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Presidential Documents

Title 3—

The President

Proclamation 5589 of December 10, 1986

Human Rights Day, Bill of Rights Day, and Human Rights Week, 1986

By the President of the United States of America

A Proclamation

On December 15, 1791, our young Nation celebrated the ratification of the Bill of Rights, the first ten amendments to the Constitution of the United States, which gave legal form to the great principles our Founding Fathers had set forth in the Declaration of Independence less than a generation earlier. As we celebrate that occasion some 195 years later, it is well to recall those principles, which endure today as they have for nearly two centuries. They endure because they rest on a simple but profound truth, that each of us is created with equal moral dignity, that every individual is endowed by nature and nature's God with inalienable rights to life, liberty, and the pursuit of happiness. On this foundation of individual rights and self-government our Founding Fathers created a great Nation, setting it on the course of liberty that continues to this day.

As we look around the world, however, we see a very different history. Some nations, to be sure, have followed a course similar to our own and today enjoy the liberty that we Americans have long cherished. But others have never known genuine liberty, while still others, especially in our own century, have lost the liberty they once enjoyed.

Thirty-eight years ago, the Universal Declaration of Human Rights was adopted by the United Nations General Assembly. Yet many of the governments that voted for that Declaration are flagrantly ignoring the principles they affirmed on that momentous occasion. The Soviet Union continues its repression of Catholics in Lithuania and Ukraine, and of other religious activists. Hundreds of thousands of Jews are still being denied the right to emigrate, while Soviet armies, for the seventh year now, have brutally repressed the people of Afghanistan. In Berlin, the world marked the 25th year of a wall built not to protect people but to keep them in their place. In Poland, workers will sadly mark the fifth anniversary of martial law and will mourn those who suffered for their defense of human rights.

Unfortunately, no continent has been spared the pain of human rights violations. In South Africa the manifest injustices of the apartheid system of racial discrimination persist. Refugees continue to flow from the communist nations of southeast Asia. And the world is listening increasingly to the tragic stories of those who have suffered so long in the Cuban gulags just 90 miles from our shores—and in the emerging gulags of Nicaragua.

Yet despite this reign of repression, there is reason for hope. In our own hemisphere in this decade the movement has been toward freedom, not toward repression, as country after country has brought into being the institutions of democracy.

The defense of human rights is a humanitarian concern, and a practical one as well. Peace and respect for human rights are inseparable. History demonstrates that there can be no genuine peace without respect for human rights, that governments that do not respect the rights of their own citizens are a threat to their neighbors as well.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 10, 1986, as Human Rights Day and December 15, 1986, as Bill of Rights Day, and I call upon all Americans to observe the week beginning December 8, 1986, as Human Rights Week.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of December, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86-28063
Filed 12-12-86; 4:10 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of December 10, on signing Proclamation 5589, see the *Weekly Compilation of Presidential Documents* (vol. 22, no. 50).

Presidential Documents

Proclamation 5590 of December 10, 1986

United Way Centennial, 1887–1987

By the President of the United States of America

A Proclamation

Since earliest times, we Americans have joined together to help each other and to strengthen our communities. Our deep-rooted spirit of caring, of neighbor helping neighbor, has become an American trademark—and an American way of life. Over the years, our generous and inventive people have created an ingenious network of voluntary organizations to give help where help is needed.

United Way gives that help very well indeed, and truly exemplifies our spirit of voluntarism. United Way has been a helping force in America right from the first community-wide fund raising campaign in Denver, Colorado, in 1887. Today, more than 2,200 local United Ways across our land raise funds for more than 37,000 voluntary groups that assist millions of people.

The United Way of caring allows volunteers from all walks of life to effectively meet critical needs and solve community problems. At the centennial of the founding of this indispensable voluntary group, it is most fitting that we Americans recognize and commend all the good United Way has done and continues to do.

The Congress, by Public Law 99–612, has expressed gratitude to United Way, congratulated it, and applauded and encouraged its fine work and its goals.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim heartfelt thanks to a century of Americans who have shaped and supported United Way, and encourage the continuation of its efforts.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of December, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86–28064
Filed 12–10–86; 4:11 pm]
Billing code 3195–01–M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 638]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 638 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period December 12–18, 1986. Such action is needed to balance the supply of fresh navel oranges with the demand for such period, due to the marketing situation confronting the orange industry.

DATE: Regulation 638 (§ 907.938) is effective for the period December 12–18, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202–447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their behalf. Thus, both statutes have small entity orientation and compatibility.

This rule is issued under Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1986–87 adopted by the Navel Orange Administrative Committee. The committee met publicly on December 9, 1986, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of 6 to 5, a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that the market for navel oranges is very slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. To effectuate the declared purposes of the act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Agricultural Marketing Service, Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.938 Navel Orange Regulation 638 is added to read as follows:

§ 907.938 Navel Orange Regulation 638.

The quantities of navel oranges grown in California and Arizona which may be handled during the period December 12 through December 18, 1986, are established as follows:

(a) *District 1:* 1,318,000 cartons;
(b) *District 2:* 232,000 cartons;
(c) *District 3:* Unlimited cartons;
(d) *District 4:* Unlimited cartons.

Dated: December 10, 1986.

Joseph A. Gribbin,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–28055 Filed 12–11–86; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Reg. 539]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 539 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 300,000 cartons during the period December 14–20, 1986. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulations 539 (§ 910.839) is effective for the period December 14–20, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch F&V, AMS, USDA, Washington, DC 20250, telephone: (202) 447–5697.

SUPPLEMENTARY INFORAMTION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 has been determined to be a "nonmajor-rule" under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant

economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1986–87. The committee met publicly on December 9, 1986, in Palm Springs, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of 13 to 0, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market for lemons has improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, and Lemons.

PART 910—[AMENDED]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.839 is added to read as follows:

§ 910.839 Lemon Regulation 539.

The quantity of lemons grown in California and Arizona which may be handled during the period December 14 through December 20, 1986, is established at 300,000 cartons.

Dated: December 10, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–28056 Filed 12–11–86; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1446

Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This Final Rule sets forth for the 1986 through 1990 crops of peanuts the terms and conditions governing handler operations and the terms and conditions under which producers acting through area marketing associations may receive price support on eligible peanuts through warehouse storage loans for the 1986 through 1990 crops of peanuts. These regulations are necessary for the administration of the price support program for peanuts. The peanut program is conducted in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended.

DATE: This final rule is effective December 12, 1986.

FOR FURTHER INFORMATION CONTACT: David Kincannon (ASCS), 202–382–0152. The Final Regulatory Impact Analysis will be available upon request.

SUPPLEMENTARY INFORMATION: This Final Rule has been reviewed under USDA procedures, Executive Order 12291, and Secretary's Memorandum No. 1512–1, and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local government agencies, or geographical 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 information collection requirements contained in this regulation and information requests authorized by the regulation have been reviewed and approved by OMB under OMB Number 0560–0024.

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

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

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

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

The Food Security Act of 1985 ("the 1985 Act") which was enacted on December 23, 1985, amended the Agricultural Adjustment Act of 1938 (the 1938 Act) and the Agricultural Act of 1949 (the 1949 Act) to make significant changes in the administration of the peanut price support program effective for the 1986 through 1990 crops of peanuts. The changes applicable with regard to warehouse-stored peanut loans and handler operations, and most significantly the handling of contract additional peanuts and the distribution of marketing pools by area marketing associations were addressed in an interim rule published in the **Federal Register** on June 17, 1986 (51 FR 21879). Also, an interim rule issued in the **Federal Register** on July 31, 1986 (51 FR 27512) amended several provisions of the June 17 interim rule in order to facilitate the marketing of the 1986 peanut crop. The July 31 amendments addressed changes and clarifications with respect to contract approval, transfer of farmers stock peanuts, blanching credits and selection of type of supervision. The comment period for both rules closed on August 18, 1986.

Summary of Public Comments

A total of 120 comments were received from individuals, firms, and organizations. The commenters included 46 individuals, 4 blanching company representatives, 20 members of Congress, 3 attorneys for peanut product manufacturers, 3 peanut product manufacturers, 16 growers, 4 peanut grower groups, 4 peanut shellers, 6 peanut processors, 4 producer associations, 3 peanut sheller organizations, 2 farm organizations, 4 financial institutions, and one peanut marketing company.

Many comments were received addressing matters in the June 17 rule which were amended in the July 31 interim rule. Of these, fifty-five comments were submitted suggesting that a handler be allowed credit for the pre-blanching weight of peanuts blanched for export in connection with the use of nonphysical supervision of the handling of "contract additional peanuts"—i.e., nonquota peanuts purchased by handlers through a private sale from a producer. Since the July 31 interim rule allowed such a credit, no change was made in the final rule in this regard.

Commenters to the June 17, 1986, interim rule suggested that a one-time transfer of farmers stock peanuts between handlers should be allowed. This was also adopted in the July 31 rule. Therefore, here, also, no change is made in the final rule.

With respect to matters not covered by the July 31 amendments or going beyond those amendments, the main issues on which comments were received were: (1) Pool offsets for segregation 2 and segregation 3 transfer pools; (2) letter of credit requirements for handlers of contract additional peanuts; (3) cross-compliance for peanut pools for Valencia peanuts produced in New Mexico; (4) allowance of substitution for handlers choosing physical supervision; (5) transfers of farmers stock peanuts and export liability to other marketing areas by handlers operating in more than one area; (6) shrink allowances for handlers choosing nonphysical supervision; (7) export credits for inshell peanuts in those instances where a handler chooses nonphysical supervision; and (8) the exclusion of Canada and Mexico from countries eligible for exportations of peanut products made from additional peanuts. These matters and other issues raised by the commenters are addressed below.

