] the Standards state that the fund should not be used in a manner that exposes it to unreasonable risks. The Standards, however, expressly recognize two instances in which the clearing fund may be used for other purposes: First, clearing agencies may invest the cash portion of the clearing fund in safe and liquid investments, such as United States Government obligations; [87] and second, clearing agencies may temporarily apply a limited portion of the clearing fund to meet unexpected and unusual clearing agency requirements for funds. Furthermore, the Standards suggest that a portion of the clearing fund may be used for a legitimate purpose for a longer period of time, provided that: (i) the funds are properly protected; (ii) the funds are used to facilitate the process of clearance and settlement; and, (iii) the participants and the Commission specifically approve the use during the registration proceedings.[88] Thus, the Standards contemplated that a clearing agency would not invest the bulk of its clearing fund in ways that would involve a greater risk than investment in United States Government obligations.

Nonetheless, the Commission has recognized in its recent Order concerning the structure of NSCC's clearing fund that the universe of permissible uses, under the Act and the Standards, is larger than short-term unanticipated uses and specially approved certain longer-term uses. [89] In that Order, the Commission approved NSCC's short-term pledge of clearing fund assets other than cash as collateral for loans to satisfy temporary losses or liabilities incident to its clearance and settlement business.[90] The Commission looked to the reasonably short-term nature of the loan [91] and NSCC's expectation that it would only pledge such securities when it would otherwise be permissible to assess the fund.[92] The Commission also approved NSCC's use of the cash portion of the clearing fund in certain circumstances in view of the "carefully controlled use" by NSCC of clearing fund cash and the economic and administrative value of making

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[76] The 25% equity requirement is designed to help protect SCCP against a decline in the market value of financed securities.

[77] SCCP may demand repayment of the loan at any time.

[78] Of course, if the market value of a financed specialist's position declined precipitously, the value of the lien to SCCP would diminish in kind.

[79] SCCP imposes the equity requirement as of trade date and requires mark-to-the-market payments beginning one day after trade date (T + 1). By collecting the daily mark-to-the-market payments, SCCP is protected further against any decline in the market value of purchased securities from T + 1 until settlement.

[80] An unduly large position in a volatile securities issue (in relation to that specialist's positions in other securities issues) presents special risks because, in the event of that specilist's default, SCCP, as creditor, must look primarily to those positions for satisfaction of the outstanding loan amount. In that situation, SCCP is a risk that a substantial intra-day market movement may reduce the collateral value of those securities below the level of payment obligations.

[81] Presumably, convenient financing on a continuous basis lends liquidity to the Phlx's auction market.

[82] In particular, SCCP notes that its mark-to-the-market program is "automated and timely, including the pricing."

[83] This amount would represent lost income plus new borrowing expenses for SCCP.

[84] *See* Standards Release, 45 FR at 41929.

[85] *Id.*

[86] The Standards exclude day-to-day operating expenses from the types of "losses" for which the clearing fund may be used routinely.

[87] Standards Release, 45 FR at 41929. The Commission continues to believe that such investments must be made by the clearing agency in light of its fiduciary responsibilities. *See also* note 89 *infra*.

[88] Standards Release, 45 FR at 41929.

[89] Securities Exchange Act Release No. 19230 (November 10, 1982), 47 FR 51969 (November 18, 1982) ("NSCC Order"), at 51972.

[90] In NSCC's program, the pledge of clearing fund assets, if not repaid within 30 days, results in the pledge being deemed a clearing fund assessment under NSCC's rules. The Commission determined that pledging clearing fund assets for a loan to cove a temporary loss in lieu of making *pro rata* assessments does not subject such assets to unreasonable risk, under those circumstances.

[91] *See* NSCC Order, 47 FR at 51977.

[92] NSCC anticipated such short-term use of clearing fund assets primarily when a member fails-to-settle and the lending bank requires a pledge to advance settlement monies or when NSCC makes erroneous payments, such as state transfer tax payments, as agent for its participants.

needed cash available to NSCC conveniently.[93]

(iv) *Discussion*

Although SCCP financing is neither a short-term unanticipated use nor a longer-term extraordinary use contemplated by the Standards, financing at SCCP is integrally related to clearance and settlement.[94] Moreover, SCCP's use of the clearing fund functionally constitutes an "investment" of clearing fund assets that provides important support to significant segments of SCCP's participant community.[95] The important question in assessing the financial responsibility of that program, therefore, is whether SCCP's financing arrangements, on balance, assure the safeguarding of clearing fund assets invested in that program.

SCCP's financing program has benefitted SCCP, its participants and, indirectly, the public in several ways. Primary benefits include income to SCCP [96] and financial support to SCCP specialists, which helps the Phlx maintain orderly and liquid markets, thereby enhancing the public's opportunity to obtain the best price in a particular Phlx-listed secuitities issue. Also, SCCP's financing program has buttressed specialist trading activity, which, in turn, can increase transaction fees for Phlx and SCCP. Furthermore, by permitting SCCP to avoid interest charges that it would otherwise incur by borrowing funds from outside sources to finance Phlx specialists, SCCP has experienced reduced costs, estimated to be between $150,000 and $200,000 per year. These benefits, of course, accrue to the entire SCCP participant community.[97]

The Commission believes that although SCCP's financing program, as it has operated historically, has provided significant benefits to SCCP, its participants, and the public, that program presents distinct risks of financial exposure to SCCP, to its clearing fund, and to its participants. Because SCCP's financing program permits SCCP to commit, for financing purposes, a substantial portion of clearing fund cash, in any given participant-default proceeding SCCP may not be able to access immediately that portion of the clearing fund.[98] Moreover, if the value of securities collateralizing SCCP's specialist obligations declines significantly concurrent with multiple participant defaults, SCCP may be unable to cover losses incurred in closing-out its obligations without further assessing participants. These events would be particularly troublesome absent a full range of risk-limiting measures at SCCP. In the past, SCCP has not monitored, other than through the Phlx, the financial capacity and operational capability of Phlx specialists and has not been authorized to demand further assurances from financially or operationally troubled participants. In addition, in the event of participant default, SCCP has not had express authority to reverse CNS deliveries to defaulting participants. In response to such concerns, however, SCCP amended its rules to establish formal safeguarding measures, which the Commission considers essential to the operation of a fully-registered clearing agency.

(v) *The Commission's Determination*

The Commission believes that SCCP's rules, as amended during the course of this registration proceeding, are consistent with the Act and the Standards, including the requirements respecting the safeguarding of funds and securities in the clearing agency's custody or control. In view of SCCP's rule amendments, SCCP's request for exemption from compliance with the Standard respecting clearing fund use has become moot and accordingly has been withdrawn.

A significant factor in the Commission's determination to approve SCCP's use of clearing fund cash in its financing program (as modified by the rule changes) is that SCCP was engaged in this activity in 1975, when Congress passed the 1975 Amendments. Those Amendments permitted SCCP, as a Reg T lender, to continue to finance securities purchases, while at the same time subjecting SCCP, as a clearing agency, to Commission regulation.[99] Thus, the Commission believes that the Act necessarily contemplates clearing agency financing to the extent permitted by Regulation T. Because Section 17A also requires safety in clearance and settlement, however, the Commission believes that SCCP's financing program must operate free of unreasonable risk.

The Commission is encouraged by SCCP's development of additional significant financial safeguards during this registration proceeding and fully anticipates that SCCP will continue to refine its systems and services in ways that further enhance their utility and safety. Accordingly, the Commission has determined that SCCP's financing activities are consistent with the Act and the Standards, but believes it appropriate to attach the following conditions to the program's continuing operation. First, pursuant to its rule change, SCCP must use its authority, as necessary and appropriate, to demand and collect further assurances of participants' financial stability and operational capacity, to reverse certain CNS deliveries to defaulting participants, and to close-out promptly and efficiently defaulting participants'

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[93] As stated in that Order, a clearing agency's clearing fund should not be viewed in isolation but rather as one element in a complement of safeguards designed to protect the clearing agency against losses attributable to clearance and settlement operations. In addition to substantial insurance policies covering certificate-related losses, NSCC's safeguards include marks-to-the-market on open fail positions, special marks for positions in volatile securities or for more concentrated securities positions, special surveillance and collateral requirements for financially impaired members, additional assurance authority, and authority to reverse certain CNS deliveries to defaulting participants. NSCC Order, 47 FR at 51975.

[94] Although SCCP's rules in the past authorized the use of its clearing fund to satisfy routine expenses on a daily basis, SCCP has not used the clearing fund in a manner inconsistent with the Act and Standards. The Standards, as interpreted by the NSCC Order, provide that the rules of the clearing agency should limit the purposes for which the clearing fund may be used to protecting the clearing agency and its participants against losses or liabilities not covered by insurance or other resources of the clearing agency. Thus, while the Standards would permit limited and prudent investment of funds, the Standards require clearing agencies to protect clearing funds against unnecessary risks. *See* NSCC Order, 47 FR at 51971. Accordingly, SCCP filed a proposed rule change that requires its clearing fund to be used only to satisfy losses and liabilities incident to SCCP's clearance and settlement process, and not to cover routine, daily operating expenses.

[95] On average, specialist settlement volume approximates $3 million each day, which is roughly 15 percent of SCCP's total daily settlement volume.

[96] In 1982, SCCP derived a significant portion of its total income from margin account interest payments. SCCP has realized, on average, a higher rate of return through investing clearing fund cash in the financing program than if it had invested those assets in U.S. Government securities or in loans at overnight loan rates.

[97] Income SCCP earns from its financing program offsets some SCCP expenses, thus reducing SCCP's participant fees.

[98] As of August 5, 1983, about 69 percent of SCCP's clearing fund consisted of cash, all but about 15 percent of which is available to SCCP for financing purposes. (SCCP customarily retains an increment of clearing fund cash that it does not use for financing.)

[99] The 1975 Amendments prohibited all persons, other than registered broker-dealers, from subsequently becoming members of a national securities exchange. Section 31(a) of the 1975 Amendments, however, permitted non-broker organizations that were exchange members prior to that legislation's effective date to maintain their exchange membership without registering as a broker-dealer. Since SCCP was a non-broker Phlx-member prior to the effective date of the 1975 Amendments, SCCP was permitted to continue engaging in securities-related lending activities under Regulation T as an exchange member without registering as a broker-dealer. *See* Pub. L. No. 94-29, section 31(a), 89 Stat. 97 at 170 (1975); 12 CFR 220.1, 220.1(b), 220.2(b), *as amended* at 48 FR 23161 (May 24, 1983).

open fails. In addition, as authorized by its rule change, SCCP must periodically assess the risks to the clearing agency from its financing program and other services, must maintain a reasonable, minimum level of uncommitted clearing fund cash for emergency use, must monitor the financial and operational capabilities of its borrowers, and must provide financing strictly in accordance with Rules 8c–1 and 15c2–1 under the Act. Finally, in light of the disparities in treatment created by using aggregate participant cash clearing fund contributions to finance the activity of only some participants, SCCP's registration is further conditioned on SCCP disclosing to all participants the nature, extent, and terms of its financing program.[100]

2. *Conclusion*

Based on the foregoing, the Commission believes that SCCP and Philadep at this time satisfy the Requirements and Standards and that they should be fully registered subject to the conditions noted herein.

D. PCC and PSDTC

PCC and PSDTC are wholly-owned clearing agency subsidiaries of the Pacific Stock Exchange, Inc. ("PSE"). The PCC/PSDTC complex offers to participants services comparable to other regional clearing agency complexes. For example, PCC/PSDTC offers trade recording services for PSE-listed and OTC securities transactions; OTC trade comparison services through its participation in the National OTC Comparison System;[101] CNS clearance services;[102] trade settlement services through the RIO interface; book-entry depository services; dividend and interest accounting; and participation in the NIDS.[103]

1. *The Commission's Review Process*

The Commission's review of PCC's Form CA–1, including PCC's by-laws and rules, was extensive and detailed. Such close and careful review was necessary because PCC's by-laws and rules for some time have not reflected PCC's modern clearance and settlement systems. In developing suitable contemporary rules, PCC staff met with the Commission staff periodically to discuss necessary changes and thereafter revised its by-laws and rules. In contrast, PSDTC's Form CA–1, including PSDTC's by-laws and rules, as filed in December 1980, substantially reflected PSDTC's current depository functions.

2. *Findings*

a. *PCC*

During this registration proceeding, PCC proposed many new by-laws and rules, the most important of which related to: (1) the structure, control, and use of PCC's clearing fund;[104] (2) financial responsibility and operational capacity standards for applicants and participants;[105] (3) disciplinary actions and hearing and appeal procedures;[106] (4) fair representation of participants in the director selection process;[107] and (5) meaningful safeguards against financial exposure in the event of participant default.[108]

PCC subsequently filed with the Commission comprehensive proposed rule changes to conform its by-laws, rules, and procedures to the Act and the Standards.[109] For example, PCC's amendments authorize PCC to take custody of its clearing fund assets and eanble PCC, rather than the PSE, to invest and to pledge clearing fund assets. Moreover, each participant's minimum required cash contribution has been increased significantly, and PCC now allows its participants to collateralize their clearing fund open account indebtedness (required contributions over the minimum cash amount) through the controlled use of letters of credit, in addition to traditional collateral such as U.S. Government securities.

To comply with the Act's fair representation requirement, PCC established a nominating committee, consisting of members of the PSE's board of governors' executive committee, to nominate condidates for PCC's board of directors. That nominating committee has the duty to assure fair representation of PCC's members when selecting nominees. In addition, any ten PCC participants now may nominate a board candidate by petitioning the nominating committee.[110]

Finally, PCC's rule changes stengthen significantly PCC's mechanisms against financial exposure from participant default or insolvency. For example, PCC can (1) reverse certain unsettled trades of an insolvent participant; (2) require a participant to pay PCC additional marks-to-the-market in certain circumstances (*e.g.*, when the participant has positions in volatile securities issues); and (3) require a financially or operationally troubled participant to provide PCC with further assurances of financial responsibility or operational capacity, such as providing additional clearing fund deposits.

b. *PSDTC*

As noted above, PSDTC's by-laws and rules required fewer revisions than PCC's to comply with the Act and the Standards. During this registration proceeding, however, PSDTC revised its by-laws and rules (1) to restructure PSDTC's participants fund and to narrow its usage;[111] (2) to provide financial responsibility and operational capacity standards for applicants and participants;[112] (3) to strengthen due process protections in disciplinary proceedings;[113] and (4) to assure fair representation for participants in the director selection process.[114] These rules changes will be approved by the Commission in separate releases.[115]

3. *Conclusion*

Based upon its review of PCC's and PSDTC's Forms CA–1, including the recent rule changes, the Commission

[100] SCCP has undertaken to disclose separately and specifically to its participants the nature, extent, and terms of its financing activities.