Comments

Pool offsets for disaster transfers. The interim rules continued the pre-1986 crop practice of allowing farmers who, because of quality problems, have their peanuts classified as Segregation 2 and Segregation 3 peanuts, to transfer those peanuts to quota pools for pricing purposes. Such peanuts are not otherwise eligible for support as quota peanuts. Such transfers are permitted only if a producer's eligible Segregation 1 production is less than the farm's quota. (Other conditions must be met as well.) The comments questioned the pool accountability provisions of the interim rules in these situations.

Peanuts are supported through price support loans which are made available at approved warehouses. The price support level made available to the producer upon placing the peanuts in the approved warehouse depends in part upon whether the peanuts are "additional peanuts" or "quota peanuts". As specified in the 1938 Act, as amended, for the 1986 through 1990 crops, peanuts are pooled according to marketing area and segregation with the exception that there are separate pools for bright-hull and dark-hull Valencia peanuts produced in New Mexico and separate pools for additional and quota peanuts. At the end of the marketing year an accounting and a determination are made as to the profit or loss for individual pools. The pool accounting provisions of the statute are complicated but provide essentially that net gains for quota peanut pools consist of the excess revenue achieved by sales of loan inventory quota peanuts after taking into account the costs or losses of taking the peanuts into the price support inventory plus an amount equal to any gains on those corresponding additional peanuts which are sold out of the loan inventory under the special "buyback"provisions up to any loss incurred in the quota pool. "Buybacks" are those additional peanuts which may be sold out of the loan inventory for domestic food use under special pricing provisions contained in the 1938 Act. For "additional peanuts" pools, the net gains, as described in the statute, consist of the amount of revenue over the costs or losses incurred on the additional peanuts in the pool minus any amount allocated to offset any loss in the pool for quota peanuts. If there is a gain in a pool, the gain is required to be distributed to those producers who placed peanuts in the pool and is required to be distributed in proportion to the value of the peanuts placed in the pool by each producer. However, before such a distribution is made there are additional offsets provided for by section 108B of the 1949 Act. Because the particular language used in the statute has a bearing upon the issues raised in the comments concerning pool accounting, the full provisions of sections 108B(3)(B)(ii) and 108B(4), as amended by the 1985 Act are set out:

(ii) Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(I) For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in such pool plus an amount from the pool for additional peanuts, to the extent of the net gains from the sale for domestic food and related uses of additional peanuts in the pool for additional peanuts equal to any loss on disposition of all peanuts in the pool for quota peanuts.

(II) For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in subclause (I).

(4) Notwithstanding any other provision of this section:

(A) Any distribution of net gains on additional peanuts shall be first reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts placed under loan.

(B) (i) The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool under section 358(s)(8) of the Agricultural Adjustment Act of 1938.

(ii) Losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools under section 358(s)(8) of the Agricultural Adjustment Act of 1938, shall be offset by any gains or profits from pools in other production areas (other than separate type pools established under paragraph (3)(B)(i) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

Under the interim rule, losses on Segregation 2 and Segregation 3 peanuts which have been moved to a quota pool were treated as a "loss by the Commodity Credit Corporation on quota peanuts placed under loan" for purposes of section 108B(4)(A) and therefore were subject to offset from gains, on a pool basis, from other additional pools rather than simply being subject to offset from only those gains on other pools earned by those persons who made the transfers.

A number of comments regarding offsets for so-called "disaster transfers"

(i.e., transfers of Segregation 2 and Segregation 3 peanuts to quota pools) were received. Eleven growers, three grower groups and several members of Congress objected to the use of gains in other pools to offset losses on such peanuts except to the extent that the loss was used to offset a gain by the producer who engaged in such a transfer. Adoption of such a procedure would effectively put such losses on the same basis as such losses for crops prior to the 1986 crop.

On review it has been determined to adopt the position taken by the commenters and limit offest for losses on Segregation 2 and Segregation 3 peanuts to the parties engaging in such transfers. This revised view reflects that under the 1938 Act, as amended, Segregation 2 and Segregation 3 peanuts are not quota peanuts when they are placed under loan but are, rather, "additional peanuts" which are thereafter transferred to a quota loan pool for pricing purposes.

Pool offsets for Valencia peanuts produced in New Mexico. The statutory provisions that apply to the 1985 and preceding crops provided for pooling peanuts by area and type as well as by segregation. However, with respect to the 1986 through 1990 crops the 1985 Act generally removed type pools from the program except, as indicated, in the case of Valencia peanuts produced in New Mexico. Because of the provisions of section 108B (3) and (4) of the 1949 Act as amended in 1985 and set forth above, net gains on additional Valencia peanuts produced in New Mexico were subject, under the interim rule, to be used to offset losses on quota peanuts in the same marketing area, i.e., the Southwest marketing area, but were not subject to be used to offset losses in area quota pools from other areas. That distinction reflected that, under the statute, Valencia peanuts were specifically exempted from offsets for quota losses in other marketing areas but were not exempt from offsets for quota losses within the same area.

A number of comments were received objecting to New Mexico Valencia peanuts being subject to within-area offsets regarding other types of peanuts the Southwest area. Section 639 of Pub. L. 99-500 (signed by the President on October 10, 1986) amended section 108B(4)(A) as enacted in the 1985 Act to provide that "any distribution of net gains on additional peanuts (other than net gains on additional peanuts in separate type pools established under paragraph (3)(B)(ii) for Valencia peanuts produced in New Mexico) shall be first reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts placed under loan." Accordingly, the regulations have been revised in this final rule. As revised, New Mexico Valencia additional peanut gains will not be used to offset losses on quota peanuts except as regards gains on "buybacks" used to offset quota pool losses for the peanuts of the same type as provided for in section 108B(3)(B)(ii)(II) of the 1949 Act as set forth above.

Letters of credit. Section 359(p)(2) of the 1938 Act, as amended, provides that supervision of the handling and disposal of additional peanuts by handlers shall not be required if the handler agrees in writing prior to any handling or disposal of such peanuts to comply with regulations governing nonphysical supervision. The Act goes on to set forth extensive provisions concerning how nonphysical supervision may be accomplished. The 1938 Act, as amended, also provides that "a handler shall submit to the Secretary adequate financial guarantees, as well as evidence of adequate facilities and assets, to ensure the handler's compliance with the obligation to export peanuts."

The June 17, 1986, interim rule provided that any person handling additional peanuts must be registered as a peanut handler. In addition, the rule required the handler to show, as a condition of registration, that the handler had adequate facilities to handle peanuts. The handler also had to submit a financial statement be submitted to CCC showing that the handler had adequate assets to meet the obligations on the handler imposed by the regulations. The rule also required that handlers of additional peanuts present a letter of credit, in specified amounts, which amounts varied depending on which supervision option (physical or nonphysical) was chosen.

Fifteen comments concerning the letter of credit requirements were received. One commenter argued that there should be greater flexibility in reductions in the amount required and that the requirements of the interim rule for periodic, gradual increases in the letter of credit over the course of the marketing year, as specified in the June 17 interim rule, would be more burdensome than indicated in the supplementary information issued with that rule. Other commenters suggested, among other things, that the dollar amount required for the letters of credit in the June 17 interim rule were too high; that coverage of the letter of credit was too broad; and that increasing the amount of the letter of credit over the course of the marketing year, as required by the interim rule, was inappropriate. It was also suggested that the regulations should be designed to ensure that reductions in the letter of credit were sufficiently timely to avoid having letters of credit outstanding for two marketing years at the same time.

The letter of credit provisions have, in response to the comments, been substantially revised.

Under the final rule, the regulations provide that each handler must present an irrevocable letter of credit to the marketing association for each of the marketing areas in which the handler acquires peanuts. A separate letter of credit is required for each marketing area and must represent the amount contracted for by the handler within each area. The letter of credit must be submitted by July 31 of the year in which the peanuts are grown. The amount of the handler's letter of credit will, as before, depend on whether the handler has selected nonphysical or physical supervision.

The revised regulations provide that the letter of credit for handlers selecting nonphysical supervision may not be for an amount of less than 15 percent of the value of the total quantity of additional peanuts covered by the contracts submitted for approval by the handler in the marketing area for which the letter is to be submitted. For handlers selecting physical supervision, the amount of the letter of credit may not be for an amount of less than 10 percent of the quantity of additional peanuts covered by the contracts in the area submitted for approval. To provide additional security to insure program compliance, the regulations in the final rule provide that where a handler has demonstrated a failure to comply with the program requirements, the letter of credit otherwise required must be increased to such amount as CCC determines necessary to assure that the handler's contracted additional peanuts will be exported. Except for this provision, increases in the letter of credit above the base amount will not be required for any marketing year under the revised regulations except as needed to account for transfers of peanuts between handlers, correction of computations, and other extraordinary cases. That is, the periodic increases required by the June 17 rule have been removed. (Such increases were already removed for the 1986 crop pursuant to an amendment to the regulations for the 1986 crop year only which was contained in the July 31 rule.)