[101] *See* Securities Exchange Act Release No. 18277 (November 11, 1981), 46 FR 58239 (November 30, 1981), regarding the National OTC Comparison System.

[102] PCC established the first CNS system in 1960.

[103] *See* Securities Exchange Act Release No. 19437 (January 18, 1983), 48 FR 3441 (January 25, 1983), regarding NIDS. *See also* note 36 *supra*.

[104] *See* discussion in text at notes 84–93 *supra* regarding appropriate clearing agency uses of clearing participant fund assets.

[105] *Cf.* Securities Exchange Act Release No. 15744 (May 17, 1982), 47 FR 22265 (May 21, 1982) (standards for NSCC broker-dealer applicants and participants), Securities Exchange Act Release No. 18417 (August 16, 1982), 47 FR 37980 (September 16, 1982) (standards for NSCC bank applicants and participants).

[106] *See* discussion in text accompanying notes 128–133 *infra* for the Requirements regarding the types of clearing agency disciplinary actions and the due process requirements for those actions.

[107] *See* discussion in text accompanying notes 52–62 *supra* regarding the Requirements for fair representation of participants in the election of clearing agencies' boards of directors.

[108] *See* discussion in text accompanying notes 84–93 *supra* relating to the Requirements regarding the safeguarding of securities and funds.

[109] These rule changes will be approved by the Commission in separate releases.

[110] PCC, at this time, has not yet subjected its shareholder, the PSE, to a duty to vote in a PCC board of director's election with a view toward assuring fair representation of a cross-section of the community of participants. To expedite full registration, and as a condition of that registration, however, PCC has undertaken to impose that responsibility through the PSE in the immediate future.

[111] PSDTC's problems relating to its participant's fund were identical to those at PCC. *See* note 104 *supra*.

[112] *See* note 105 *supra*.

[113] *See* discussion in text at notes 128–133 *infra regarding the Act's due process requirements for clearing agency disciplinary proceedings.*

[114] *See* discussion in text at notes 52–62 *supra* regarding the act's fair representation requirements.

[115] The Commission expects to issue those releases at the end of the 30-day statutory waiting period.

believes that PCC and PSDTC at this time satisfy the Requirements and Standards. Because PCC and PSDTC have recently undergone significant operational and management changes, however, the Commission and the BGFRS plan to monitor those clearing agencies' performances carefully during the next year. Nonetheless, the Commission hereby determines that PCC and PSDTC should be fully registered as clearing agencies under the Act, subject to the undertakings noted herein.

E. NSCC

In 1976, NSCC applied to the Commission for temporary registration under Section 17A(b) and 19(a)(1) of the Act and Rule 17Ab2–1. NSCC proposed a two-phase merger of three clearing corporation separately owned by the AMEX, the NASD, and the NYSE. After holding hearings and receiving extensive public comment on NSCC's application for registration,[116] the Commission granted temporary registration to NSCC,[117] subject to several substantial conditions and extensive Commission monitoring of both NSCC and its impact on other clearing agencies and the securities industry.[118]

Since 1976, the Commission has monitored NSCC carefully and extensively. As part of its monitoring program, the Commission reviewed NSCC's efforts to satisfy all of the Registration Order's requirements [119] and reaffirmed its decision to register NSCC.[120] More recently, when the Commission determined that NSCC was in compliance with all of the conditions to its temporary registration, as modified, it permitted NSCC to enter the fully-merged phase of its operations.[121] In addition, the Commission has reviewed, on a continuing basis, and approved, as consistent with the Act, numerous proposed rule changes submitted by NSCC, pursuant to Section 19(b) of the Act and Rule 19b–4 thereunder, affecting a broad range of NSCC's responsibilities, services, and activities.[122] Accordingly, the Commission's oversight of NSCC has been and continues to be rigorous and thorough.

Based upon the Commission's oversight of NSCC's activites and the review conducted in conjunction with these proceedings, the Commission has determined that NSCC's by-laws, rules, procedures, and systems, as amended, are consistent with the Requirements and the Standards. Accordingly, the Commission believes that NSCC should be granted full registration.

F. DTC

DTC, the largest registered securities depository based on deposits, offers participants a variety of depository services.[123] DTC also performs services for other securities depositories, notably as facilities manager for the NIDS.[124] In addition, as the "qualified securities depository" of NSCC, DTC performs critical functions on behalf of NSCC in connection with NSCC participant services. Finally, DTC, like other securities depositories, operates a Participant Terminal System consisting of a network of computer terminal stations located in participants' offices that enable participants to communicate instructions and inquiries to DTC and to receive messages and reports from DTC.[125]

DTC is substantially user owned, with each participant's ownership interest determined annually on the basis of that participant's use of DTC's services. User-participants are afforded the opportunity for practical representation in the administration of DTC's affairs through representation on DTC's board of directors,[126] and a periodic opportunity to comment on proposed rule changes.

When DTC filed its application for registration, it objected to, or requested exemption from, certain Standards: the standard of care; the limitation on the use of clearing fund assets; and the internal accounting control report requirement. After consultation with the Division, however, DTC withdrew its objection to application of the Standards concerning the use of the clearing fund and converted its objection to the internal accounting control report requirement to a request for a limited exemption. As discussed below, the Commission is not imposing a strict liability standard of care and is granting DTC's exemptive request from certain aspects of the internal accounting control report requirement. Accordingly, because review of DTC's application, as amended during this proceeding, revealed substantial compliance with the Act and the Standards,[127] the

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[116] *See, e.g.*, Securities Exchange Act Release No. 12274 (March 29, 1976), 41 FR 14455 (April 5, 1976).

[117] Securities Exchange Act Release No. 13163 (January 13, 1977), 42 FR 3916 (January 21, 1977) ("Registration Order").

[118] The Commission subsequently has modified these conditions as circumstances have required. *See* notes 119–122 *infra*.

[119] *E.g., File No. SR–NSCC–81–16, Securities Exchange Act Release No. 18327 (December 11, 1981), 46 FR 61379 (December 18, 1981) (fee schedule with geographically mutualized pricing); and "Notice of Submission of Report Evaluating Facilities Management Alternatives By NSCC," File No. S7–918, Securities Exchange Act Release No. 18296 (December 1, 1981), 46 FR 60082 (December 8, 1981) (report prepared by independent public accountants on NSCC's choice of facilities manager).*

[120] Order Affirming NSCC's Registration and Statement of Reasons, File No. 600–15, Securities Exchange Act Release No. 17562 February 20, 1981, 22 SEC Docket 129 (March 10, 1981), as referenced in 46 FR 14244 (February 26, 1981).

[121] Securities Exchange Act Release No. 19705 (April 26, 1983), 48 FR 20189 (May 4, 1983). NSCC remains subject, as practicable, to the conditions of the Registration Order, as subsequently modified by any relevant Commission letter, release, action, or order.

[122] *See, e.g.*, Securities Exchange Act Release No. 17343 (November 26, 1980), 45 FR 80224 (December 3, 1980) (allowing NSCC to process municipal securities transactions), modified by Securities Exchange Act Release No. 17660 (March 27, 1980), 46 FR 20017 (April 2, 1981); Securities Exchange Act Release No. 18744 (May 17, 1982), 47 FR 22265 (May 21, 1982) (applicant and participant standards for broker-dealers and financial protections) modified by Securities Exchange Act Release No. 18417 (August 23, 1982), 47 FR 37990 (September 16, 1982); Securities Exchange Act Release No. 19191 (October 29, 1982), 47 FR 50597 (November 8, 1982) (applicant and participant standards for banks); NSCC Order, *supra* note 89 (clearing fund requirements for bank participants).

NSCC also proposed, and the Commission approved, rule changes that, among other things, addressed the obligations specified in the Requirements and the Standards. *See Securities Exchange Act Release No. 20123 (August 26, 1983), 48 FR 40049 (September 2, 1983) (NSCC's appeal procedures for applicants and participants who are denied participation, limited in their access to services, suspended, sanctioned or expelled by NSCC); Securities Exchange Act Release No. 20124 (August 26, 1983), 48 Fr 40051 (Septembr 2, 1983) (technical amendments that, among other things, conform NSCC's rules to the Standards).*

[123] DTC acts as a custodian for securities; performs computerized book-entry delivery of securities immobilized in its custody; performs computerized book-entry pledges of securities in its custody; and provides for withdrawals of securities on a routine or urgent basis. Ancillary services include: (i) book-entry distribution of securities offered in public underwritings; (ii) a dividend reinvestment service; (iii) a third-party pledge system in which OCC members may pledge to OCC securities on deposit at DTC that underlie options; (iv) a payment order service that allows participants to use their DTC accounts to settle money payments that are associated with securities transactions that occur outside the depository; and (v) a voluntary offering program for delivery of securities tendered to bidders' agents in tender offers.

[124] *See* note 36 *supra*.

[125] *See* note 48 *supra*. So that clearing agencies and federal regulators could obtain sufficient experience to assess system benefits and safety, these systems have operated as pilot programs since their inception. The Commission expects to consider whether to approve these systems in the near future.

[126] The election of the board of directors is conducted under a system of cumulative voting which ensures that no group controlling more than 50% of DTC stock can elect all directors.

[127] One significant variance from the Requirements, however, was noted with respect to assuring participants due process when disciplining participants or limiting their access to DTC services. As a result, DTC has undertaken to revise its rules to establish suitable procedural protections.

Commission is granting DTC full registration as a clearing agency, subject to DTC's fulfilling its undertakings.

1. *Capacity To Enforce Rules and To Discipline Participants in Accordance With Fair Procedures*

The Act requires clearing agencies to have authority to discipline participants for violations of clearing agency rules and to select appropriate sanctions from the list set forth in Section 17A(b)(3)(G) of the Act.[128] The Act also requires clearing agency disciplinary procedures to be fair. Thus, participants charged with a violation must be afforded the right to a fair and impartial hearing,[129] a request for which should stay the imposition of a proposed sanction unless the sanction is a summary suspension.[130] To assure impartiality, the hearing panel should be composed of directors or other persons disinterested in the initial disciplinary recommendation.

DTC has undertaken to amend its rules to conform to the Act,[131] by including in its rules the statutory list of sanctions [132] and by ensuring the right to be heard by an impartial panel in proceedings that could result in a recommendation to impose sanctions, deny participation, or limit access to services. Under the amended rules, the right to a hearing before persons disinterested in the initial recommendation will be granted to all participants regardless of the sanctions imposed, and any sanction, except summary suspension, will be stayed automatically upon a participant's request for a hearing.[133]

2. *Clearing Agency Standard of Care*

The Standards urged clearing agencies to embrace a strict standard of care in safeguarding participants' funds and securities.[134] The Standards called on registered clearing agencies to undertake, by rule, to deliver all fully-paid-for securities in their control to, or as directed by, the participant for whom securities are held. The Standards further urged registered clearing agencies to assume full responsibility to their participants for the acts or omissions of clearing agencies' sub-custodians [135] and, accordingly, required clearing agencies to assure that their sub-custodians have the capability to deliver promptly fully-paid-for securities at the direction of participants or the clearing agencies. Thus, under that Standard, a registered clearing agency would have been strictly liable to participants for losses incident to a failure by either the clearing agency or any of its sub-custodians to promptly deliver fully-paid-for securities to participants on demand.

The Commission does not believe sufficient justification exists at this time to require a unique federal standard of care for registered clearing agencies. The temporarily registered clearing agencies have demonstrated competence and a high level of responsibility in safeguarding securities and funds, whether in vaults, in processing areas, or in transit. As a result, these clearing agencies have experienced few losses. Moreover, when losses have occurred, clearing agencies have handled those losses in a very responsible manner, minimizing damage to solvent participants and avoiding disruptions in the National System.

Although not subject to strict liability under state law for the loss of participants securities, the applicant securities depositories are limited purpose trust companies. As such, they are each responsible under state or federal law, or both, to protect participants' securities and funds. In addition, the temporarily registered clearing agencies all have substantial systems of internal accounting control, are subject to continuous internal and external reviews respecting those systems,[136] and maintain significant safeguards, including substantial insurance coverage, respecting loss of funds and securities in their possession or control.[137]

3. *Use of the Participant's Fund*

As noted above, DTC expressed concern about limitations that the Standards impose on use of the participants' fund. Since the Standards were published, the Commission has clarified that the range of permissible uses of clearing fund assets covers all losses and liabilities incident to clearance and settlement activities.[138] DTC, therefore, has withdrawn its objection to the Standards and has represented that it will use clearing fund assets consistent with existing general Commission policies.[139] With respect to the use of DTC's clearing fund assets, therefore, the Commision believes that DTC's rules conform to the Requirements and the Standards.

4. *Internal Accounting Control Report*

The Standards require a clearing agency to "furnish annually to participants an opinion report prepared by its independent public accountant based on a study and evaluation of the clearing agency's system of internal accounting control for the period since the last such report.[140] As discussed in the Standards, the report shoud be based on a study of the system of internal accounting control, "including a review of the system and tests of compliance." The scope of the study, moreover, "shall be sufficient to provide reasonable assurance that any material weakness existing during the period [since the last report] would be discovered. The accountant's report [must] describe any material weakness is discovered and any corrective action taken or proposed to be taken." [141]

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[128] Statutory sanctions include: "expulsion, suspension, limitation of activities, functions, and operations, fines, censure, or any other fitting sanction." Section 17A(b)(3)(G) of the Act.

[129] *See* Section 17A (b)(3)(H) and (b)(5) of the Act; Standards Release, 45 FR at 41925. *See generally In re Charles H. Ross, Inc.*, Securities Exchange Act Release No. 16230 (October 1, 1979), 18 SEC Docket 557 (October 16, 1979).

[130] *See* Section 17A(b)(5)(C) of the Act.

[131] *See* letter from Edward J. McGuire, General Counsel, DTC, to the Division (August 10, 1983), File No. 600-5.

[132] *See* note 64 *supra*.

[133] The Commission believes that requests for further assurances and imposition of more stringent credit terms, such as cash and carry, ordinarily would not constitute "sanctions" under the Act. Thus, a participant's request for a hearing concerning those clearing agency determinations would not generate an automatic stay.

[134] *See* Standards release, 45 FR at 41930.

[135] More specifically, the Standards provided that clearing agency rules should acknowledge liability to participants for failure to deliver participants' securities resulting from:

(i) the negligence or misconduct of the clearing agency, the clearing agency's sub-custodians or agent, or any of their respective agents or employees; (ii) the placement, on fully-paid-for participant's securities held by the clearing agency, of any lien, claim, right, or charge of any kind in favor of the clearing agency, the clearing agency's sub-custodian or agent or any person claiming through any one or more of them; (iii) larceny; (iv) mysterious disappearance; or (v) any other cause for which the clearing agency has assumed responsibility. *Id.*

[136] *See id.*, at 41927–28.

[137] Preventive measures include (i) access control on-site, off-site, and in-transit; (ii) written procedures detailing steps involved in handling funds and securities; (iii) maintenance of an orderly and secure working environment; (iv) early warning systems and procedures responsive to fire, national disaster, and intrusion; and (v) measures designed to assure (a) software integrity; (b) adequacy of accounting controls; and (c) data accuracy.

[138] *See* discussion *supra* at notes 89–92.

[139] *See* discussion *supra* in text at notes 84–93 regarding use of clearing fund assets.

[140] Standards Release, 45 FR at 41925.

[141] Standards Release, 45 FR at 41928.

A material weakness was defined: as a condition for which the auditor believes that the procedures (or lack thereof) or the degree of compliance with them does not provide reasonable assurance that errors or irregularities in amounts that would materially affect the clearing agency . . . would be prevented or detected within a timely period by employees in the normal course of performing their assigned functions. *Id.*

Continued

As envisioned by the Standards and as further elaborated in Securities Exchange Act Release No. 19744 (May 9, 1983),[142] the scope of the study and evaluation would cover all clearing agency activities performed for participants, particularly trade recording, transaction processing, and depository activities (including those depository activities associated with securities positions and related money balances).[143] Of course, where clearing agency activities involve sub-custodians, the study and evaluation would encompass, to the extent necessary, controls at those organizations. Excluded from the scope of the study and evaluation, however, would be clearing agency corporate functions, such as payroll accounting.

The Standards established the internal accounting control report requirement in recognition of the crucial role of clearing agencies in the National System. The report was intended to promote confidence and to increase participation in the National System and, through an independent professional assessment of the system-wide safety and efficiency of clearing agencies, to facilitate and supplement Commission oversight and inspection of clearing agencies, consistent with the Commission's responsibility to foster safe and efficient clearing agency operations. Accordingly, the Standards proposed the annual "for-the-period" requirement to provide a very high degree of assurance to participants and to the Commission concerning the safety of overall clearing agency operations. To opine with respect to the system of internal accounting control for-the-period, the independent accountant would be required to comply with general standards established by the American Institute of Certified Public Accountants (the "AICPA") [144] as supplemented by the Standards Release.[145]

As noted above, DTC requested reconsideration of the internal accounting control report requirement. In particular, as DTC suggested, engaging an independent public accountant to prepare a report on the basis of a year-round study and evaluation of the clearing agency's system of internal accounting control would be unduly expensive and, in DTC's opinion, a three-month study and evaluation should be sufficient to meet the statutory requirements.

In response to the Commission's concerns underlying the annual "for-the-period" requirement,[146] however, DTC agreed that, if permitted to limit the accountant's study and evaluation to a three-month period each year,[147] DTC's internal audit department would undertake a review of DTC's system of internal accounting control throughout the year in a manner contemplated by the Standards and would report promptly to DTC's audit committee any material weaknesses found to exist. In addition, DTC agreed that DTC's outside accountants would review the internal audit department's audit plan, audit programs, staffing and work product and would report the results of their review to the DTC audit committee to assist that committee in ensuring that material weaknesses are prevented or detected timely by employees in the normal course of performing their assigned functions.

The Commission believes that the approach suggested by DTC, modified to provide for competent and continuous internal audit department review and testing of the system of internal accounting control, represents an appropriate alternative to the "annual period" requirement. Further, in recognition of the significant level of refinement achieved by DTC in its internal audit functions, the Commission is approving DTC's request to implement its proposed alternative, consistent with its representations to the staff and the general principles outlined below. Moreover, the Division will provide interpretive assistance to other clearing agencies that may wish to satisfy the requirements by electing this alternative.[148]

In making this determination respecting DTC and in considering other interpretive requests, the Commission notes the following general policy considerations. Clearing agencies play a crucial role in the processing of securities transactions, and clearing agency participants and their customers depend on safe and efficient clearing agency operations. Accordingly, to insure that material weaknesses are prevented or detected timely by employees in the normal course of performing their assigned functions, the Commission believes that DTC and other clearing agencies electing this alternative must establish and maintain the highest professional quality internal audit departments that (i) are adequately staffed with qualified personnel that possess the requisite technical expertise and maintain objectivity in the performance of their duties; and (ii) have appropriate audit plans, programs and procedures designed to meet the objectives of the Standards. Indeed, to be able to elect this alternative, the Commission believes clearing agencies must obtain agreement from their outside accountants to perform certain reviews and to report to the clearing agency's board of directors respecting the staffing, objectives, and performance of the clearing agency's internal audit department.[149] Moreover, if the electing

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The Commission has determined that accountants need not assess the effect of a weakness on other clearing agencies as originally required by the Standards.

[142] 48 FR 21689 (May 13, 1983).

[143] Thus, the controls that may need to be evaluated include, among others, general organization of the clearing agency, physical security, reconciliation of participant accounts, internal auditing, and insurance coverage. In addition, those specific services and operations that may need to be reviewed include: (1) Electronic data processing and communications systems (*E.G.*, participant terminal and institutional delivery systems); (2) trade and securities processing systems (data input and output, deposits, withdrawals, book-entry transactions, and dividends); and (3) all related money balances. This list, however, is intended to be illustrative, not comprehensive.

[144] *See, e.g.*, AICPA, Statement on Auditing Standards ("SAS") No. 30, Reporting in Internal Accounting Controls.

[145] For example, the Standards Release defines the term "Material weakness" for use in assessing the clearing agency's system of internal accounting control. *See* Standards Release, 45 FR at 41928.

[146] Generally, those concerns related to insuring that material weaknesses that mighty occur between discontinuous review periods should not be left uncorrected for a significant period of time. Because clearing agency supervisory personnel may fail to perform certain tasks important to an effective system of internal accounting control and because clearing agency management may change specific procedures or add new services in ways that adversely affect existing internal accounting controls, the Commission believes that continuous professional review and testing of the clearing agency's system of internal accounting control is crucial to maintaining confidence in the National System.

[147] DTC agreed that the scope of this three month study and evaluation would include all aspects of the system of internal accounting control over all activities performed for, or on behalf of, participants and would extend to controls related to money settlement. *See* note 143 *supra*.

[148] Clearing agencies that wish to elect this alternative should address their written request for interpretive assistance to the Division of Market Regulation.

[149] More specifically, the accountants should include in their three-month intensive study of the electing clearing agency's system of internal accounting control, a review of the internal audit department's ability to identify material weaknesses throughout the year. This review should include: internal audit department objectives; internal audit department staffing (levels, supervision, and technical expertise); internal audit department programs and procedures; testing of internal audit department work during the three-month period; and review of internal audit department documentation of reviews and tests performed throughout the year.

The accountant's report to the audit committee of board of directors should be made in such a manner as to inform the board fully of any deficiencies respecting the internal audit department discovered

Continued

clearing agency's internal audit department routinely has not performed extensive reviews and testing of the clearing agency's system of internal accounting control, the clearing agency's independent public accountant or other independent accountants acting in a special capacity should be engaged to review, or otherwise assist in preparing, the internal audit department's procedures and programs for reviewing, in a manner consistent with the Standards, the clearing agency's system of internal accounting control.

Based upon its review of DTC's Form CA–1, as amended (or to be amended) during this proceeding, the Commission has determined that DTC's by-laws and rules substantially conform to the Requirements and the Standards. Accordingly, the Commission is granting DTC full registration as a clearing agency under the Act, subject to the conditions and undertakings noted herein.

G. OCC

As indicated previously, OCC is unique among clearing agencies because it issues a variety of standardized options and, in connection with its role as issuer, performs specialized clearing services. Since the enactment of the 1975 Amendments, OCC has filed, and the Commission has approved, numerous proposed rule changes affecting certain of OCC's central systems and services.[150] Many of OCC's other rules and procedures were recently the subject of close scrutiny when the Commission reviewed and approved OCC's proposals for the issuance, clearance, and settlement of a variety of new options products.[151] This intensive review of OCC's rules and procedures, in combination with the review of OCC's Form CA–1,[152] has led the Commission to conclude that, except for two exempt areas discussed below OCC's rules and procedures meet all of the Requirements and the Standards. Accordingly, the Commission believes that OCC's application for full registration should be approved and its requests for limited exemptions should be granted.[153]

In connection with OCC's application for full registration, OCC requested an exemption from the following portion of Section 17A(b)(3) of the Act:

> . . . the rules of the clearing agency [must] provide that any (i) registered broker or dealer, (ii) other registered clearing agency, (iii) registered investment company, (iv) bank, (v) insurance company, or (vi) other person or class or persons as the Commission, by rule, may from time to time designate as appropriate to the development of a national system for the prompt and accurate clearance and settlement of securities transactions may become a participant in such clearing agency.

Currently, OCC's rules provide that only registered broker-dealers are eligible for membership in OCC.[154] OCC has requested that "it be exempted from amending its rule to provide for participation by entities other than registered broker-dealers, unless and until such an entity expresses a bona fide interest in becoming an OCC participant."[155] In explaining the basis for its request, OCC argued that "such an exemption would be consistent with the purpose of Section 17A of the Act and the public interest" because, generally speaking, OCC believes that entities other than broker-dealers have little to gain through participation in OCC, and their participation would not result in significant benefits to the public.[156] Nonetheless, OCC has undertaken, as part of its registration, promptly to develop adequate and reasonable admission and participation standards to enable participation by any class of non-broker-dealer entities that expresses an interest in membership.

In advance of any such expression of interest, however, OCC believes that attempting to create financial and operational standards for non-participating institutions would require OCC to anticipate the possible forms of participation certain institutions, such as banks, may take and to develop standards in the abstract—a process

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during the course of the review. Although that report may be in the form of a letter to management and need not be distributed to participants as a part of the report on internal accounting control, that report (or the minutes of any audit committee meeting to receive an oral report, along with any exhibits) should be maintained by the clearing agency and be available for examination by the Commission's staff and the clearing agency's appropriate regulatory agency. *See* Standards Release, 45 FR at 41926.

[150] *See, e.g.*, Securities Exchange Act Release No. 19139 (October 14, 1982), 47 FR 46940 (October 21, 1982) (requiring increased minimum clearing fund contributions for participants clearing and settling non-equity options); Securities Exchange Act Release No. 19999 (July 21, 1983), 48 FR 34554 (July 29, 1983) (revising methods for calculating participants' contributions to clearing funds); Securities Exchange Act Release No. 17437 (January 9, 1981), 46 FR 5112 (January 19, 1981) (permitting the offset of certain exercised options against the value of certain assigned short positions in calculating participants' margin requirements); Securities Exchange Act Release No. 18994 (August 20, 1982), 47 FR 37731 (August 26, 1982) (enabling participants to satisfy OCC margin obligations by depositing with OCC certain common stocks); Securities Exchange Act Release No. 18644 (June 25, 1982), 47 FR 24048 (July 2, 1982) (simplifying and automating OCC's procedures regarding participants pledged escrow receipts to cover certain options positions); Securities Exchange Act Release No. 19999 (April 13, 1983), 48 FR 16793 (April 19, 1983) (expanding OCC's simplified and automated escrow receipt procedures to non-equity options); Securities Exchange Act Release No. 19956 (July 19, 1983), 48 FR 33956 (July 26, 1983) (allowing participants to pledge certain options positions as collateral for bank loans); Securities Exchange Act Release No. 17810 (May 19, 1981), 46 FR 28546 (May 27, 1981) (permitting OCC to deny an application for participation if a person associated with the applicant is subject to a statutory disqualification); Securities Exchange Act Release No. 18771 (May 28, 1982), 47 FR 24677 (June 7, 1982) (revising OCC's disciplinary rules). In addition, OCC has proposed, and the Commission has approved, certain technical amendments to OCC's rules and procedures to conform them to the Standards. *See* Securities Exchange Act Release No. 19760 (May 12, 1983), 48 FR 22668 (May 19, 1983).

[151] *See, e.g.*, Securities Exchange Act Release No. 18015 (August 6, 1981), 46 FR 40849 (August 12, 1981) (options on Government National Mortgage Association debt securities ("GNMAs")); Securities Exchange Act Release No. 19125 (October 14, 1982), 47 FR 46934 (October 21, 1982) (reauthorization of OCC's GNMA program); Securities Exchange Act Release No. 19127 (October 14, 1982), 47 FR 46941 (October 21, 1982) (options on securities issued by the U.S. Treasury); Securities Exchange Act Release No. 19274 (November 24, 1982), 47 FR 54393 (December 2, 1982) (options on foreign currencies); Securities Exchange Act Release No. 19333 (December 14, 1982), 47 FR 57377 (December 23, 1982) (options on certificates of deposit); Securities Exchange Act Release No. 19486 (February 4, 1983), 48 FR 6219 (February 10, 1983) (options on stock indices).

[152] *See* Section II *supra*.