The regulations issued in this final rule provide that the area marketing

associations will notify handlers of shortages in the handler's letter of credit. Handlers will have 15 days to amend the letter of credit. If a handler who has selected nonphysical supervision does not adjust the letter of credit to correct a shortage, all of the handler's additional peanuts must be handled and disposed of under physical supervision.

To avoid continuous adjustments in the amounts of letters of credit, the regulations, as amended by this final rule, provide that there will be a one-time adjustment as soon as practicable on or after January 31 of the calendar year following the year in which the peanuts were produced to reflect the actual "total kernel content" export obligation of the handler. That adjustment reflects that the disposition requirements for additional peanuts are based not on gross weight but on total kernel content. Also, adjustments downward in letters of credit will be made after certain dates upon acceptable proof of the disposition of peanuts. Specifically, the regulations provide that on January 31 of the calendar year following the year in which the peanuts were produced and on March 31, May 31, and every month thereafter the association may reduce the letter of credit by an amount representing the peanuts for which acceptable proof has been tendered. It is provided further, however, that those reductions will not affect the ability of CCC to collect the full amount of any penalty due if, subsequently, the letter of credit proves insufficient to cover a penalty.

These changes in the letter of credit provisions should accommodate the concerns of the commenters to the extent consistent with the purpose of the letters of credits. The absolute magnitude of the letter of credit has been reduced from the levels required by the June 17 rule and, after contract approval, the letter of credit will not, except as indicated, be increased over the base level amounts. Because of the reduced amounts required for the letter of credit, the burden of overlapping letters of credit should not be great. In addition, the final rule reduces the number of occasions on which the letter of credit must be adjusted. Also, the liability provisions of the regulations have been adjusted as is set forth below.

Final contract price. The 1938 Act, as amended, provides that a producer may not sell additional peanuts by anyone unless the contract of sale is first approved by the Secretary. Such contracts must be submitted for approval before August 1 of the year in which the crop is grown. The 1938 Act further requires that the contract contain the final price to be paid by the handler for the peanuts involved and a specific prohibition against the disposition of such peanuts for domestic edible or seed use. Those requirements were incorporated into the interim rules.

Five peanuts growers, one peanut grower group, and a peanut sheller/seed peanuts processor commented on this aspect of the interim rules. The interim rule required that the final contract price be expressed in such a manner that a third party could determine that actual price to be paid. The rule also provided that the contract had to contain a prohibition against changing the price and that the final contract price be shown as a set percentage of the quota support rate. Several commenters suggested that any premiums to be paid by the handler should be included in the contract. One commenter suggested that the price set by the contract should be a per ton price rather than based on the quota support rate.

With respect to premiums, such premiums, if they affect the price and are a part of the actual bargain, would have to be included in the contract. They form a necessary element of the final price. Since that follows from the provisions of the interim rule, no adjustment in the regulations on this point was necessary; however, to cover unusual cases, Agricultural Stabilization and Conservation Service (ASCS) County Offices will be supplied additional guidelines for reviewing contracts with premiums. As regards use of a per ton price, contracts for additional peanuts involve peanuts which may not yet have been harvested. A per ton figure would not take into account quality distinctions and would not be realistic. Use of such a figure would thus raise serious questions as to whether an actual final price had been agreed upon. For that reason, no adjustment in the regulations has been made on that point.

Substitution under physical supervision. Physical supervision involves the handling and disposal of additional peanuts under supervision by agents of the Secretary or by area marketing associations. Additional peanuts are limited to certain uses; namely, (1) crushing for oil or (in some instances) flakes; and (2) exportation. As noted, direct physical supervision is not required, under the 1938 Act, if the handler agrees in writing prior to any handling or disposal of such peanuts to comply with regulations governing "nonphysical supervision." Some handlers indicated that nonphysical supervision is not a realistic option for them due to their particular financial cirumstances. For that reason, they asked that, as with pre-1986 crops, they be allowed as the need arises to substitute additional peanuts for quota peanuts in the same manner as was permitted for those crops.

Such an allowance appears to be permitted by the 1938 Act and would facilitate the marketing of peanuts. Accordingly, such an allowance will be permitted. Essentially the same rules that applied to pre-1986 crops will, on this matter, apply to the 1986 through 1990 crops under the final rule. Those requirements include the submission of a letter of credit in a specified amount to cover penalties on those instances in which additional peanuts because of substitution, have been used for purposes for which quota peanuts, only are normally eligible and the additional peanuts are not thereinafter replaced by quota peanuts that are crushed or exported. This "substitution letter of credit" will be in addition to the "10 percent letter of credit" for all handlers using physical supervision already discussed.

There is one signficant change from pre-1986 practice regarding substitution. The rules for the pre-1986 crops required an equal matching of screen sizes among substituted peanuts. Handlers objected that this was unduly burdensome. On review, it is agreed that such a strict accounting is not necessary to protect the program or the interests of other handlers. The final rule requires, instead, that the quota peanuts used to replace additional peanuts need only be of the same type, crop and area as the additional peanuts marketed for domestic edible use. Those requirements should provide sufficient protection to other interested parties while serving to facilitate commerce in peanuts.

Export credits. With regard to nonphysical supervision, the interim rule provided, for handlers choosing that option, that such handlers had to agree to export contract additional peanuts in the following quantities:

(1) Sound split kernel (SS) peanuts in an amount equal to twice the poundage of such peanuts purchased by the handlers as additional peanuts;

(2) Sound mature kernel (SMK) peanuts in an amount equal to the poundage of such peanuts purchased by the handlers as additional peanuts less the amount of sound split kernel peanuts purchased by the handlers as additional peanuts; and

(3) The quantity equal to the remaining quantity of the total kernel content (TKC) of peanuts purchased by

the handlers as additional peanuts and not crushed domestically.

The regulations further provided that the export obligation for sound mature kernels could be satisfied by exporting peanuts of like type graded as U.S. No. 1 or better. There were six comments regarding these requirements.

The commenters all sought for Virginia-type peanuts that the sound mature kernel obligations be broadened to permit the export of U.S. No. 2 Virginia peanuts, as identified by the Peanut Administrative Committee (PAC), to meet the commitment. In addition, the commenters sought to have credits granted for exports of inshell peanuts.

These changes are consistent with the concept of nonphysical supervision and would avoid creating an undue disadvantage to some handlers. Accordingly, amendments have been adopted in the final rule to address the concerns of these commenters. Specifically, as amended, the regulations provide that sound mature export credits can be earned for: (1) The total poundage in a lot of exported peanuts which are graded as U.S. No. 1 or better; or (2) the poundage of a lot of PAC grade "whole kernel with splits" or a lot of U.S. No. 2 Virginia grade, less the portion attributable to sound splits. In addition, the rule provides that in accordance with instructions from the Executive Vice President of CCC, credits may be allowed for inshell exports.

Shrink allowance. The 1938 Act, as amended, permits, for nonphysical supervision, that an allowance be made for shrinkage. Seven commenters recommended that such an allowance be made; such an allowance was not provided for in the interim rules. Upon consideration of the comments and a review of available studies of stored peanuts, it has been determined to permit a shrinkage allowance of ½ of 1 percent. A higher level could result in a windfall benefit which could be used to market additional peanuts as quota peanuts. The shrinkage allowance reflects that peanuts when stored lose weight due to loss of moisture. The amended regulations provide specifically that under nonphysical supervision contract additional peanuts placed in commingled storage must be accounted for on a TKC basis less a one-time adjustment for shrinkage, which adjustment, for all crop years and all peanut types will be equal to ½ of 1 percent of the total kernel content of the poundage of contract additional peanuts obtained by the handler.

Liability for the reentry of additional peanuts into the United States. As indicated, to be properly disposed of, additional peanuts must either be crushed domestically or exported. Such a final disposition does not occur if the peanuts, once exported, are thereafter reimported into the United States and misused as quota peanuts. As with pre-1986 crops, the interim rule provided that the importing handler, and the exporting handler, and any handler who used reentered additional peanuts, would be liable for penalties for the reentry. This raised a number of comments by exporting handlers. They objected to being liable for the reentry of the peanuts because, it was contended, they could not control the reentry. That issue also arose in connection with letter of credit requirements in the regulations since the letter of credit stands as an avenue for the recovery of the penalty if the peanuts were reentered. The liability for reentered peanuts, it was contended, could result in handlers being unable to obtain the necessary letters of credit required by the regulations.

Because of these concerns and to facilitate the marketing of peanuts, the interim rule has been adjusted with respect to this issue. Specifically, the interim rule provided that if contract additional peanuts or peanut products made from such peanuts are reentered into the United States, the handler who exported the peanuts or peanut products and the handler receiving or acquiring such peanuts or peanut products would be jointly and severally liable for a penalty. However, the exporting handler was exempted from the penalty if the handler provided documentation such as a consignee receipt or other documentation acceptable to the association. Under the final rule, the reference to the consignee receipt has been dropped. Rather, the export liability of the exporting handler will be relieved if actual proof of exportation itself is presented, at which time, also, the handler may become eligible for a reduction in the letter of credit—subject to the provisions for such reductions that are contained in the regulations. Likewise, actual exportation will relieve the exporting handler of any liability for the peanuts provided that any subsequent reentry does not involve a scheme or device on the part of the exporting handler to evade the restrictions that apply to the use of additional peanuts and provided that the exporting handler is not otherwise involved in the reimportation.