[153] The Commission intends to continue to monitor carefully OCC's program of accepting letters of credit from participants to secure their OCC margin obligations. *See generally* OCC Rules at Chapter VI. On April 6, 1983, OCC held $1.87 billion in such letters of credit, representing 83% of all margin (including excess margin) held by OCC on that date.

In the past two years, the Commission has reviewed and approved aspects of OCC's letters of credit program (*see, e.g.*, Securities Exchange Act Release No. 19422 (January 12, 1983), 48 FR 2481 January 19, 1983) and Securities Exchange Act Release No. 19954 (July 18, 1983), 48 FR 33578 (July 22, 1983)) and has conducted an on-site inspection of OCC's letter of credit program. Based upon its reviews of these proposals and its inspection, the Commission believes that OCC administers its letter of credit program responsibly, requiring reasonable safeguards and insuring, among other things, wide diversity in its portfolio of bank letters of credit. These safeguards and OCC's administration of the program reduce greatly OCC's dependence upon any one issuing bank. Nonetheless, because OCC has no formal standards specifying the degree of portfolio diversity among domestic bank issuers of letters of credit, the Commission intends to monitor OCC's letter of credit program to insure that OCC maintains its current high safety standards and its current portfolio diversity policy.

[154] OCC By-Laws, Art. I § 1(i) and Art.V § 1.

[155] *See* letter dated December 12, 1980, to the Commission staff, from Wayne P. Luthringshausen, Chairman and President of OCC, at 2.

[156] *Id.* OCC noted in its letter that "no clearing agency, investment company, bank or insurance company has ever sought to become an OCC participant." More recently, however, OCC advised the Commission staff that one commercial bank discussed with OCC the possibility of becoming an OCC participant. In response to this inquiry, OCC prepared proposed rules and bank admission standards that were substantially similar to its broker-dealer standards. When the bank dropped its inquiry, OCC decided not to file its proposal with the Commission for the time being.

which OCC believes would be costly and speculative.[157]

The Commission believes it appropriate to grant OCC a limited exemption from Section 17A(b)(3)(B) to enable OCC to limit participation to registered broker-dealers, provided that OCC promptly responds to any statutorily eligible participants that express clear interest in OCC membership by developing suitable participation standards and arrangements.[158] The Commission believes it would be burdensome and inappropriate to require OCC to establish speculative operational and financial participation standards for hypothetical classes of participants. The Commission agrees with OCC that the formulation of financial and operational standards for any class of participants requires costly analysis and refinement that seem premature absent genuine evidence of interest.

OCC also requested a partial exemption from the provision of the Standards that requires clearing agencies to provide its members and other registered clearing agencies with copies of the text or a description of proposed rule changes and a statement of their likely purpose and effect.[159] Specifically, OCC requested that this Standard be modified so that OCC need not provide the text and purpose of all proposed rule changes to other registered clearing agencies. In support of its request, OCC argued, primarily, that notice to other clearing agencies independent of **Federal Register** notice is duplicative and, secondarily, that most OCC proposed rule changes are irrelevant to the clearance and settlement business of other clearing agencies.[160]

The Commission believes it appropriate to grant OCC a limited exemption on the theory that OCC, as the issuer of standardization options, does not provide its participants with services that compete with the other clearing agencies.

Indeed, few of OCC's proposed rule changes affect the linkages or regulatory relationships that OCC has with those other clearing agencies, and any proposed rule change that is of general interest to other clearing agencies will continue to be noticed for their information in the **Federal Register**. Therefore, the Commission believes that, with the exception noted below, OCC need not send copies of its proposed rule changes to the other registered clearing agencies. In the case of any OCC proposed rule change that would affect the operations of other registered clearing corporations or depositories, however, the Commission expects OCC to send copies of the text and a statement of purpose and effect of the proposed rule change to all registered clearing agencies on or about the time the rule change is filed with the Commission. Timely distribution should enable all clearing agencies that may be affected by such an OCC proposal to review the proposal and to provide OCC or the Commission with timely comments.

Based on the Commission's review of OCC's Form CA–1, as amended, the Commission believes that OCC satisfies the Requirements and the Standards and should be granted full registration as a clearing agency, subject to the conditions noted herein. In addition, the Commission hereby grants a conditional exemption from Section 17A(b)(3)(B) of the Act and a limited exemption from the Standard that requires registered clearing agencies to distribute copies of proposed rule changes to other registered agencies.

V. Conclusion

Based on the foregoing, the Commission believes that the nine clearing agencies that are the subject of this ORder should be granted full registration, subject to the limitations, undertakings, exemptions, and other qualifications outlined or referenced above.

It is therefore ordered, pursuant to Sections 17(a)(2) and 19(a) of the Act and Rule 17Ab2–1(c)(2) thereunder, that DTC, SCCP, MSTC, OCC, MCC, PSDTC, PCC, NSCC, and Philadep, be, and they hereby are, granted full registration as clearing agencies.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26945 Filed 9-30-83; 8:45 am]

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[157] In addition, OCC stated that its exemption request is supported by the legislative objectives underlying Section 17A, that is, to facilitate the development of more efficient procedures for the clearance and settlement of securities transactions and to reduce the physical movement of certificates in connection with street-side settlement. Beyond that, OCC argued, Congress recognized that eliminating physical certificate movement was not possible without institutional participation in the national depository system and, therefore, that the "access requirements" of Section 17A(b)(3)(B) of the Act were aimed at encouraging diverse institutional participation in depositories.

[158] As noted above, OCC recently took such action promptly and responsibly when a non-broker-dealer showed serious interest in becoming an OCC participant.

[159] *See* letters dated December 12, 1980 and April 23, 1983, from Marc L. Berman, Executive Vice President and General Counsel, OCC, to the Commission staff. *See also* discussion at note 61 *supra*.

[160] *See, e.g.*, letter dated December 12, 1980, from Marc L. Berman, Executive Vice President and General Counsel, OCC, to the Commission staff (File No. SR–OCC–80–6).

SMALL BUSINESS ADMINISTRATION

Texas; Region VI Advisory Council; Public Meeting

The Small Business Administration—Region VI—Advisory Council, located in the geographical area of Houston, Texas, will hold a public meeting from 9:30 a.m. until 1:30 p.m., Tuesday, November 1, 1983, at the Ramada Inn, Room 1, located at 6855 Southwest Freeway, Houston, Texas 77057. This meeting will be conducted to discuss such business as may be presented by members of the District Council, the staff of the U.S. Small Business Administration, and others attending. For further information, write or call Donald D. Grose, District Director, U.S. Small Business Administration, 2525 Murworth, Suite 112, Houston, Texas 77054, (713) 660–4409.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 27, 1983.

[FR Doc. 83-26959 Filed 9-30-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. S–744]

Equity Carriers I, Inc., et al.; Application for Permission for Affiliated Companies to Operate Two Tanker Vessels in Domestic Intercoastal and Coastwise Trade

Equity Carriers I, Inc., charters and operates the dry bulk cargo vessel PRIDE OF TEXAS; Asco-Falcon II Shipping Company owns and operates the dry bulk cargo vessel STAR OF TEXAS; and Equity Carriers III, Inc., charters and operates the dry bulk carrier vessel SPIRIT OF TEXAS. These three vessels are engaged in service in the foreign trades and are covered by Applicants' ODS Contract MA/MSB–439, as amended, and are presently operating in the U.S. preference grain trades pursuant to section 614 of the Merchant Marine Act, 1936, as amended (Act), under which the ODS contract has been suspended, and no operating subsidy is now being awarded or paid with respect to such vessels.

Two unsubsidized 37,000 DWT product carriers, USNS NECHES (formerly FALCON DUCHESS), owned by Falcon Tankers, Inc., and USNS HUDSON (formerly FALCON PRINCESS), owned by Boston Carriers, Inc., will shortly be released from Military Sealift Command charters, and after upgrading, are intended to be operated by Seahawk Management, Inc., in the domestic coastwise and intercoastal trades.

Falcon Tankers, Inc., Boston Carriers, Inc. and Seahawk Management, INc. (collectively the "Tanker Companies") may be deemed affiliates of the Applicants by virtue of having certain common shareholders.

By letter of September 26, 1983, Applicants requested written permission under section 805(a) of the Act for their affiliate Seahawk to operate the two tankers in the domestic intercoastal or coastwise trades.

Applicants, as parties to an Operating-Differential Subsidy Agreement, would require such written permission under section 805(a) when operating vessels with subsidy under the ODSA.

The Applicants aver that they and their affiliates will remain separate companies, and there will be no intermingling of the respective companies' subsidized and unsubsidized operations, nor will any subsidy funds be made available directly or indirectly to the affiliates.

Any person, firm, or corporation having any interest in such application (within the meaning of section 805(a) of the Act) and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, by close of business on October 13, 1983, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would b eprejudicial to the objects and policy of the Act relative to domestic trade operations.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistant Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Administrator.

Dated: September 27, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-26838 Filed 09-30-83; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review.

On September 27, 1983, the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collection should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0676
Form Number: 6317 and 6318
Type of Review: Revision
Title: Trainee's Opinion Survey; Instructor Evaluation

OMB Number: 1545-0187
Form Number: 4835
Type of Review: Revision
Title: Farm Rental Income and Expenses

OMB Number: 1545-0056
Form Number: 1023 and 872-C
Type of Review: Revision
Title: Application for Recognition of Exemption Under Section 501(c)(3) of the IRC. Consent Fixing Period of Limitation Upon Assessment of Tax Under Section 4940 of the IRC.

OMB Number: 1545-0087
Form Number: 1040-ES
Type of Review: Revision
Title: Estimated Tax for Individuals, U.S. Citizens and Residents, for Non-resident Aliens, for use in Puerto Rico, (in Spanish), and for use in Northern Mariana Islands.

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of Government Financial Operations

OMB Number: 1510-0007
Form Number: SF 1199A
Type of Review: Revision
Title: Direct Deposit Sign Up Form
OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: September 27, 1983.

Rita A. De Nagy,

Departmental Reports Management Office.

[FR Doc. 83-26847 Filed 9-30-83; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review.

On September 26, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, PUb. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0191
Form Number: 4592
Type of Review: Revision
Title: Ivestment Interest Expense Deduction.

OMB Number: 1545-0034
Form Number: 942 and 942PR
Type of Review: Revision
Title: Employer's Quarterly tax Return for Household Employees
OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of Government Financial Operations

OMB Number: 1510-0012
Form Number: TFS 6314
Type of Review: Revision

Title: Schedule F, Ceded Reinsurance
OMB Reviewer: Judy McIntosh (202) 395-6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, D.C. 20503

Dated: September 26, 1983.

Cathy L. Thomas,

Departmental Reports Management Office.

[FR Doc. 83-26848 Filed 9-30-83; 8:45 am]

BILLING CODE 4810-25-M

Comptroller of the Currency

[Docket No. 83-42]

Procedures for Certification of National Bank Documents

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform national bank management of the requirements necessary to request certified documents from the Office of the Comptroller of the Currency.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Ballard C. Gilmore, Manager, Operations and Procedures, Bank Organization and Structure, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1184.

SUPPLEMENTARY INFORMATION:

Types of Certifications Most Often Requested

1. Certificate of Corporate Existence (short form)—this is also known as a "Good Standing Certificate." It is a one-page document which states that a specific national bank (name and location) continues to hold a valid certificate to transact the business of banking.

This certification may also be requested in the form of a telegram which will carry the Comptroller's signature but *not* the Seal of Office. The telegram will state that as of a specific date (date the certification is prepared), the particular national bank is authorized to transact the business of banking, or continues to hold a valid certificate to transact the business of banking. All telegrams are sent collect.

2. Certificate of Corporate Existence (long form)—same as number 1 but includes a copy of the national bank's charter certificate, merger and title change certificates, if any.

3. Certificate of Corporate Existence including Fiduciary Powers—same as number 1 and 2 but includes a statement concerning the national bank's fiduciary powers.

4. Certificate of Articles of Association—a certification stating that a true and complete copy of the national bank's Articles of Association is attached.

5. Certificate of Corporate Title Change—a certification stating that a true and complete copy of the national bank's title change certificate is attached. If the bank's title has changed subsequent to passage of the Garn-St Germain Depository Institutions Act of 1982 (signed into law on October 15, 1982), the certification will attest to the changes in Article One of the national bank's Articles of Association.

6. Certificate of Merger—a certification stating that a true and complete copy of the national bank's merger certificate is attached.

Discussion

The certification process involves a bank-by-bank historical search of various files maintained in the Comptroller's Office. Particular attention must be given to bank structure changes brought about by, among other things, bank mergers, purchase and assumptions or consolidations, corporate title changes, amendments to Articles of Association, and the establishment of branches. Each request for certification requires: (1) Locating a particular bank's file; (2) Researching that file for documents that have been requested; (3) Removing and duplicating the documents; and (4) Preparing the certification which carries the Comptroller's signature and Seal of Office.

Over the last two years, requests for certification have substantially increased. Of more concern to the Office is the increasing number of instances where immediate processing of these requests is expected and sometimes demanded. Due to the preparation requirements of certifications previously mentioned, the Office will no longer prepare certifications upon demand or with relatively short request dates. It is neither practical, nor is it an effective use of resources to do so.

In order to permit management of national banks to better plan for instances requiring certification of documents by this Office, the following procedures are being implemented immediately. Those requests for certifications received prior to the date of this cicurlar will be processed in order of date received.

Procedures

1. Banks requiring certified documents must submit a letter to the following address: Comptroller of the Currency, Bank Organization and Structure, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219.

2. The letter must state the type of certification desired and the name, city and state of the bank on which the certification is being requested.

Note.—In the past, the Office has accepted requests for certifications by telephone. The Office has also provided verbal certification of a bank's "Good Standing" status. Effective immediately, these two procedures have been discontinued.

3. Upon receipt of the request, the Office will prepare the certification and respond within 15 working days. In addition to the certification, the response will include an invoice disclosing the costs incurred in processing the request. Standard cost is $15 per document certified plus any costs associated with express mail service. An additional charge of $10 an hour will be assessed for requests requiring research beyond a simple file check.