Export restrictions to Canada and Mexico. As with previous crops, the interim rule provided for the 1986 through 1990 crops that Canada and Mexico would not be considered "eligible countries" to which peanut products produced in the United States from United States-produced additional peanuts may be exported. Such an exportation of peanut products consequently is effectively considered marketing of peanuts for domestic edible use for purposes of determining whether a handler has met the handler's disposition requirements for additional peanuts.

This issue generated four comments. Three supported the restrictions; and the fourth objected to the restrictions. The issue has come under scrutiny in the past. For the reasons which were previously given in response to comments in connection with other rulemaking proceedings (47 FR 28069 and 47 FR 21533), the restrictions will be continued. The difference in price between contract additional peanuts and quota peanuts as is reflected by the difference in the quota support rate and the additional peanut support rate for the 1986 crop ($607.47 per ton versus $149.75 per ton) creates the possibility of interference with the quota support program. Such interference could arise due to the incentive that would exist due to that price difference for reentering the peanut products after they had been exported, the difficulty of detecting such reentry, and the difficulty of determining whether or not the reentered products had been made from United States peanuts.

Transfer of export liability between areas. Comments were received from peanut sheller representatives who, with respect to nonphysical supervision, sought to have their export obligations be allowed to be met by exports from marketing areas other than the marketing area in which the export obligation was incurred. In order to facilitate the marketing of peanuts and to avoid unduly burdening handlers, the final rule has amended the interim rule to permit, if certain conditions are met, an export obligation in one area to be met with exports by the handlers of peanuts from another area.

Onsite supervision of manufacturers. Under this interim rule peanut manufacturers were effectively required, as opposed to other peanut handlers, to have their manufacturing operations directly supervised ("physically supervised") by area marketing associations. A peanut product manufacturer suggested that such direct supervision was unnecessary and unduly burdensome. The manufacturer set out a detailed proposal to have manufacturers establish a paperwork trail on contract additional peanuts that would provide proof of actual export of the peanuts or peanut products. The

commenter's proposal specified that manufacturers opting for such nonphysical supervision would have to supply a letter of credit to ensure compliance with their export obligations.

This comment has been found to have merit and the regulations have been amended accordingly. The regulations, as amended, provide that processors of peanut products may apply to handle additional peanuts without supervision. The processor must agree in writing to export the additional peanuts in the manner required by the regulations. The processor must provide the association with a letter of credit in accordance with instructions issued by the Executive Vice President of CCC, in an amount equal to 140 percent of the national average quota support rate announced by the Secretary for the relevant crop year multiplied by the quantity of peanuts acquired by the manufacturer. In addition, the manufacturer must provide the area marketing association with a description of the type of product that will be processed; the type of containers that will be used; the size of containers that will used; and the standard processing yield for the product. The application for such nonphysical supervision must be made to the area marketing association. The processor will, in due course, be notified of the quantity of the processor's peanut export obligation. The processor's letter of credit and export obligations thereafter have to be handled in the same manner, to the extent appropriate, as the letter of credit for all other handlers choosing nonphysical supervision.

Total kernel content delivery calculation. One commenter asked that the rules be clarified to specify that the export obligation that arises on deliveries of contract additional peanuts be based upon the total kernel content delivered. This issue arises in connection with the specific provisions in the regulations dealing with nonphysical supervision. It was the intent of the interim rule that export obligations for nonphysical supervision would be based upon total kernel content and it is believed that the adjustments made in the final rule help clarify that point.

Method of calculating contract additional peanut losses due to fire and other conditions. The interim rule provide that for a handler who has agreed to nonphysical supervision but suffered a loss of peanuts as a result of a fire, flood or other condition beyond the control of the handler, the portion of such loss that could be allocated to contract additional peanuts should not be greater than the portion of the handler's total peanut purchases for the year attributable to contract additional peanuts. However, the rule also provided that the calculation would take into account the amount of additional peanuts which had previously been exported. One commenter objected. The commenter stated that the provision for taking into account the quantity of peanuts already exported or otherwise properly disposed was not fair because there was no similar provision for taking into account the disposition of quantities of quota peanuts. The provision objected to has been removed. However, the regulations have been adjusted to specify that the amount otherwise allowed by the regulations to be treated as contract additional peanuts in the event of a loss due to a fire or other disasters may be reduced if circumstances, as determined by the area marketing association, warrant.

Recordkeeping for removals of loose-shelled kernels (LSKs), foreign material and pods by a handler for a producer. One comment objected to the specific recordkeeping requirements that applied, under the interim rule, for peanuts from which foreign material and LSKs or pods are removed by a handler for a producer. The commenter stated that the requirements would, because of the informational requirements specified by the regulations, place physical as well as economic hardship on handlers due to the time and additional handling required. Those recordkeeping requirements have been adjusted with respect to this matter, so that they are limited to LSKs or pods that are removed in commercial quantities or, when removed with foreign material, are recoverable in commercial quantities. This adjustment will accommodate the concerns of the commenter to the extent it was deemed that such an adjustment would not impair the operation of the program.

Handler registration. Comments were received from an area marketing association representative who suggested that the rules governing registration of handlers apply both to purchases of inspected and non-inspected peanuts. The final rule covers both; however for program efficiency, the requirements concerning registration of buyers of non-inspected peanuts have been adjusted in the final rule. The commenter also suggested that handler registrations be made with State agencies rather than with area marketing associations. Such a change would be unduly burdensome and administrative inefficient. Accordingly, that suggestion was not adopted. The area marketing association also suggests that the manufacturers or processors be required to register as handlers if they plan to acquire peanuts to be made into peanut products for export. The interim rule and the final rule both required such registration. The commenter also suggests that producer-handlers should, as provided in the interim rule, continue to be registered in ASCS offices. That provision has been continued in the final rule.

Producer indebtedness. One commenter representing an area marketing association suggested that the handling of payments by handlers to producers in cases where a lien exists on the peanuts should be handled in the same manner as collections of penalties by handlers. Since liens and penalties involved are distinguishable, this comment has not been adopted. However, the regulations with regard to both the handling of liens and penalties have been clarified concerning the transmittal of the amounts involved and to specify that priorities for claims on peanuts shall be those specified for the relevant crop year in 7 CFR Part 729.

Seed peanuts. The interim rule provided that to be eligible for price support, additional peanuts could contain no more than 10 percent moisture and could not contain more than 10 percent foreign material except the foreign material level could be exeeded (but not the moisture level) if the handler agreed to purchase such peanuts for domestic edible use through the "buyback" procedure. This provision of the interim rule generated one comment. The comment suggested that since the PAC allows handlers to purchase peanuts grown under the auspices of a State agency which may contain more than 10 percent moisture, there should be some exception to the 10 percent moisture requirement as well.

It has been determined that this comment has merit and the regulations have been adjusted to avoid unnecessary conflict with PAC practice. The purpose of the moisture requirement is to avoid the chance of spoilage in the loan inventory due to excess moisture. The final rule, as adjusted, provides, as to non-seed peanuts, that such peanuts must not contain more than 10 percent moisture except that field dried peanuts produced in the Southwest area delivered in bags may have up to 10.49 percent moisture. The higher level for field peanuts is derived from PAC practice. The amended regulations also provide with respect to seed peanuts such peanuts will be eligible for price support subject to the same moisture

restrictions that apply to non-seed peanuts except that the moisture level of such peanuts may be up to 11.49 percent for non-stacked Virginia peanuts and up to 10.49 percent moisture for other peanut types if in both cases: (1) The seed peanuts are produced under the auspices of a State agency that controls the production of the peanuts; and (2) the handler agrees to purchase such peanuts through the "buyback" procedure. With "buybacks", the peanuts effectively become the handler's own peanuts upon the presentation of the peanuts for a price support loan.

"Sodbuster" provisions. The interim rule provided that persons producing peanuts or any other agricultural commodity on a field classified by the Soil Conservation Service of the Department of Agriculture as highly erodible land or converted wetland would be ineligible for peanut price support. One commenter suggested that such peanuts should be eligible for support for additional peanuts but not for support for quota peanuts.

The provisions of the interim rule in question implemented the so-called "sodbuster" provisions of the Food Security Act of 1985. Since, by statute, no price support may be made available under the circumstances noted in the previous paragraph, this comment was not adopted. However, the regulations have been amplified to specify that when a producer has produced additional peanuts on highly erodible land or converted wetland and has not had a contract approved for such peanuts, such peanuts must be disposed of in accordance with instructions of the area marketing associations. Since, in the absence of a contract, the only option for marketing additional peanuts is through the price support, any placement of such peanuts in the price support inventory will be without compensation. The amended regulations also specifically provide that any payments made on peanuts which are ineligible for price support because of a violation of the "sodbuster" provisions must be repaid with interest from the date of the price support payment to the producer.

Confidentially of adequate assets data. One commenter suggested that the regulations be clarified regarding the confidentiality of information supplied to the Secretary to show adequate assets for purposes of obtaining approval to handle contract additional peanuts. The commenter suggested it should be clear that it was the intent of the regulations to keep this information confidential. As it was determined that the regulations were sufficiently clear regarding confidentiality, no adjustment was made.

Use of the term "quota support rate". One commenter pointed to several instances where there were references in the regulations to the "quota support rate" and suggested that the correct reference should have been to the "loan rate." The latter reference would better reflect that the references take into account the actual value of peanuts after adjustments for quality and other factors. This comment was found to be meritorious. The regulations have been amended in several instances accordingly.

Suspension of contract additional import restrictions. One commenter suggested that restrictions on use of contract additional peanuts should be suspended in the event of a short crop. It has been determined such a suspension would not be consistent with the terms and conditions of the 1938 Act, as amended, and would be harmful to producers. The comment was not adopted.

Conclusion

In addition to the changes in the interim rules indicated above, a number of technical and clarifying amendments were made. Also, a number of organizational changes were made.

List of Subjects in 7 CFR Part 1446

Loan Programs—Agriculture, Peanuts, Price Support Programs, Warehouse.

Final Rule

PART 1446—[AMENDED]

Accordingly, that subpart of 7 CFR Part 1446 which begins with 7 CFR 1446.70 is amended to read as follows:

Subpart—Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops

General

Sec.

Basic Handler Operations

Warehouse Storage Loans

Contract Additional Peanuts

Physical Supervision

Sec.

Nonphysical Supervision

Penalties

Paperwork Reduction

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 101, 108A, 401 *et seq.*, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421 *et seq.*); secs. 359, 375, 52 Stat. 31, 64 as amended (7 U.S.C. 1359, 1375), unless otherwise noted.

Subpart—Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops

General

§ 1446.70 General statement.

(a) *Scope.* This subpart sets forth the terms and conditions under which producers and handlers may trade in the 1986 through 1990 crops of peanuts and the terms and conditions under which eligible producers acting collectively through specified marketing associations (referred to severally in this subpart as "the association") may obtain price support on their 1986 through 1990 crops of farmers stock peanuts. Subject to the provisions of this subpart:

(1) Eligible farmers stock peanuts produced by eligible producers which are quota peanuts shall be eligible for price support at the quota support rate; and

(2) Farmers stock peanuts which are not quota peanuts are considered "additional peanuts" and shall be eligible for price support at the additional support rate. Additional peanuts may only be marketed through contracts with handlers or by being pledged as collateral for price support loans under the terms of this subpart. Annual notice of determinations will specify support rates, loan rates, and, where necessary, supplements to this subpart will specify other terms and conditions not contained in this subpart. Specific terms and conditions relating to contracts for sales of peanuts placed under a price-support loan will be set out in announcements issued by the Commodity Credit Corporation (CCC).

(b) *Price support advances.* Producers may obtain price support, at rates announced by the Secretary, through the applicable association. Each association will make appropriate price support loan advances on peanuts delivered to it by producers at warehouses operating under peanut receiving and warehouse contracts with the association. CCC will make a loan (referred to in this subpart as a "warehouse storage loan") to the association. Such loans will be secured by the peanuts received by or on behalf of the association.

(c) *Farm-stored loans and purchases from producers.* Regulations setting forth the terms and conditions under which CCC will make farm storage loans directly to producers and purchase peanuts directly from producers will be published separately in the **Federal Register** and codified at 7 CFR Part 1421 or in such place as may be indicated by amendments to that Part.

§ 1446.71 Administration.

(a) *Responsibility.* The Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), will administer this subpart under the general direction and supervision of the Executive Vice President of CCC.

(b) *Limitation of authority.* No State and county committee or its employees or representatives, or any association or its employees or representatives may not modify or waive any of the provisions of this subpart or any amendment or supplement thereto.

(c) *Supervisory authority.* No delegation of authority contained in this subpart shall preclude the Executive Vice President of CCC, or the Executive Vice President's designee, from determining any questions arising under the regulations or from reversing or modifying any determinations made pursuant to such delegation.

(d) *Forms.* Regardless of whether specified elsewhere in this subpart, the reference to any ASCS or CCC form shall be deemed to include documents approved for general use in lieu of such forms by the CCC.

§ 1446.72 Definitions.

The regulations of this subpart incorporate the definitions and provisions of Parts 718, 719, 729, 780, 1402, 1403, 1408, 1421 and 1422 of this Title except where the context or subject matter or provisions of the regulations in this subpart otherwise requires. References contained in this subpart to other parts of this chapter or title include any subsequent amendments to those referenced parts. Any reference to the Executive Vice President of CCC shall also apply to any persons designated by the Executive Vice President. Unless the context or subject matter otherwise requires, the following words and phrases as used in this subpart and in all related instructions and documents shall have the following meanings:

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Additional support rate.* The loan rate applicable to additional peanuts.

(c) *Adequate assets.* Assets less liabilities determined by the area association in accordance with instructions issued by the Executive Vice President of CCC to be sufficient to assure export of additional peanuts in compliance with the provisions of this subpart. Assets may include, but are not limited to, accounts receivable, value of inventory, equipment, plant, property and investments. Liabilities may include accounts payable, mortgages, loans, letters of credit and other obligations.

(d) *Adequate facilities.* Weighing, grading, storage, shelling and/or milling equipment and other physical plant and equipment owned, leased or subleased by a handler, as determined by the area association in accordance with instructions issued by the Executive Vice President of CCC, to be sufficient to receive, store, process and ship all the peanuts to be handled in, by, through, or in connection with such facilities into the export or domestic market.

(e) *ASCS.* The Agriculture Stabilization and Conservation Service of the United States Department of Agriculture.

(f) *Association.* An area marketing association selected and approved by the Secretary which is operated primarily for the purpose of conducting loan activities as provided for in this subpart.

(g) *CCC.* The Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture.

(h) *Commercial quantities.* Any quantity of peanuts in excess of 110 pounds imported by any person during any marketing year unless the Executive Vice President shall otherwise agree in writing.

(i) *Contract additional peanuts.* Additional peanuts for crushing or exportation, or both, for which a contract has been entered into between a handler and producer in accordance with provisions of this subpart.

(j) *Crushing.* The processing of peanuts to extract oil for food uses and meal for feed uses.

(k) *Domestic edible use.* Domestic edible use means, for the purpose of regulations found in this subpart:

(1) Use of peanuts for milling to produce domestic food peanuts (including the processing of peanuts into flakes);

(2) Use of peanuts for seed, excluding unique strains which meet both of the following requirements: (i) They are not commercially available and (ii) they are used for the production of green peanuts; and

(3) Use of peanuts on a farm.

(l) *Edible export standard for contract additional peanuts.* The standards for raw shelled on inshell peanuts of any crop exported for human consumption constituting U.S. Standards grade requirements, or modifications thereof, and requirements as to wholesomeness, as are specified in the outgoing quality regulations for such crop set forth in the Marketing Agreement for Peanuts (No. 146), except that peanuts shown by the applicable Federal-State Inspection Certificate to deviate from these requirements shall be considered as meeting such requirements if the handler certifies to the association that such deviations are:

(1) Acceptable to the export buyer; and

(2) Fall within the range of deviations allowable under the Marketing Agreement.

(m) *Eligible country.* Any destination outside the United States, except that, neither Canada nor Mexico shall be considered an eligible country for the purpose of exporting peanut products other than treated seed peanuts.

(n) *Export and exportation.* A shipment of peanuts or peanut products from the United States directed to a country outside the United States for which a statement, which is signed by the handler and specifies the name and address of the consignee, is made available to the association or CCC, or, upon request by the association or CCC, for which a consignee receipt is made available to the association or CCC.

(o) *Farmers stock peanuts.* Picked to threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels removed by producers from farmers stock peanuts.

(p) *Forms*—(1) *Form ASCS–1007.* The Inspection Certificate and Sales Memorandum for farmers stock peanuts.

(2) *Form CCC–1006.* Application for Handler to Handler Transfer of Contract Additional Peanuts for Crushing or Export.

(3) *Form FV–95.* The Federal-State Inspection Service Peanut Inspection Note sheet.

(4) Form FV–184. The Federal-State Inspection Service Inspection certificate for milled peanuts.

(q) *Fragmented peanuts.* Peanuts meeting the qualifications for fragmented peanuts as defined in the outgoing quality regulations of the Peanut Marketing Agreement (No. 146) applicable to the crop year in which the peanuts were produced.

(r) *Handler.* Any person or firm, or subdivision thereof, registered with ASCS for the purpose of acquiring peanuts for resale, domestic consumption, processing, exportation, or crushing through a business of buying and selling peanuts or peanut products; provided further that a party that handles peanuts fails to register with ASCS shall be fully subject to all provisions including the penalty provisions in the same manner as registered parties and shall be subject to penalty for non-registration.

(s) *Inspector.* A Federal or Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture, to grade peanuts.

(t) *Loan rate.* The national average support rate for quota or additional peanuts adjusted for differences in grade, type, quality, location and other factors and determined by the Secretary to be applicable to such peanuts.

(u) *Loan value.* The amount of price support loan eligibility with respect to a lot of eligible farmers stock peanuts computed for quota or additional peanuts as applicable on the basis of weight and the loan rate announced for peanuts of the same type, grade, quality and location as those in such lot.

(v) *Liquidated damages.* An amount due, not as a penalty but as an amount estimated to be the probable damage to the peanut price support program due to an action taken by a producer or handler which is not otherwise subject to a penalty.

(w) *Lot*—(1) *Farmers stock peanuts.* That quantity of farmers stock peanuts for which one ASCS–1007 or other inspection certificate is issued. For farmers stock peanuts delivered to the association for a price support loan advance, a lot shall consist of not more than the contents of one vehicle, except that a lot may consist of the contents of two or more vehicles if such vehicles do not exceed a total of approximately 24,000 pounds of peanuts.