Dated: September 27, 1983.

Doyle L. Arnold,

Senior Deputy Comptroller for Policy and Planning.

[FR Doc. 83-26886 Filed 9-30-83; 8:45 am]

BILLING CODE 4810-33-M

Internal Revenue Service

[Delegation Order No. 173 Rev. 2]

Assistant Commissioner (Examination); Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This Order is revised to limit the steel industry study to cover only metallurgical coal and add phosphate to the list of controlled pricing issues for which the Assistant Commissioner (Examination) is delegated the authority to enter into and approve settlements. The text of the delegation order appears below.

EFFECTIVE DATE: September 23, 1983.

FOR FURTHER INFORMATION CONTACT: Stanley E. Novack, OP:EX:N:I Room 2519, 1111 Constitution Ave., NW., Washington, D.C. 20224, (202) 566-6493 (Not Toll Free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal**

Register for Wednesday, November 8, 1978.

Percy Woodard, Jr.,

Assistant Commissioner (Examination).

Order No. 173 (Rev. 2)

Effective date: 9-23-83.

Nationwide Authority to Make Determinations on Certain Aluminum, Phosphate and Steel Related Cases

Pursuant to authority vested in the Commissioner of Internal Revenue by IRC 7802, 26 CFR 1.482, 1.613, 301.7701-9, and Treasury Department Order No. 150-37, the authority to enter into and approve settlements of the National Office controlled inter/intracompany transfer pricing issue and issues resulting therefrom present in bauxite, alumina, phosphate and metallurgical coal issues is hereby delegated to the Assistant Commissioner (Examination).

This authority may not be redelegated. Delegation Order No. 173 (Rev. 1), effective March 21, 1982, is superseded.

Dated: August 31, 1983.

Approved:

James I. Owens,

Deputy Commissioner.

[FR Doc. 83-26960 Filed 9-30-83; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 201]

Service Center Records Officers; Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This order delegates to service center records officers authority to certify after telephonic verification that a particular accession of records has been destroyed. The text of the delegation appears below.

EFFECTIVE DATE: September 23, 1983.

FOR FURTHER INFORMATION CONTACT: Marcella K. Weston PM:S:FM:O, 1111 Constitution Ave., NW. Room 6102 ICC, Washington, DC 20224. Telephone No. (202) 566-9711 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Bruce H. Johnson,

Acting Chief, Office Automation Support Branch.

Order No. 201

Effective date: September 23, 1983.

Authority to Certify to the Destruction of IRS Records for Court Purposes

1. Pursuant to the authority vested in the Commissioner of Internal Revenue by 26 CFR 301.7622-1, there is hereby delegated to Service Center Records Officers the authority to certify, after telephonic verification, that a particular accession of records has been destroyed.

2. This authority may not be redelegated.

Dated: September 9, 1983.

Approved:

James I. Owens,

Deputy Commissioner.

[FR Doc. 83-26961 Filed 9-30-83; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

Public Information Collection Requirements Submitted To OMB for Review

On September 28, 1983, the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0022
Form Number: 712
Type of Review: Extension
Title: Life Insurance Statement
OMB Number: 1545-0123
Form Number: 1120 Schedules D and PH
Type of Review: Revision
Title: U.S. Corp. Income Tax Return, Capital Gains and Losses, Comp. of U.S. Pers. Holding Co. Tax
OMB Reviewer: Norman Frumkin, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Comptrollers of the currency

OMB Number: 1557
Form Number: FFIEC 035
Type of Review: Revision
Title: Monthly Consolidated Foreign Currency Report on Banks in the United States
OMB Reviewer: Judy McIntosh, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph A. Donahue,

Departmental Reports Management Office.

[FR Doc. 83-26947 Filed 9-30-83; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 192
Monday, October 3, 1983

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).

CONTENTS

1

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 4, 1983, 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, October 6, 1983, 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential primary matching funds
Draft Advisory Opinion 1983-23
Harry McPherson & Douglas M. Steenland on behalf of LTV Corp.
Draft Advisory Opinion 1983-24
Phillip Porte on behalf of American Association of Respiratory Therapy PAC
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. S-1392-83 Filed 9-29-83; 3:14 pm]
BILLING CODE 6715-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 28, 1983.

TIME AND DATE: 10 a.m., Thursday, October 6, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. David Hollis v. Consolidation Coal Co., Docket No. WEVA 81-480-D. (Issues include whether the administrative law judge erred in dismissing the complainant's discrimination complaint.)

2. Secretary of Labor, Mine Safety & Health Administration (MSHA), on behalf of Milton Bailey v. Arkansas-Carbona Company, Docket No. CENT 81-13-D. (Issues include determination of the interest to be assessed on back pay awards in discrimination cases under the Mine Act.)

3. Old Ben Coal Company, Docket No. LAKE 83-50-R; Petition for Discretionary Review. (Issues include whether the adminiatrative law judge erred in dismissing the operator's notice of contest following the operator's payment of the civil penalty in the case.)

4. U.S. Steel Mining Co., Docket No. WEVA 82-387; Petition for Discretionary Review. (Issues include whether the judge erred in determining that a violation of 30 CFR § 75.1106-2, a mandatory standard which deals with the safe transportation of compressed gas cylinders, was "significant and substantial", and whether he assessed an appropriate civil penalty.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

[S-1389-83 Filed 9-29-83; 10:29 am]
BILLING CODE 6735-01-M

3

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Wednesday, October 5, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
a. Certain Computerized Jacquard Pattern Cutting Systems (Docket No. 967).
5. Investigation 337-TA-82A (Certain Headboxes and Papermaking Machine Forming Sections for the Continuous Production of Paper, and Components Thereof)—briefing and vote.
6. FY 85 budget.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1388-83 Filed 9-29-83; 9:48 am]
BILLING CODE 7020-02-M

4

POSTAL RATE COMMISSION.

DATE AND TIME: Thursday, September 29, 1983, at 1 p.m.

PLACE: Conference Room, Room 500, 2000 L St., NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of Complaint in Docket No. C83-3. (Closed pursuant to 5 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254-3880.

[FR Doc. S-1391-83 Filed 9-29-83; 1:50 pm]
BILLING CODE 7715-01-M

5

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 43122, September 21, 1983.

STATUS: Closed/open meeting.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, September 16, 1983.

CHANGE IN THE MEETING: Additional meeting/rescheduling.

The following item was considered at a closed meeting scheduled on Monday, September 26, 1983, at 3:00 p.m.

Litigation matters.

The following item previously scheduled for Tuesday, September 27, 1983, at 9:00 a.m. has been rescheduled for Wednesday, October 5, 1983, at 2:30 p.m.

Consideration of whether to issue a release adopting rule changes that would: (1) Require certain foreign private issuers to register securities quoted in NASDAQ, (2) revise the definition of the term foreign private issuer, and (3) clarify the obligation of an acquiring company to assume the periodic reporting obligation of the acquired company. For further information, please contact Carl Bodolus at (202) 272-3246.

Chairman Shad and Commissioners Evans, Thomas and Longstreth determined that Commission business

required the above changes and that no earlier notice thereof was possible.

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: Michael Lefever at (202) 272–2468.

September 28, 1983.

[FR Doc. S-1390-83 Filed 9-29-83; 11:58 am]

BILLING CODE 6010-01-M

federal register

Monday
October 3, 1983

Part II

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program: Notice of Closing Date for Applications.

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public Telecommunications Facilities Program; Closing Date for Applications

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Public Telecommunications Facilities Program: Notice of Closing Date for Applications.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, is inviting applications for planning and construction grants for public telecommunications facilities under the Public Telecommunications Facilities Program (PTFP) of NTIA. Although the President's budget request for FY 1984 did not seek funding for the Public Telecommunications Facilities Program, if the Congress appropriates funding under a continuing resolution, grant applications will be accepted. At the present time, NTIA expects the total amount of funds available for grants under the PTFP will be $12,000,000. Applicants for grants under PTFP must file their applications on or before January 16, 1984. NTIA anticipates making grant awards in early August 1984.

Authority: The Public Telecommunications Financing Act of 1978, 47 U.S.C. 390, et seq. (Act), as amended by the Public Broadcasting Amendments of 1981, Pub. L. No. 97-35 (1981 Amendments).

FOR FURTHER INFORMATION CONTACT: Persons desiring further information should contact Dennis R. Connors, Acting Program Director, PTFP/NTIA/DOC, Room 4625, Washington, D.C. 20230. Telephone (202) 377-5802.

SUPPLEMENTARY INFORMATION:

I. Program Goals

The Goals of this program, as stated in section 390 of the Act are:

To assist through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) Extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies; (2) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.

To accomplish these goals NTIA has adopted a list of priorities which appear in Appendix A to the PTFP Final Rules. (**Federal Register**, Vol. 47, No. 228, November 26, 1982)

II. Closing Date

Pursuant to § 2301.10 of the PTFP Final Rules, (**Federal Register**, Vol. 47, No. 228, November 26, 1982) the Administrator of NTIA hereby established the closing date for the filing of applications for grants under the PTFP. The closing date selected for the submission of applications is January 16, 1984.

III. Eligibility

To be eligible to apply for or receive a grant under the PTFP, an applicant must be: (A) A public broadcast station; (B) a noncommercial telecommunications entity; (C) a system of public telecommunications entities; (D) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or (E) a State or local government, or a political or special purpose subdivision of a State.

IV. Applications Forms and Regulations

To apply for a PTFP grant, an applicant must file a timely and complete application on a current form approved by the agency.[1] All persons and organizations on the PTFP's mailing list will receive a copy of the current application form and the Final Rules shortly. Those not on the mailing list may obtain copies by contacting the PTFP at the address above. Prospective applicants should read the Final Rules carefully before submitting applications. Applicants whose applications had been deferred, will receive pertinent PTFP materials and instructions for requesting reactivation.

Applicants should note that they must comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order requires applicants for financial assistance under this program to file a copy of their application with the appropriate State's Single Point of Contact (SPOC). Applicants are required to serve a copy of their completed application on the appropriate single point of contact on or before January 16, 1984. Applicants are encouraged to contact the appropriate SPOC as early as possible before the NTIA closing date.

V. Funding Criteria

The evaluation and scoring of your application is based on how well you address the funding criteria in Section 2301.17 (construction) or 2301.18 (planning) in the PTFP Regulations. Your narrative should be based on these criteria rather than the narrative instructions in this application form.

The funding criteria for construction applications are as follows:

(a) How well the applicant has satisfied the assurances required in Sec. 2301.5; (b) The priorities set forth in Sec. 2301.20; (c) The adequacy and continuity of financial resources for long-term operational support, which assures the applicant's continual service to the communities within the service area; and the availability of necessary funds for capital expenditures; (d) The extent to which non-Federal funds will be used to meet the total cost of the project; (e) The extent to which the applicant has: (1) Evaluated alternate technologies, the basis upon which decisions were made as to the technology to be utilized and the extent to which the proposed service will not duplicate service already available, (2) Provided meaningful documentation of the applicant's equipment requirements, (3) Provided meaningful documentation of community support for the service to be provided (such as letters from agencies for whom the applicant produces or will produce programs or other materials and from key elected/appointed policy-making officials); (f) The extent to which the evidence supplied in the application reasonably assures an increase in public telecommunications services and facilities available to, operated by, and owned (or controlled) by minorities and women; (g) The extent to which the various items of eligible apparatus proposed are necessary to, and capable of, achieving the objectives of the project and will permit the most efficient use of the grant funds; (h) The extent to which the eligible equipment requested meets current telecommunications industry performance standards; (i) The extent to which the applicant will have available sufficient qualified staff to operate and maintain the facility and provide services of professional quality; (j) The extent to which the applicant has planned and coordinated the proposed services with other telecommunications entities in the service area; (k) The extent to which the project implements local, Statewide or regional public

[1] The Office of Management and Budget (OMB) has approved the information collection and reporting requirements contained in NTIA's application as required under the Paperwork Reduction Act of 1980 (OMB Approval No. 0660-0003)

telecommunications systems plans, if any; (l) The extent to which the applicant's proposed five (5) year facilities plan required by section 392(a) of the Act is practical, financially affordable and consistent with the intent of the Act and Regulations; and (m) The readiness of the Commission to grant any necessary authorization.

The funding criteria for planning applications are as follows:

(a) How well the applicant has satisfied the assurances required in Sec. 2301.5; (b) The extent to which the applicant's interests and purposes are consistent with the purposes of the Act and the priorities of the Agency; (c) The qualifications of the proposed planner to provide a public telecommunications facilities plan; (d) The extent to which the planning project's proposed procedural design assures that the applicant would obtain adequate: (1) Financial human and support resources necessary to conduct the plan; (2) Coordination with other telecommunications entities at the local, State, regional and national levels; (3) Evaluation of alternate technologies and existing services, and (4) Participation by the public to be served (and by minorities and women in particular) in the planning of the project; (e) The extent to which the applicant has engaged in pre-planning studies to determine the technical feasibility of the proposed planning project (such as the availability of a frequency assignment, if necessary for the project); and (f) The extent to which the proposed procedure and timetable are feasible and can achieve the expected results.

VI. Filing Applications.

Applications delivered by mail must be *Received* no later than close of business, January 16, 1984, and must be addressed to: Public Telecommunications Facilities Program, NTIA/DOC, Room 4625, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Applications delivered by hand must be delivered to the above address between 8:30 a.m. and 5:00 p.m. on or before close of business January 16, 1984. Applicants whose applications are not received by close of business January 16, 1984 will be notified that their applications will not be considered in the current competition and will be returned.

NTIA requires that all applicants whose proposed projects need authorization from the Federal Communications Commission (FCC), must tender an application to the FCC for such authority on or before January 16, 1984. However, you are urged to submit it with as much lead time before the PTFP closing date as possible. The greater the lead time the better chance your FCC application will be properly processed to coincide with our grant cycle. (An application is tendered to the FCC when it has been received by the Secretary of the FCC). NTIA will return the applications of any applicant which fails to tender an application to the FCC for any necessary authority on or before January 16, 1984.

(Catalog of Federal Domestic Assistance No. 11.550)

Scott Mason,

Chief, Management Branch.