(2) *Milled peanuts.* That quantity of milled or shelled peanuts for which one FV–184/Peanuts, Inspection Certificate (Peanuts), or substitute approved for general use by the Executive Vice President is issued. The lot size of such peanuts in bulk or bags shall not exceed 200,000 pounds.

(x) *Marketing card.* Form ASCS–1002 or substitute approved for general use by the Executive Vice President issued each year in accordance with Part 729 of this title by ASCS county offices to producers for use in marketing farmers stock peanuts of the applicable crop year. Each Form ASCS–1002 or substitute shall indicate:

(1) The farm operator's eligibility for quota price support;

(2) The pounds that may be marketed as quota peanuts;

(3) The pounds that may be marketed as contract additional peanuts along with the handler number of the contracting handler; and

(4) The eligibility of additional peanuts for immediate buyback.

(y) *Marketing penalties*—(1) *Producer.* For producers, the penalties prescribed in the poundage quota and marketing regulations, Part 729 of this title, which shall be computed and collected in accordance with those regulations and are effective for the applicable crop.

(2) *Handler.* For handlers, the penalties which are prescribed, computed, assessed and collected in accordance with this subpart and are effective for the applicable crop.

(z) *Marketing year.* The period beginning on August 1 of the year in which the peanuts of the applicable crop are planted and ending on July 31 of the following year.

(aa) *Net weight.* Unless otherwise specified in this subpart, that weight of farmers stock peanuts obtained by deducting from the gross scale weight of the peanuts:

(1) Foreign material; and

(2) Moisture in excess of 7 percent.

(bb) *Peanut meal.* Any meal, cake pellets or other forms or residue remaining after extraction of explusion of oil from peanut kernels, but not including pressed peanuts.

(cc) *Peanut products.* Any products, other than peanut oil or meal, which is manufactured or derived from peanuts including, but not limited to, peanut candy, peanut butter, treated seed peanuts, roasted shelled or in shell peanuts, pressed peanut, and peanut granules.

(dd) *Peanut receiving and warehouse contract.* Form CCC–1028 (Identity Preserved), Form CCC–1028–A

(Commingled Storage), or any other form approved for general use by CCC for the purpose of receiving and warehousing loan collateral peanuts.

(ee) *Peanut Segregations.* Peanuts as identified and determined by the Federal-State Inspection Service to be:

(1) *Segregation 1* on the basis that they are farmers stocks peanuts which: (i) Have at least 99 percent peanuts of one type; (ii) have not more than two percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold or decay, nor more than 0.5 percent freeze damage; (iii) are free from any offensive odor; and (iv) are free from visible Aspergillus flavus mold.

(2) *Segregation 2* on the basis that they are farmers stock peanuts which are free from visible Aspergillus flavus mold and which either: (i) Have less than 99 percent peanuts of one type; or (ii) have more than two percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay, or more than 0.5 percent freeze damage; or (iii) have an offensive odor. However, if such peanuts are placed under additional loan and purchased under the immediate buyback procedure, as provided in § 1446.113(a) of this subpart, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(3) *Segregation 3* on the basis that they are farmers stock peanuts which have visible Aspergillus flavus mold. However, if such peanuts are placed under additional loan and purchased under the immediate buyback procedure as provided in § 1446.113(a) of this subpart, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(ff) *Pools.* Accounting pools established by the association for quota peanuts and additional peanuts not under contract, and for which records are maintained by area and by segregation.

(gg) *Quota peanuts.* Peanuts which are: (1) Eligible for domestic edible uses, and (2) marketed or considered marketed from a farm as quota peanuts pursuant to the provisions of Part 729 of this title and are not in excess of the effective farm poundage quota.

(hh) *Quota support rate.* The loan rate applicable to quota peanuts.

(ii) *Raw Peanuts.* In shell peanuts, shelled peanuts, blanched peanuts or any other classification of peanuts as designated by CCC which have not passed through any other processing operations are designated as raw peanuts by the CCC.

(jj) *Sound mature kernels.* Peanut kernels as identified and determined by the Federal-State Inspection Service to be sound mature kernels.

(kk) *Sound split kernels.* Peanut kernels as identified and determined by the Federal-State Inspection Service to be sound split kernels.

(ll) *Total kernel content.* The total kernel content (TKC) of a lot of peanuts which shall be deemed to consist of the total of sound mature kernels (SMK), sound splits (SS), and all remaining kernels which shall consist of damaged kernels (DK), other kernels (OK), and loose shelled kernels (LSK), as identified and determined by the Federal-State Inspection Service.

(mm) *Type.* The generally known types of peanuts (i.e., Runner, Spanish, Valencia, and Virginia), as identified and determined by the Federal-State Inspection Service.

(nn) *United States.* The 50 States of the United States, Puerto Rico, the territories and possessions of the United States, and the District of Columbia.

(oo) *United States government agency.* Any department, bureau, administration, or other agency of the Federal Government or corporation wholly owned by the Federal Government.

(pp) *Valencia type peanuts produced in the Southwest suitable for cleaning and roasting.* Valencia peanuts produced in the Southwest which are identified, determined and classified by the Federal-State Inspection Service as:

(1) *Bright hull—suitable for cleaning and roasting.* Valencia type peanuts produced in the Southwest containing not more than 25 percent shells damaged by:

(i) Discoloration;

(ii) Cracks or broken ends; or

(iii) Both discoloration, and cracks or broken ends.

(2) *Dark hull.* Valencia type peanuts which do not meet the requirements of bright hull Valencia type peanuts as defined in paragraph (pp)(1) of this section.

§§ 1446.73-1446.76 [Reserved]

Basic Handler Operations

§ 1446.77 Handler registration.

(a) *General applicability.* Each person who plans to acquire peanuts for processing or resale must first be approved as a handler by the area association in accordance with instructions issued by the Executive Vice President of CCC. However, any person acting in the capacity as a handler shall be subject to all penalties that may apply to handlers under this subpart and all other remedies that apply against handlers, irrespective of whether such person is registered under this subpart. Further, such persons will be subject to penalties for non-registration as may apply. Such approval shall be evidenced by a handler number issued in accordance with this subpart. To receive a handler number, a person must complete and submit an application for each area in which the handler will handle peanuts and apply for registration with the relevant area marketing association. The applicant must demonstrate compliance with paragraphs (b) and (c) of this section. The application shall be submitted on a form approved for general use by CCC.

(b) *Handlers of loan peanuts.* To handle quota or additional loan peanuts, a person must enter into a warehousing contract, Form 1028 or 1028–A, unless the Executive Vice President agrees otherwise in writing, and meet all requirements of the contract with respect to receiving, handling and storage requirements.

(c) *Handlers of contract additional peanuts.* To handle contract additional peanuts, a person must meet the requirements of §§ 1446.105 and 1446.106 of this subpart.

§ 1446.78 Peanut buyer card and buying point card.

The association which registers a handler will issue an embossed peanut buyer card which will show the handler's registration number, name and address. The handler will use the card for identification when buying or selling peanuts. The association will issue a buying point identification card to the Federal-State Inspection Service for delivery to each handler who operates a buying point at which peanuts are inspected. The buying point card will show a number used to identify the physical location of the buying point where the peanuts are inspected.

§ 1446.79 Examination of producer's marketing cards.

All handlers shall examine the producers' marketing cards and record each purchase or delivery of peanuts as required in § 1446.80 of this subpart and in accordance with procedures established by ASCS. Any peanuts delivered by producers under an additional peanut contract in excess of the provisions of such contract shall be considered as having been marketed as quota peanuts. The handler shall not accept peanuts from any producer who does not present a marketing card and farm identification card at the time of delivery.

§ 1446.80 Marketing card entries.

Immediately after each lot of peanuts is marketed, the handler shall make the following entries on the marketing card from the ASCS–1007 or ASCS–1030, Report of Purchase of Noninspected Peanuts:

(a) The ASCS–1007 serial number which identifies the lot of peanuts, or the date of marketing if the peanuts were not inspected;

(b) The net pounds marketed;

(c) The unused poundage quota balance remaining after the marketing;

(d) The unused contract additional poundage balance remaining after the marketing;

(e) The handler's number or, for loan peanuts, the association number;

(f) For inspected peanuts, the buying point number;

(g) The type of peanuts marketed; and

(h) Any penalties or claims collected.

§ 1446.81 Collection of marketing penalties owed by a producer.

(a) *Marketing penalties.* A person shall be liable to CCC for any penalty which is known to such person or should be known to such person, to be due on peanuts at the time the person buys or otherwise acquires those peanuts from a producer. The handler shall deduct the penalty from the price paid to the producer. If such person fails to collect the penalty due on any marketing of peanuts from a farm and to forward such penalty to CCC, such person and each of the producers on the farm shall be held jointly and severally liable to CCC for the amount of the penalty.

(b) *Penalty for errors on marketing card.* The producer and the handler are jointly and severally liable for any penalties which may be due if the handler made an error or failed to properly record the pounds of peanuts marketed on the producer's marketing card and such error caused an excess marketing of the producer's effective poundage quota, as defined in Part 729 of this title, or in the pounds of additional peanuts contracted in accordance with this subpart.

(c) *Precedence.* Priorities on payments to be made by handlers acquiring peanuts shall be those set forth in the regulations contained in 7 CFR Part 729 for the applicable crop of peanuts.

§ 1446.82 Transmittal of penalties.