[FR Doc. 83-26631 Filed 9-30-83; 8:45 am]

BILLING CODE 3510-60-M

federal register

Monday
October 3, 1983

Part III

Environmental Protection Agency

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[OSW-FRL 23752]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule with request for comments

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend its regulations under the Resource Conservation and Recovery Act to change the hazard class under which certain discarded commercial chemical products are listed. This change specifically involves the categorization of waste dimethoate, methomyl and famphur. This change is being made because dimethoate and certain lower concentration formulations of methomyl and famphur do not meet the criteria for acute hazardous waste.

DATE: EPA will accept public comments on this proposed rule until December 2, 1983. Any person may request a hearing on this amendment by filing a request with Eileen B. Claussen, whose address appears below, by November 2, 1983.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Comments should identify the regulatory docket number "Section 3001, 40 CFR 261.33". Requests for a hearing should be addressed to Eileen B. Claussen, Director, Office of Management, Information and Analysis, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

The public docket for this amendment is located in Room S-212A, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, and is available for viewing from 9:00 am to 4:00 pm Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH-565B), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 382-4798.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the Agency promulgated under 40 CFR 261.33 a list of commercial chemical products or manufacturing chemical intermediates that are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance that is manufactured or formulated for commercial or manufacturing use, and consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. Section 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers, or the residues remaining in the containers, or the inner liners removed from the containers that have held those chemicals listed in § 261.33(e), if discarded or intended to be discarded, unless the containers or the inner liners have been triple-rinsed with an appropriate solvent or have been decontaminated in an equivalent manner, or the inner liners have been removed.

A chemical substance is listed in § 261.33(e) as an acutely hazardous waste if it meets the criteria of § 261.11(a)(2); that is, if is has been shown to be fatal to humans in low doses or has been shown in animal studies to have an oral (rat) LD50 of less than 50 milligrams per kilogram, a dermal (rabbit) LD50 of less than 200 milligrams per kilogram, an inhalation (rat) LC50 of less than 2 mg/1, or is otherwise capable of causing or significantly contributing to serious illness in low doses.

Chemical substances are listed in § 261.33(f) if they satisfy § 261.11(a)(1), exhibiting identified characteristics of EP toxicity, reactivity, corrosivity, or ignitability; or § 261.11(a)(3), satisfying the criteria for listing as toxic. For the purposes of identifying compounds to be included on this list, the Agency considers principally the nature of the toxicity of the compound (see § 261.11(a)(3)(i)) and concentration of the compound (§ 216.11(a)(3)(ii)). Concentration, of course, will ordinarily be very high because the commercial chemical product will consist nearly entirely of the toxic compound, or contain the compound as the sole active ingredient.

In listing wastes in either § 261.33 (e) or (f), the Agency intended to encompass those hazardous chemical products which for various reasons are sometimes thrown away in pure or diluted form. The regulation was intended to designate chemicals themselves as hazardous wastes, if discarded. The reasons for discarding these materials might be that the materials did not meet required specifications, the inventories were being changed, or that the product line had changed.

The Ralston Purina Company, ST. Louis, MO (Ralston) has petitioned the Agency, pursuant to the provisions in 40 CFR 260.22,[1] to exclude commercial chemical products containing low concentrations of dimethoate, methomyl and famphur from the list of acutely hazardous wastes in § 261.33(e).

II. Basis for Original Listing

A. Dimethoate (Phosphorodithioic acid, O,O-dimethyl ester, S-ester with 2-mercapto-N-methylacetamide)

The Agency listed dimethoate in 40 CFR 261.33(e) based on its published oral (human) LD50 of 30 mg/kg for the technical grade from. The Agency includes in the acutely hazardous waste category any wastes that have been shown to be fatal to humans at low doses.

B. Methomyl (Acetimidic acid, thio-N-((methylcarbamoyl) oxy)-, methyl ester)

The Agency listed methomyl in 40 CFR 261.33(e) based on its oral (rat) LD50 of 17 mg/kg and its inhalation (rat) LD50 of 0.56 mg/l for the technical grade form.

*C. Famphur (Phosphorothioic acid, O,O-*dimethyl ester, O-ester with p-hydroxy-N,N-dimethylbenzene-sulfonamide)

The Agency listed famphur in 40 CFR § 261.33(e) based on its oral (rat) LD50 of 35 mg/kg for the technical grade form.

III. Reason and Basis for Today's Amendment

A. Dimethoate

Ralston petitioned the Agency to exclude dimethoate from the list of

[1] 40 CFR 260.22 only allows an individual facility to delist their waste if they can show that the waste is fundamentally different from the waste the Agency has listed. Since Ralston Purina requests that dimethoate, methomyl and famphur be removed from the acutely hazardous waste category and thus seeks relief on a generally applicable basis, their petition is being processed under 40 CFR 260.20

acutely hazardous wastes, based upon the following toxicity data.

Oral (rat) LD50 = 240–280 mg/kg (95.5%, technical grade) [1]

Oral (rat) LD50=980 mg/kg (23.4% formulation) [1]

This toxicological data indicates that products, manufacturing chemical intermediates, and off-specification chemical products containing dimethoate at concentrations of 95.5% or less exhibit acute oral LD50 (rat) values of greater than 50 mg/kg and consequently do not meet the criteria for acute hazardous wastes. In fact, as shown by Ralston Purina's data, the acute toxicity of such formulations is well in excess of 50 mg/kg.

As previously stated, the Agency listed dimethoate in 40 CFR 251.33(e) based on the published oral (human) LD50 of 30 mg/kg. This value was published in the Registery of Toxic Effects of Chemical Substances (RTECS) (National Institute for Occupational Safety and Health (NIOSH), Cincinnati, OH 45226). Since the Agency listed dimethoate origingally on the basis of its human oral LD50, EPA contacted NIOSH to confirm the published data and found that the original source of the published value was an article by Tetsuo Uchida and R.D. O'Brian entitled "Dimethoate Degradation by Human Liver and its Significance of Acute Toxicity," published in Toxicology and Applied Pharmacology, vol. 10, pp. 89–94 (1967). This study projected an acute oral LD50 of 30 mg/kg for humans from *in vitro* studies on the rate of hydrolysis of dimethoate by liver homogenates.

Regulation of wastes based on acute lethality is done only where lethality in humans has actually been observed in clinical or accidental exposure situations, or in the absence of such data, where data derived from whole animal bioassays is available. Since the RTECS data on human toxicity was inferred, not observed, and the compound's oral (rat) LD50 (*i.e.*, 152 mg/kg for 100% active dimethoate) is outside the acutely hazardous range, the Agency believes that formulations containing dimethoate in any concentration are not actuely hazardous and should not be listed in § 261.33(e). However, the Agency believes that these formulations can cause substantial harm if mismanaged, based upon dimethoate's toxicity and the high concentrations of dimethoate typically present. Consequently, the Agency is proposing to amend 40 CFR 261.33 to transfer the listing for dimethoate from § 261.33(e) to § 261.33(f) as EPA Hazardous Waste No. U338.

B. Methomyl

Ralston also petitioned the Agency to exclude methomyl from the list of acutely hazardous wastes. The have provided the following toxicity data.

Oral (rat) LD50=17–24 mg/kg (technical grade) [2]

Oral (rat) LD50=1700–2400 mg/–kg (1% formulation) [3]

Inhalation (rat) LC50>14.8 mg/¼ hr (2% formulation) [4] (inhalation data not available for 1% formulation)

As mentioned earlier, the Agency listed methomyl in § 261.33(e)

based on both its oral (rat) LD50 of 17 mg/kg and its inhalation (rat) LC50 of 0.56 mg/1 for the technical grade material.

The toxicological data submitted by Ralston indicates that although the technical grade material is acutely hazardous, those formulations containing methomyl at concentrations of 1% or less are not since they have oral (rat) LD50s greater than 50 mg/kg. This data also shows that, since the 2% formulation has a normalized 1 hour inhalation LC50 (rat) toxicity value of greater than 59.2 mg/1 (14.8 mg/¼ hr), the inhalation LC50 of the 1% formulation must also be far greater than the 2 mg/1 for a 1 hour exposure which is the upper limit for the acutely hazardous list.

However, based on methomyl's toxicity, the Agency believes that it is still a hazardous waste and could cause substantial harm if mismanaged. Therefore, the Agency is proposing to amend § 261.33(e) to revise the listing for methomyl to include only those products containing methomyl at concentrations of greater than 1% as EPA Hazardous Waste No. P066, and proposing to amend § 261.33(f) to add methomyl when present at concentrations of 1% or less as EPA Hazardous Waste No. U337.

C. Famphur

Ralston also requested that famphur be removed from the list of acutely hazardous wastes. They have provided the following toxicity data in support of this request.

Oral (rat) LD50=35 mg/kg (technical grade) [1]

Oral (rat) LD50=163 mg/kg (13.2% formulation) [5]

As previously stated, the Agency listed famphur in 40 CFR 261.33(e) based on its oral (rat) LD50 of 35 mg/kg. The toxicological data submitted by Ralston indicates that, although the technical grade material is acutely hazardous, the formulations containing famphur in concentrations of 13.2% or less are not. However, in view of famphur's toxicity, mismanagement may cause substantial harm, so the Agency cannot remove famphur from regulation under § 261.33 altogether.

Therefore, the Agency is proposing to amend 40 CFR 261.33(e) to revise the listing for famphur to include only those products containing famphur at concentrations of greater than 13.2% as EPA Hazardous Waste No. P097, and proposing to amend 40 CFR 261.33(f) to add famphur when present at concentrations of 13.2% or less as EPA Hazardous Waste No. U339.

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed rule is not major because it would not result in an effect on the economy of $100 million or more, nor would it result in an increase in costs or prices to industry. In fact, this regulation could reduce the overall costs and economic impact of EPA's hazardous waste management regulations. There would be no adverse impact on the ability of U.S.-based enterprises to compete with the foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation no Regulatory Impact Analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection in Room S–269C at EPA.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small business, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have a significant economic impact on small entities (*i.e.*, a pest control operator which is independently owned and operated and which is not dominant in its area) since a) it reduces regulatory requirements and b) relatively few small entities dispose of these materials. Today's proposal may, however, result

in a saving to some small business, namely, those few small pesticide applicators who dispose of small quantities of pesticides containing dimethoate, methomyl, and famphur. Accordingly, I hereby certify that this proposed regulation would not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

VII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: September 23, 1983.

William D. Ruckelshaus,

Administrator.

References

1. Clyne, Robert M. and Boyd C. Shaffer, *Toxicological Information—Cyanamid Organophosphate Pesticides*, 3rd ed., American Cyanamid Co., Princeton, NJ, 1975.

2.duPont® Information Bulletin—Lannate Insecticide®, E.I. duPont de Nemours & Co., Inc., Wilmington, DE, March, 1978.

3. Letter from Robert B. Broyles, Ralston Purina Company, St. Louis, MO, dated March 15, 1982. Summary of laboratory testing of Purina Fly Control Bait (1% methomyl)—oral rat LD50 toxicity.

4. Letter from Robert B. Fugitt, E.I. duPont de Nemours & Co., Wilmington, DE, dated March 24, 1982. Summary of laboratory testing of 2% methomyl dust—inhalation rat LC50 toxicity.

5. Letter from Robert B. Broyles, Ralston Purina Company, St. Louis, MO, dated May 13, 1981. Summary of laboratory testing of WARBEX Famphur Pour-On (13.2% famphur)—oral rat LD50 toxicity.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 and 6922).

§ 261.33 [Amended]

2. It is proposed to amend § 261.33(e) by removing Hazardous Waste Number PO44 and revising the listings for methomyl and famphur to read as follows:

Hazardous waste No.	Substance
P066	Acetimidic acid, thio-N-[(methylcarbamoyl) oxy]-, methyl ester, when present at concentrations greater than 1 percent.
P097	Famphur, when present at concentrations greater than 13.2 percent.
P066	Methomyl, when present at concentrations greater than 1 percent.
P097	Phosphorothioic acid, O,O-dimethyl ester, O-ester with p-hydroxy-N, N-dimethylbenzenesulfonamide, when present at concentrations greater than 13.2 percent.

3. It is proposed to amend § 261.33(f) by adding, in alphabetical order, the following waste streams:

Hazardous waste No.	Substance
U337	Acetimidic acid, thio-N-[(methylcarbamoyl) oxy]-, methyl ester, when present at concentrations of 1 percent or less.
U338	Dimethoate.
U339	Famphur, when present at concentrations of 13.2 percent or less.
U337	Methomyl, when present at concentrations of 1 percent or less.
U338	Phosphorodithioic acid, O,O-dimethyl ester, S-ester with 2-mercapto-methylacetamide.
U339	Phosphorothioic acid, O,O-dimethyl ester O-ester with p-hydroxy-N, N-dimethylbenzenesulfonamide, when present at concentrations of 13.2 percent or less.

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federal register

Monday
October 3, 1983

Part IV

Department of Transportation

Federal Aviation Administration

Miscellaneous Amendments; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 61, 65, 107, 109, 121, 135, and 145

[Docket No. 23781; Notice No. 83-13]

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to amend various sections of the regulations. Some of these proposals are clarifying or editorial in nature or correct improper or obsolete references. Others would relax certain existing requirements. Other proposals would allow issuance of special flight permits for an additional purpose, relax a requirement for passenger information signs, and eliminate the bulk erasure device on cockpit voice recorders. This action is in response to numerous complaints, suggestions, and petitions for exemptions concerning several regulatory requirements received from users of the National Airspace System. These users state that these sections contain obsolete references and vaque, complex, and inadequate language and that, in some instances, the cost of compliance is not justified by the benefits derived.

DATES: Comments must be received on or before December 2, 1983.

ADDRESS: Comments on this notice may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 23781, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 23781. Comments may be inspected in Room 916 weekdays between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Susan M. Yagoda, Regulatory Review Branch (ASF-410), Safety Regulations Division, Office of Aviation Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in these preliminary rulemaking procedures by submitting such written data, views, or arguments as they may desire. Communications must identify the regulatory docket or notice number and be submitted or delivered in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 23781." The postcard will be date/time stamped and returned to the commenter. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filled in the docket.

Availability of NPRM

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

Background

Several of these proposals result from numerous requests for exemptions. Also, several areas in the Federal Aviation Regulations (FAR) require corrections to references, interpretation, and clarification. The remaining changes are minor in nature since most involve editorial corrections to punctuation, spelling, and technical nomenclature. Most of these proposed revisions concern unrelated items that have accumulated an are appropriate for consolidation in a miscellaneous amendments package.

Economic Evaluation

A regulatory evaluation was conducted which is included in the regulatory docket for this action. The majority of the proposals contained in this notice will have a negligible or no-cost impact. Several of the proposed amendments originated from the need to correct and clarify various technical references and definitions in the FAR.

One proposal affecting the Part 121 fleet was determined to have a minor economic impact. The proposed regulatory change which imposes a new cost is a rule which requires that the bulk erasure capability in cockpit voice recorders (CVR's) be eliminated to prevent either the deliberate or inadvertent erasure of the last 30 minutes of recorded information. The proposed changes to §§ 121.359(d) and 135.151 would ensure that the last 30 minutes of recorded information are always available for accident/incident investigation. An economic evaluation of this proposal, a copy of which is contained in the docket, indicates that the benefits associated with the proposed CVR modification exceed its costs. In this context, the future savings accruing to operators from not having to purchase CVR's with bulk erasure capability will be greater than the cost incurred by them in removing this capability from the CVR's presently in their airplanes and domestic inventory pools. The evaluation has assumed that implementation of the CVR modification proposal will not have an economic impact on overseas parts pool operators and will have a limited cost impact on air carriers' spare parts pools because of the limited number of CVR's retained in inventory. Accordingly, comments on the validity of the aforementioned assumptions are solicited from the industry to ensure that the FAA does not inadvertently impose a burden of affected entities.

List of Subjects

14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 61

Airmen, Aircraft pilots, Pilots, Students, Foreign persons, Transportation, Air safety, Safety, Aviation safety, Air transportation.

14 CFR Part 65

Airmen, Air safety, Safety, Aviation safety.

14 CFR Part 107

Charter flights, Guns, Baggage, Transportation, Police, Security measures Air safety, Safety, Aviation safety, Air transportation, Air carriers, Aircraft, Airports, Airplanes, Arms and munitions, Firearms, Weapons, Foreign air carriers, Law enforcement officers.

14 CFR Part 109

Shipping, Security measures, Air safety, Safety, Aviation safety, Air transportation, Transportation, Cargo, Freight forwarders.

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Aircraft pilots, Airmen, Airplanes, Cargo, Mail, Pilots, Transportation, Common carriers.

14 CFR Part 135

Air carriers, Aviation safety, Safety, Air transportation, Air taxi, Cargo, Pilots, Airmen, Aircraft, Airplanes.

14 CFR Part 145

Air carriers, Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposed to amend part 21, 61, 65, 107, 109, 121, 135, and 145 of the Federal Aviation Regulations (12 CFR Part 21, 61, 65, 107, 109, 121, 135, and 145) as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. By revising § 21.50 to read as follows:

§ 21.50 Instructions for continued airworthiness and manufacturer's maintenance manuals having airworthiness limitations sections.

(a) The holder of a type certificate for a rotorcraft for which a Rotorcraft Maintenance Manual containing an "Airworthiness Limitations" section has been issued under § 27.1529(a)(2) or § 29.1529(a)(2) of this chapter in effect before January 28, 1981, who obtains approval of changes to any replacement time, inspection interval, or related procedure in that section of the manual, shall make those changes available upon request to any operator of the type of rotorcraft involved.

(b) The holder of a design approval, including the type certificate for an aircraft, aircraft engine, or propeller, for which application for a type certificate was made after January 27, 1981, or the holder of a supplemental type certificate issued after January 27, 1981, on one of these products, shall, upon delivery or upon issuance of the first standard certificate of airworthiness for the affected aircraft, whichever occurs later, or upon approval of the supplemental type certificate,—

(1) Make available to the owner of each type of aircraft, aircraft engine, or propeller at least one complete set of Instructions for Continued Airworthiness, prepared in accordance with § 23.1529, § 25.1529, § 27.1529, § 29.1529, § 31.82, § 33.4, or § 35.4 of this chapter, as applicable; and

(2) Furnish at least one copy of the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to the owner of each type of aircraft, aircraft engine, or propeller.

(c) The holder of a design approval as specified in paragraph (b) of this section shall, after delivery or issuance of the first standard certificate of airworthiness—

(1) Make the Instructions for Continued Airworthiness and the Airworthiness Limitations Section available to any other person required by this chapter to comply with any of the terms of those instructions; and

(2) Make changes to the Instructions for Continued Airworthiness and the Airworthiness Limitations Section available to any owner or any other person required by this chapter to comply with any of those instructions.

Explanation: When § 21.50 was amended by Amendment 21–51 (45 FR 60154; September 11, 1980), a new paragraph (b) was added and the existing portion of § 21.50 was designated as paragraph (a) but was otherwise left unchanged. Before Amendment 21–51, a rotorcraft type certificate holder who made changes to the Airworthiness Limitations Section of the Rotorcraft Maintenance Manual issued under § 27.1529(a)(2) or § 29.1529(a)(2) was required by § 21.50 to make those changes available upon request to any operator. The intention in Amendment 21–51 was to leave this requirement unchanged for such type certificate holders. However, reference to §§ 27.1529(a)(2) and 29.1529(a)(2) was no longer appropriate as those sections were totally revised in Amendments 27–18 and 29–20 (45 FR 60154; September 11, 1980), respectively, and there is no longer a subparagraph (a)(2) in either section. To correct this oversight, it is proposed to add the phrase "in effect before January 28, 1981," after the reference to §§ 27.1529(a)(2) and 29.1529(a)(2).

Section 21.50(b) currently requires the holder of design approval, including a type certificate or supplemental type certificate for an aircraft, aircraft engine, or propeller for which application for a type certificate was made after January 28, 1981, to furnish the owner of that product at least one set of complete Instructions for Continued Airworthiness.

When § 21.50(b) was proposed in NPRM 75–31 (40 FR 29410; July 11, 1975), it was intended that a complete set of Instructions for Continued Airworthiness only be made available to the owner of the product rather than specifically require the manufacturer to furnish those instructions to the owner. It was also the intent of that proposal to require that the Airworthiness Limitations Section of the Instructions for Continued Airworthiness be furnished to the owner of each type of aircraft, aircraft engine, or propeller because those airworthiness limitations are part of the type design under § 21.31(c) and compliance with the airworthiness limitations is required by §§ 43.16 and 91.165. It was not intended to require the holder of a supplemental type certificate for which application was made after January 27, 1981, for an aircraft, aircraft engine, or propeller certificated before January 27, 1981, to meet the requirements for Instructions for Continued Airworthiness. Therefore, this notice proposes to amend § 21.50(b) to require that the holder of a design approval, including the type certificate for an aircraft, aircraft engine, or propeller, or a supplemental type certificate for an aircraft, aircraft engine, or propeller for which application for a type certificate was made after January 27, 1981, furnish at least one copy of the Airworthiness Limitations Section and make available at least one copy of the Instructions for Continued Airworthiness for each type aircraft, aircraft engine, or propeller upon delivery or issuance of the first standard certificate of airworthiness for the affected aircraft, whichever occurs later.

Proposed paragraph (c) clarifies requirements currently contained in § 21.50(b). In addition to providing a copy of the Airworthiness Limitations Section and making available Instructions for Continued Airworthiness to owners, it would require that the holder of a design approval make these documents, and changes thereto, available to owners and other persons who may be required to comply with those documents.

2. By amending § 21.197 by adding a paragraph (a)(6) as follows:

§ 21.197 Special flight permits.

(a) * * *

(6) Flying an aircraft, that the holder of an FAA production approval has assembled to the degree necessary for safe flight from one location to another for completion and airworthiness certification.

* * * * *

Explanation: Section 21.197(a) currently lists five purposes for which special flight permits may be issued for an aircraft that may not currently meet applicable airworthiness requirements

but is capable of safe flight. This proposal would add a sixth purpose for which special flight permits may be issued. This proposal would eliminate the need for an applicant to petition for an exemption from § 21.197(a) when the purpose for the special flight permit is to fly an aircraft to another location for completion and airworthiness certification. This will relieve the burden on both the FAA and the public imposed by processing exemptions. Issuing special flight permits for this purpose is safe, in the public interest, and cost-saving to persons desiring to make such flights.

PART 61—CERTIFICATION: PILOTS AND FLIGHT CREWMEMBERS

§ 61.59 [Amended]

3. By amending § 61.59(a)(2) by removing the word "or" after the word "privileges" and inserting the word "of" in its place.

Explanation: Section 61.59(a)(2) contains a typographical error. The word "or" in the phrase "or any certificate or rating under this part" should be "of". This proposal would correct that error.

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

§ 65.95 [Amended]

4. By amending § 65.95(a)(1) by removing the phrase "Part 121 or 127" in the parenthetical expression and inserting the phrase "Part 121, Part 127, or Part 135" in its place and by removing the term "[New]" after the phrase "Part 43".

Explanation: Section 61.95(a)(1), in part, limits the holder of an inspection authorization from exercising the privileges of that authorization on aircraft maintained in accordance with a continuous airworthiness program under Part 121 or Part 127. When Part 135 was revised effective December 1, 1978 (43 FR 46742; October 10, 1978), continuous airworthiness programs were authorized under that part, and reference to this should have been included in § 65.95. This proposal would correct this oversight.

PART 107—AIRPORT SECURITY

§ 107.5 [Amended]

5. By amending § 107.5(a) by removing the reference "§ 121.538" and inserting "Part 108" in its place.

Explanation: Section 107.5(a) currently references § 121.538. Part 108 of the FAR (46 FR 3782; January 15, 1981) replaced § 121.538. This proposal would correct this reference.

§ 107.21 [Amended]

6. By amending § 107.21(b)(2) by removing the reference "§ 121.585" and inserting "§ 108.11" in its place.

Explanation: Section 107.21(b)(2) references § 121.585. Section 121.585 was replaced by § 108.11 with the adoption of Part 108 of this chapter. This proposal would correct this reference.

7. By amending Part 109 by revising the title to read as follows:

PART 109—INDIRECT AIR CARGO SECURITY

8. By revising § 109.1 to read as follows:

§ 109.1 Applicability.

(a) Except as provided in paragraphs (c) and (d), this part prescribes aviation security rules governing each person (including any freight forwarder and any cooperative shippers' association) engaged indirectly in the air transportation in the United States of package cargo (other than that person's own package cargo) that is intended for carriage aboard a passenger-carrying air carrier aircraft.

(b) For the purposes of this part, "pacakge cargo" means any item of cargo the identity of which is visually obscured by wrapping or other materials (regardless of whether it is otherwise identified by writing or symbol) and the size of which is 100 inches or less, girth plus length.

(c) This part does not apply to a person exclusively engaged indirectly in the air transportation of one or more categories of easily recognizable package cargo, such as instruments, film, documents, or cash, for persons who are readily identifiable as regularly shipping that category of package cargo.

(d) This part does not apply to the operations of a person not a U.S. citizen conducted outside the United States.

9. By amending § 109.3 by revising the introductory text of paragraph (a), paragraphs (a)(2), (b), the introductory text of paragraph (c), and (c)(3) as follows:

§ 109.3 Security program.

(a) Each person to whom this part applies shall adopt and carry out a security program that—

* * * * *

(2) Is in writing and signed by an authorized person;

* * * * *

(b) Each person to whom this part applies shall maintain at least one complete copy of the security program at that person's principal business office and a complete copy of the pertinent portions of the security program or appropriate implementing instructions at each office where package cargo is accepted and shall make those documents available for inspection upon request of any Civil Aviation Security Inspector.

(c) Each person to whom this part applies shall—

* * * * *

(3) Refer requests for such information to the Director of Civil Aviation Security of the FAA.

10. By amending § 109.5 by revising paragraphs (a) and (b), by removing the words "the carrier" and inserting, in their place, the words "the person to whom this part applies" in paragraphs (d)(1), (d)(2) and (d)(3) and by revising the first two sentences of paragraph (e) to read:

§ 109.5 Approval of security programs and amendments.

(a) Each person to whom this part applies shall submit that person's security program to the Administrator for approval at least 30 days before the date it intends to engage in transportation described in § 109.1(a).

(b) Within 30 days of the receipt of the program, the Administrator either approves the program or notifies the person submitting the program as to modifications necessary for the program to comply with this part.

* * * * *

(e) A person to whom this part applies may submit a request to the Administrator to amend the program. The application must be filed with the Administrator at least 30 days before the date the person proposes for the amendment to become effective, unless a shorter period is allowed by the Administrator. * * *

Explanation: Part 109 currently applies to "each air carrier, including each air freight forwarder and each cooperative shippers' association, engaged indirectly in air transportation of property." An air carrier is defined in the Federal Aviation Act of 1958 as a U.S. citizen. To apply these regulations uniformly to all persons in the United States, including those who are not U.S. citizens, as was the original intent, this proposal would remove the term "indirect air carrier" and apply the rules of Part 109 to persons engaged indirectly in the air transportion of package cargo (other than that person's own package cargo). Applicability would be limited to persons so engaged in the United States, which is defined in Part 1 to include the States, the District of Columbia, Puerto Rico, and all U.S. possessions. Only the required security programs of U.S. citizens, however, would have to cover

their package cargo activities in foreign countries, if any. Package cargo activities of non-U.S. citizens in foreign countries are not covered by this proposed change.

Applicability of the rule would also be limited to transporters of package cargo which is intended for carriage aboard a passenger-carrying air carrier aircraft. Because of the current low level of threat, it is unnecessary to require security programs for persons engaged in the indirect air transportation of cargo intended exclusively for transportation in cargo-only aircraft.

"Package cargo" would be defined as any item of cargo the identity of which is visually obscured by wrapping or other materials (regardless of whether it is otherwise identified by writing or symbol) and the size of which is 100 inches or less, girth plus length. Items of a greater size and those whose identity is not concealed do not appear to pose a security threat at this time.