(a) *Commercial purchases.* Form ASCS–1012 Peanuts, "Buyer's Transmittal of Claims and/or Marketing Penalty," shall be used by a handler to transmit to ASCS any marketing penalty or peanut marketing penalty lien collected directly or indirectly from a producer for lots of peanuts purchased as quota commercial or contracted additional. Each collection shall be sent to the county ASCS office which issued the marketing card. Unless otherwise approved by the Executive Vice President of CCC, the transmittal shall be made within two weeks after the end of the week in which the collection is made. A collection is deemed to have been made when any payment is made to the producer for the peanuts or when the peanuts were delivered to the handler, whichever is earlier.

(b) *Loan peanuts.* Withholdings from the loan value due a producer which represent collections of claims for marketing penalties or marketing penalty liens shall be transmitted or handled in accordance with instructions issued by the association or CCC.

§ 1446.83 Recordkeeping requirements.

(a) *Persons required to keep records.* Any person who is required under this subpart to keep any record or make any report shall keep such records for each such business as required by this subpart which bear in any way upon the obligations of this subpart whether as a:

(1) Person who dries farmers stock peanuts by artificial means for a producer, a buyer, warehouseman, processor, or common carrier of peanuts;

(2) A broker or dealer in peanuts;

(3) Any farmer engaged in the production of peanuts;

(4) An agent marketing peanuts for a producer or acquiring peanuts for a buyer or association;

(5) A person engaged in the business of cleaning, shelling, crushing, or salting peanuts or manufacturing peanuts products; or

(6) A person owning or operating a peanut-picking or peanut-threshing machine.

(b) *Marketing records.* Each handler shall keep records and make reports as required by § 1446.84 of this subpart. The handler shall maintain the records with respect to each lot of farmers stock peanuts which the handler acquires for the handler's own account.

(c) *Sales and disposal records.* Each handler shall maintain records of all sales or other disposals of peanuts. Such records shall show the date of sale or disposal, quantity, type, purchaser, whether sold as farmers stock peanuts, milled peanuts, edible peanuts or peanuts for crushing, and any other information which may be required by this subpart.

(d) *Method of keeping records.* Each handler shall maintain the records required by this subpart in a manner as determined by ASCS which will enable the association, CCC, ASCS, and other representative of the Secretary to readily reconcile the quantities, grades and qualities of all peanuts acquired and disposed or by such a handler. Records concerning the acquisition and disposal of contract additional peanuts must also be kept in a manner that allows the association, CCC, ASCS, or any other representative of the Secretary to readily determine whether there has been compliance with the provisions of this subpart.

§ 1446.84 Records and reports required of handlers.

As required by this section and in accordance with instructions issued by the Executive Vice President of CCC, each handler shall keep records and make reports as follows:

(a) *Inspected peanuts.* If the Federal-State Inspection Service inspects a lot of peanuts, the handler shall complete ASCS–1007, Inspection Certificate and Sales Memorandum, or such other form approved by CCC or ASCS and on which the following information must be entered:

(1) The name and address of the farm operator, the State and county codes for the farm and, either: (i) The farm number of the farm on which the peanuts were produced if the peanuts are marketed by the producer; or (ii) the handler number if the peanuts are marketed by a handler;

(2) The buying point number assigned to identify the physical location of the buying point where the peanuts were marketed;

(3) Either the name, address and handler number of the handler, or if the peanuts are accepted for loan through the association, the association name, number and address;

(4) The net weight of the peanuts;

(5) The quantity of peanuts marketed as either loan quota, loan additional, commercial quota, or contract additional;

(6) The date of purchase; and

(7) The amount of any penalty collected.

(b) *Noninspected peanuts.* A handler who purchases farmers stock peanuts which have not been inspected by the Federal-State Inspection Service shall complete an ASCS–1030 or such other form approved by CCC or ASCS for general use, for each lot of farmers stock peanuts purchased. The handler shall use ASCS–1030–P, Handler's Report of Purchases of Noninspected Peanuts or such other form approved by CCC or ASCS for general use, to transmit the ASCS–1030 or other approved form to the State ASC committee in the State in

which the handler's business is located or such other location or entity approved by CCC or ASCS. The handler shall complete the ASCS–1030 or other approved form to show the following:

(1) Name and address of the seller;

(2) Name and address of the farm operator and the State and county codes and either: (i) The farm number when the peanuts are purchased from the producer of the peanuts; or (ii) the handler's name, address and registration number when the peanuts are purchased from another handler;

(3) Type of peanuts purchased;

(4) Date of purchase;

(5) Quantity purchased;

(6) Method of determining the weight; and

(7) Signature of the seller and the date the seller signed the ASCS–1030 or other approved form.

(c) *Resales.* Each handler who resells farmers stock peanuts shall keep records of:

(1) Name and address of the buyer, and if the peanuts are sold to a handler, the buyer's handler number;

(2) Date of the sale;

(3) Type of peanuts sold; and

(4) Pounds (net weight) of peanuts sold.

(d) *Peanuts shelled or milled for a producer.* The handler shall maintain records of peanuts shelled for a producer including the following information:

(1) Date of shelling or milling;

(2) Name and address of the producer;

(3) State and county codes and the farm number of the farm where the peanuts were produced;

(4) Quantity of peanuts (farmers stock basis) shelled or milled;

(5) Quantity of shelled or milled peanuts retained by the sheller; and

(6) Quantity returned to the producer.

(e) *Peanuts dried for a producer.* The handler shall maintain records of peanuts dried for a producer including the following information:

(1) State and county codes and the farm number of the farm where the peanuts were produced;

(2) Name and address of the producer; and

(3) Quantity dried as determined by the farmers stock basis weight after drying, and the date the drying was completed.

(f) *Peanuts from which LSKs or pods are removed for a producer.*

If the LSKs or pods are removed in commercial quantities or, when removed with foreign material, are recoverable in commercial quantities, the handler shall maintain records of the peanuts from which the LSKs or pods were removed for a producer as well as records for the LSKs and pods including the following information:

(1) Date of removal;

(2) Name and address of the producer;

(3) State and county codes and the farm number of the farm where the peanuts were produced;

(4) Gross weight of: (i) Peanuts prior to removal; (ii) peanuts removed as LSKs; (iii) peanuts removed as pods; and (iv) peanuts remaining after removal of foreign material and LSKs or pods;

(5) Quantity of peanuts which the person performing the service retains in the form of pods and LSKs; and

(6) Peanuts returned to the producer as: (i) Pods; (ii) LSKs; and (iii) LSKs and pods.

(g) *Green peanuts purchased from producer.* Each buyer of green peanuts shall report purchases of such peanuts to ASCS, on Form ASCS–1011, Report of Marketings of Peanuts to Non-established Buyers, or such other form as CCC or ASCS shall designate for general use, except that small lot purchases not in commercial quantities including, but not limited to, street sales, local market sales, and grocery store sales shall not be subject to this reporting requirement. This report shall subject the buyer to a review of those purchase and sales records as required in this subpart. Any buyer of green peanuts who fails to keep records as required by this section shall be subject to penalty. Each buyer shall keep records of green peanuts purchased including the following information:

(1) Date of purchase;

(2) Name and address of producer selling green peanuts;

(3) Name and address of farm operator and farm number (including State and county codes) of the farm on which the green peanuts were produced; and

(4) Pounds of green peanuts purchased.

§ 1446.85 Examination of records and reports.

The Executive Vice President of CCC, the Deputy Administrator of ASCS, the Director of the Tobacco and Peanuts Division, or the State Executive Director, and any person authorized by any one of such persons, and any auditor or agent of the Office of Inspector General, is authorized to examine any records that such person has reason to believe are relevant to any matter pertinent to the peanut poundage quota program operated pursuant to the provisions of 7 CFR Part 729 and provisions of this subpart. Upon request, any person required by this subpart to keep records shall make available for examination such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are under such person's control.

§ 1446.86 Retention of records.

Persons required to maintain records under this subpart shall maintain all records for a period of three years following the end of the marketing year in which the peanuts were produced. Notwithstanding the preceding sentence, records relating to contract additional peanuts for which penalties or liquidated damages have been assessed, shall be retained for five years following the date the assessment was made or until the conclusion of the assessment action, whichever is later and records shall be kept for such longer periods of time as may be requested in writing by the Executive Vice President of CCC.

§ 1446.87 Information confidential.

All data requested and obtained by the Secretary in accordance with the provisions of this subpart shall be kept confidential by all employees of the U.S. Department of Agriculture and of the marketing association. Such data shall be released only at the discretion of the Executive Vice President of CCC, and then only to the extent that such release is not prohibited by law.

§ 1446.88 Penalty for failure to keep records and make reports.

Any person, who fails to make any report or keep any record as required under this subpart or who falsifies any information or any such report or record shall be subject to a penalty in accordance with § 1446.144 of this subpart.

§ 1446.89 Fraud by handler.

Any misrepresentation made or effectively made by a handler within or without the records or reports maintained in connection with this subpart shall be subject to a penalty under this subpart and such penalty shall be in addition to any other remedies available by law for such misrepresentation (including, but not limited, to criminal prosecution). In addition, the handler and any individual or other person involved with such misrepresentation including employees of the handler shall be liable to CCC for all costs which CCC incurs as a result of such misrepresentation, together with interest at the per annum rate which the Treasurer of the United States charged CCC on the date the misrepresentation was made.