In addition, it is proposed to exclude from coverage under the rule persons who are engaged exclusively in the air transportation of one or more categories of easily recognizable package cargo, such as instruments, film, documents, or cash, for persons who are readily identifiable as regularly shipping that category of cargo. Coverage of these persons is unnecessary since the nature of their business has already reduced the security threat to a minimum.

Finally, the proposal would also make it clear that the rule does not apply to persons who transport their own package cargo directly to an air carrier for air transportation.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

11. By revising § 121.317(b) to read as follows:

§121.317 Passenger information.

* * * * *

(b) No person may operate a passenger-carrying airplane under this part unless at least one sign or placard that reads "Fasten Seat Belt While Seated" is within legible view of each seated passenger. These signs or placards need not meet the requirements of paragraph (a) of this section.

* * * * *

Explanation: Current § 121.317(b) requires a sign or placard that reads "Fasten Seat Belt While Seated" to be affixed to each forward bulkhead and each passeanger seat back. On September 23, 1981, Transamerica Airlines petitioned to amend the rule to read "within legible view of all passengers" rather than "affixed to each forward bulkhead and each passenger seat back." A summary of the Transamerica Airlines petition was published for comment in the Federal Register on January 25, 1982 (47 FR 3369), and no comments were received. Since no adverse comments were received and the proposed amendment would greatly simplify the placement of the required placards without decreasing their effectiveness, the change as requested by Transamerica Airlines is being proposed in this NPRM. Thus, each certificate holder would be permitted to locate the signs or placards in appropriate locations where the "Fasten Seat Belt While Seated" message would be legible to each seated passenger.

12. By revising § 121.359(d) to read as follows:

§ 121.359 Cockpit voice recorders.

* * * * *

(d) In complying with this section, after (1 year after the publication of the final rule, the certificate holder must use an approved cockpit voice recorder which does not have a bulk erasure device and which retains at least the last 30 minutes of recorded information which may not be erased or otherwise obliterated. Except as provided in paragraph (e), when the recorder is removed from the airplane for maintenance, or the recording is removed for test or readout, the recorded information may be erased or otherwise obliterated after maintenance, test, or readout has been accomplished.

* * * * *

Explanation: Proposal 11–13, as published in NPRM 81–1 (46 FR 5488; January 19, 1981), was instead to clarify § 121.359 by requiring that the recorded information for the last 30 minutes of the current or most recent flight may not be erased or otherwise obliterated. Based on the comments received, a substantially modified proposal, beyond the scope of the original notice, is offered for public consideration.

Section 121.359 requires that cockpit voice recorder (CVR) recorded information for the last 30 minutes of the current or most recent flight not be erased or otherwise obliterated. However, the majority of CVR:s used today have a bulk erasure device which allows for either deliberate or inadvertent erasure of CVR tapes. This proposal would eliminate the bulk erasure device on the CVR so that the 30 minutes of CVR tape is always available. In the majority of cases, removing the bulk erasure device can be accomplished at a moderate cost by a single technician working on the device for approximately 30 minutes. In addition, CVR equipment without the bulk erasure device should be less costly to purchase and maintain. This proposal would allow a 1-year period for eliminating the bulk erasure device on all cockpit voice recorders.

This proposal also provides that, except as provided in § 121.359(e) which requires at least a 60-day retention period for recorded information in the event of an accident or occurrance requiring immediate notification of the National Transportation Safety Board (NTSB), CVR recorded information may be erased or otherwise obliterated after maintenance, testing, or a readout of the CVR has been accomplished.

The NTSB, in its comment, objects to proposal 11–13 because by requiring only the certificate holder to preserve the CVR record, the regulation would be weakened to the extent that it would be unenforceable. The NTSB recommends that § 121.359(e) be amended to delineate the responsibility of the pilot in command to ensure the preservation of recorded information following an occurrence likely to require immediate notification to the NTSB.

Responsibility for safeguarding the CVR tapes need not be placed on the pilot in command to make the regulation enforceable. By eliminating the bulk erasure device, crewmembers will not be able to erase recorded information. Full responsibility for preserving the tapes is placed on the certificate holder. Such a requirement has existed since the promulgation of § 121.359. The certificate holder is charged with directing its employees to safeguard the CVR tapes and is held accountable for doing so.

One commenter objects to proposal 11–13 because it implies that the CVR could be utilized in disciplinary actions. The commenter points to an alleged statement by the FAA that the amendment would allow the recorded information to be used to ensure compliance with the FAR. Such is not the case. Proposal 11–13 and this proposal will not in any way change the Administrator's policy regarding the use of the information derived from CVR's in enforcement proceedings. Section 121.359(e) states that the Administrator does not use the CVR record in any civil penalty or certificate action.

§ 121.703 [Amended]

13. By amending § 121.703(f) by removing the phrase "or § 37.17 of this chapter".

PART 121, APPENDIX B—AIRCRAFT FLIGHT RECORDER SPECIFICATIONS [AMENDED]

14. By amending Appendix B by removing the phrase "; FAR section 37.150" in the two places where it appears in the column titled "Accuracy, minimum (recorded and readout)".

Explanation: When Part 37 of the FAR was revoked by Amendment 37–47 (45 FR 38342; June 9, 1980), references to that part should have been removed throughout the FAR. These proposals correct that oversight for § 121.703 and Appendix B.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

15. By amending § 135.151 by adding the word "and" at the end of (a)(1); by removing "; and" at the end of (a)(2) and replacing it with a period; by removing (a)(3); by redesignating paragraph (b) as (c); and by adding a new paragraph (b) to read as follows:

§ 135.151 Cockpit voice recorders.

* * * * *

(b) In complying with this section, after (1 year after publication of the final rule), the operator must use an approved cockpit voice recorder which does not have a bulk erasure device and which retains at least the last 30 minutes of recorded information which may not be erased or otherwise obliterated. Except as provided in paragraph (c), when the recorder is removed from the airplane for maintenance or the recording is removed for test or readout, the recorded information may be erased or otherwise obliterated after such maintenance, test, or readout has been accomplished.

* * * * *

Explanation: This proposal would eliminate the bulk erasure device on the cockpit voice recorder (CVR) so that the last 30 minutes of the CVR tape is always available. See discussion of similar proposal to amend § 121.359.

§ 135.153 [Amended]

16. By amending § 135.153(a) by removing the phrase "§ 37.201 of this chapter," and inserting the phrase "the performance and environmental standards of TSO–C92b," in its place.

Explanation: When Part 37 was revoked by Amendment 37–47, (45 FR 38342; June 9, 1980), references to this part should have been deleted throughout the FAR. This proposal corrects that oversight for this section.

PART 145—REPAIR STATIONS

17. By amending § 145.2 by revising the title and paragraph (a) to read as follows:

§ 145.2 Performance of maintenance, preventive maintenance, alterations, and required inspections for an air carrier or commercial operator under the continuous airworthiness requirements of Parts 121, 127, and 135 and for airplanes under the inspection program required by Part 125.

(a) Each repair station that performs any maintenance, preventive maintenance, alterations, or required inspections for an air carrier or commercial operator having a continuous airworthiness program under Part 121, Part 127, or Part 135 of this chapter shall comply with Subpart L of Part 121 (except §§ 121.363, 121.369, 121.373, and 121.379), Subpart I of Part 127 (except §§ 127.131, 127.134, 127.136, and 127.140), or Subpart J of Part 135, as applicable. In addition, such repair station shall perform that work in accordance with the air carrier's or commercial operator's manual.

* * * * *

Explanation: Repair stations which perform maintenance, preventive maintenance, alterations, or required inspections for an air carrier or commercial operator having a continuous airworthiness program must comply with applicable sections of the appropriate operating rule. The current rule lists applicable sections for Part 121 and 127 operators but does not list those for Part 135 operators. This proposal would amend the title and body of § 145.2 to include the applicable Part 135 sections.

(Secs. 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983))

Note: The Federal Aviation Administration has determined that this document involves several proposals that are clarifying, editorial, or corrective in nature and impose no additional burden on any person. The proposal to eliminate the bulk erasure device from CVR's presently in the air carrier fleet and domestic inventory pools will impose a minimal cost on operators. This cost will be exceeded by the benefits accruing to these operators from not having to purchase more expensive CVR's with bulk erasure capability for their future fleets. Accordingly, it is determined that these proposals do not involve a major proposal under Executive Order 12291 and they are not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, for the reasons discussed above, I certify that under the criteria of the Regulatory Flexibility Act, the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation is contained in the docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT:"

Issued in Washington, D.C., on September 2, 1983.

Walter S. Luffsey,

Associate Administrator for Aviation Standards.

[FR Doc. 83–26035 Filed 9–3–83; 8:45 am]

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Vol. 48, No. 192

Monday, October 3, 1983

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Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
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Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

Last Listing September 30, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

H.J. Res. 353 / Pub. L. 98-98 Condemning the Soviet criminal destruction of the Korean civilian airliner. (Sept. 28, 1983; 97 Stat. 715) Price: $1.50.

H.J. Res. 229 / Pub. L. 98-99 To authorize and request the President to issue a proclamation designating April 22 through April 28, 1984, as "National Organ Donation Awareness Week". (Sept. 28, 1983; 97 Stat. 717) Price: $1.50.

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093-45218.....3

TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1983

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
October 3	October 18	November 2	November 17	December 2	January 3
October 4	October 19	November 3	November 18	December 5	January 3
October 5	October 20	November 4	November 19	December 5	January 3
October 6	October 21	November 7	November 21	December 5	January 4
October 7	October 24	November 7	November 21	December 6	January 5
October 11	October 26	November 10	November 25	December 12	January 9
October 12	October 27	November 14	November 28	December 12	January 10
October 13	October 28	November 14	November 28	December 12	January 11
October 14	October 31	November 14	November 38	December 13	January 12
October 17	November 1	November 16	December 1	December 16	January 16
October 18	November 2	November 17	December 2	December 19	January 16
October 19	November 3	November 18	December 5	December 19	January 17
October 20	November 4	November 21	December 5	December 19	January 18
October 21	November 7	November 21	December 5	December 20	January 19
October 24	November 8	November 23	December 8	December 23	January 23
October 25	November 9	November 25	December 9	December 27	January 23
October 26	November 10	November 25	December 12	December 27	January 24
October 27	November 14	November 28	December 12	December 27	January 25
October 28	November 14	November 28	December 12	December 27	January 26
October 31	November 15	November 30	December 15	December 30	January 30

CFR CHECKLIST; 1982/83 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1982/83. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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17 Parts	
1–239	8.00
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This list sets out the CFR issuances for the **January through July quarters** and projects the publication plans for the **October,** 1983 quarter. A projected schedule that will include the **January,** 1984 quarter will appear in the first **Federal Register** issue of **January,** immediately after the CFR checklist.

For pricing information on available 1983 volumes consult the CFR checklist in this **Federal Register.**

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The monthly CFR checklist or the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

Titles revised as of January 1, 1983:

Title

CFR Index

1–2

3 (Compilation)

4

5 Parts:
1–1199
1200–end

6 [Reserved]

7 Parts:
0–45
46–51
52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1059
1060–1119
1120–1199
1200–1499
1500–1899
1900–1944
1945–end

8

9 Parts:
1–199
200–end

10 Parts:
0–199
200–399
400–499
500–end

11 (Revised as of July 1, 1983)

Title

12 Parts:
1–199
200–299
300–499
500–end

13

14 Parts:
1–59
60–139
140–199
200–1199
1200–end

15 Parts:
0–299
300–399
400–end

16 Parts:
0–149
150–999
1000–end

Titles revised as of April 1, 1983:

Title

17 Parts:
1–239
240–end

18 Parts:
1–149
150–399
400–end

19

20 Parts:
1–399
400–499
500–end

21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–end

22

23

24 Parts:
0–199
200–499
500–799
800–1699
1700–end

Title

25

26 Parts:
1(§§ 1.0–1–1.169)
1(§§ 1.170–1.300) (Cover only)
1(§§ 1.301–1.400)
1(§§ 1.401–1.500)
1(§§ 1.501–1.640)
1(§§ 1.641–1.850) (Cover only)
1(§§ 1.851–1.1200)
1(§§ 1.1201–end)
2–29
30–39
40–299
300–499
500–599 (Cover only)
600–end

27 Parts:
1–199
200–end

Titles revised as of July 1, 1983:

Title

28*

29 Parts:
0–99
100–499
500–899
900–1899
1900–1910
1911–1919
1920–end*

30 Parts:
0–199
200–699 (Revised as of October 1, 1983
700–end (Revised as of October 1, 1983

31 Parts:
0–199
200–end

32 Parts:
1–39, Vol. I
1–39, Vol. II
1–39, Vol. III*
40–189*
190–399*
400–699*
700–799*
800–999
1000–end

33 Parts:
1–199*
200–end*

34 Parts:
1–299*
300–399
400–end*

Title

35

36 Parts:
1–199
200–end*

37

38 Parts:
0–17*
18–end*

39*

40 Parts:
1–51*
52*
53–80*
81–99*
100–149
150–189
190–399
400–424
425–end*

41 Parts:
Chap. 1 (1–1 to 1–10)
Chap. 1 (1–11 to App.)–2
Chap. 3–6*
Chap. 7*
Chap. 8
Chap. 9*
Chap. 10–17
Chap. 18 Vol. I
Chap. 18 Vol. II
Chap. 18 Vol. III
Chap. 19–100
Chap. 101*
Chap. 102–end

Projected October 1, 1983 editions:

Title
42 Parts:
1–60
61–399
400–end
43 Parts:
1–999
1000–3999
4000–end
44
45 Parts:
1–199
200–499
500–1199
1200–end
46 Parts:
1–40
41–69
70–89
90–139
140–155
156–165
166–199
200–399
400–end
47 Parts:
0–19
20–69
70–79
80–end

Title
48 (See 48 FR 41774 and 42103 September 19, 1983)
49 Parts:
1–99
100–177 (Revised as of November 1, 1983)
178–199 (Revised as of November 1, 1983)
200–399
400–999
1000–1199
1200–1299
1300–end
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1–199
200–end

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