§§ 1446.90-1446.92 [Reserved]

Warehouse Storage Loans

§ 1446.93 Commingling of quota and additional peanuts.

Quota and additional farmers stock peanuts of like crop, type, area, and segregation may be commingled in storage by a handler and exchanged on a dollar value basis to facilitate handling and marketing. Except for such peanuts purchased from CCC for domestic edible use on an ingrade, in-weight basis, quota loan and additional loan peanuts must be inspected as farmers stock peanuts and accounted for on a dollar value basis less a one time adjustment for shrinkage for each crop. Such adjustment shall be equal to 4.0 percent of the dollar value of the peanuts for Virginia-type peanuts and 3.5 percent for all other types; except that, if such peanuts are graded out and accounted for prior to February 1 of the year following the year in which the peanuts were grown, the adjustment of the dollar value for shrinkage shall be 3.5 percent for Virginia-type and 3.0 percent for all other peanuts. The dollar value basis for all peanuts shall be based on the quota loan rate. The handler shall receive, store and deliver all such peanuts in accordance with good commercial practice and any instructions provided by CCC. For each lot of quota and/or additional peanuts commingled in storage, the records of the handler shall show at all times the date and place received, the name and address of the producer, the type, segregation, pounds, and dollar-value-in. The handler shall keep such other accounts and records and furnish such information and reports relating to the dollar-value-out and disposition of such peanuts as may be prescribed by the association or CCC.

§ 1446.94 Loans to marketing associations.

CCC will make warehouse storage price support loans to those associations specified in § 1446.95 of this subpart that contract with CCC to arrange for the storing and handling of farmers stock peanuts, to make price support advances to producers on such peanuts, and to use such peanuts as collateral for loans obtained from CCC. Loans on quota peanuts shall be made on the basis of the quota loan rate and loans on additional peanuts shall be made on the basis of the additional loan rate. Such loans shall be due on demand.

§ 1446.95 Area marketing associations.

Price support advances will be available through:

(a) *The GFA Peanut Association* of Camilla, Georgia, for peanuts produced in the Southeastern area consisting of Puerto Rico, the U.S. Virgin Islands, and the States of Alabama, Florida, Georgia, Mississippi and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers;

(b) *The Southwestern Peanut Growers Association* of Gorman, Texas, for peanuts produced in the Southwestern area consisting of all other territories or possessions of the United States not listed in paragraph (a) or (c) of this section, and the States of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wyoming;

(c) *The Peanut Growers Cooperative Marketing Association* of Franklin, Virginia, for peanuts produced in the Virginia-Carolina area consisting of the District of Columbia, and the States of Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

§ 1446.96 Delivery for price support advances.

(a) *Where available.* Unless otherwise approved by the association or by CCC, producers must deliver farmers stock peanuts to warehouses which are located in the same marketing area where the peanuts were produced. Price support advances shall be available to eligible producers from warehousemen who have entered into peanut receiving and warehouse contracts with the association. Such contracts shall require the warehouseman to inform producers that price support advances are available and to make such advances on eligible peanuts tendered for price support as provided in paragraph (e) of this section. The contracts shall also require warehousemen to:

(1) Examine the producer's marketing card to determine price support eligibility;

(2) Make entries on the marketing card as required by Part 729 of this title and by § 1446.80 of this subpart; and

(3) Record the quantity of quota and additional peanuts and the date of each delivery. The balance of the quota or contract additional peanuts must be shown on the marketing card after each delivery. The names and locations of participating warehouses may be obtained from the office of the appropriate association or from State or county ASCS offices.

(b) *Time.* Price support advances to eligible producers on peanuts of any crop will be available from the beginning of harvest through the following January 31 or such later date as may be established by the Executive Vice President of CCC. If the final date falls on a day which is not a normal working day for the association, then the applicable final date shall be the next workday.

(c) *Inspection.* An inspector shall determine the type and quality of each lot of farmers stock peanuts that is delivered to an association for a price support advance when such peanuts are received at a warehouse under contract with an association.

(d) *Producer agreement.* To obtain a price support advance, the producer shall authorize, in writing, the association's pledge to CCC of the producer's peanuts as collateral for a warehouse storage loan and in so doing, the producer shall relinquish any right to redeem or obtain possession of such peanuts.

(e) *Advance to the producer.* For each lot of peanuts delivered, the association shall advance to the producer or jointly to the producer and lienholder as set forth in § 1446.97(a) of this subpart, the support value of such peanuts in accordance with procedures established by CCC. However, the association shall deduct from such advances (1) Any marketing penalties; (2) any deductions as specified in § 1446.97 of this subpart; and (3) any assessments or excise taxes imposed by State law and transmit such amounts to the proper State authorities. In addition, the Southwestern Peanut Growers Association, upon the prior agreement of the producer, may deduct from such advance an amount approved by CCC to be used in financing the association's peanut related activities outside the price support program, except in no case may such amount exceed $1 per net weight ton of peanuts.

§ 1446.97 Producer indebtedness.

(a) *Prior liens.* The handler shall inquire of all producers from which the handler buys or otherwise acquires peanuts as to whether any liens exist on peanuts offered for loan and shall note the response on the Warehouse Receipt and Draft form. Any payments made on such peanuts shall be made jointly payable to the producer and any and all lienholders known to the handler.

(b) *Indebtedness to the United States.* A person shall be deemed to have notice

at the time of delivery of any and all liens or indebtedness of the producer to any agency or instrumentality of the United States if notice appears on the marketing card. Such liens and indebtedness include, but are not limited to, liens for any poundage quota penalty due on prior crops, FmHA liens, farm storage facility and dryer loan payments due CCC, and indebtedness to any other agency of the United States. The handler shall collect such indebtedness from each producer, to the extent of the amount due such producer for loan collateral peanuts. Collection shall be made and remitted in accordance with § 1446.82 of this subpart and instructions issued by the association.

(c) *Precedence.* Precedence on payments in cases involving liens and penalties or any other claim shall be set forth in the regulations contained in 7 CFR Part 729 for the applicable crop of peanuts.

§ 1446.98 Eligible peanuts.

(a) *Basic eligibility.* Peanuts eligible for support shall be farmers stock peanuts from the applicable crop produced in the United States by an eligible producer. In addition, such peanuts:

(1) Must be free and clear of all liens and encumbrances, including any landlord's liens, unless acceptable waivers are obtained;

(2) Must be produced in the same marketing area in which they were delivered for price support loan, unless otherwise approved by the Executive Vice President of CCC.

(3) Must, if delivered to the association in bags in the Southwestern area, be in new or thoroughly cleaned used bags which: (i) Are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers; (ii) are free from holes; (iii) are finished at the top with either the selvage edge of the material, a binding, or a hem; and (iv) are uniform in size with approximately 2 bushel capacity;

(4) Must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; and

(5) Must have been inspected as farmers stock peanuts and have an official grade determined by an inspector.

(b) *Quota support.* In addition to the basic eligibility requirements in paragraph (a) of this section, to be eligible for quota support the peanuts:

(1) Must be Segregation 1 peanuts;

(2) Must contain not more than 10.00 percent moisture except that field dried peanuts produced in the Southwestern area and delivered in bags may contain up to, but not more than, 10.49 percent moisture;

(3) If mechanically dried, must contain at least 6 percent moisture; and

(4) Must contain not more than 10 percent foreign material.

(c) *Additional support.* In addition to the basic eligibility requirements in paragraph (a) of this section, to be eligible for support as additional peanuts, the peanuts:

(1) If nonseed peanuts, must contain not more than 10.00 percent moisture except that field dried peanuts produced in the Southwestern area and delivered in bags may contain up to, but not more than, 10.49 percent moisture;

(2) If seed peanuts, the same maximum moisture level that applies to nonseed peanuts shall apply except that such peanuts may have a moisture level of up to 11.49 percent moisture for nonstacked Virginia-type peanuts and up to 10.49 percent moisture for all other peanut types, provided that in either case: (i) The seed peanuts were produced under the auspices of a State agency which controls the production of seed peanuts, and (ii) the handler has agreed to purchase such peanuts for domestic seed use in accordance with instructions issued by CCC and with the provisions of § 1446.113 of this subpart; and

(3) Must not contain more than 10 percent foreign material, unless the handler agrees to purchase such peanuts for domestic edible use as provided in § 1446.113 of this subpart and store the peanuts separately from other peanuts until milled.

(d) *Additional support for peanuts with excess moisture or foreign material.* Peanuts which are graded as Segregation 2 or 3 and which, because they contain more than 10 percent moisture and/or foreign material, would otherwise not be considered acceptable for loans under the provisions of paragraphs (b) and (c) of this section shall nonetheless be considered eligible for loans, provided that all other conditions of this section are met, and that:

(1) The level of moisture does not exceed a level determined to be acceptable by the association; and

(2) The local crushing market for peanuts is such that the peanuts can be crushed within a reasonable time, as determined by the association; and

(3) The producer had made a bona fide effort, as determined by the association, to clean and dry such peanuts prior to offering such peanuts for loan.

(e) *Ownership requirement.* Notwithstanding any other requirement of this section, the beneficial interest in all peanuts of all segregations tendered for either quota or additional support must be in the producer who delivers them to the association and must always have been either in such producer or in the prior producer whom such producer succeeded before the peanuts were harvested. In order to meet this requirement of ownership, the succession of rights, responsibilities and interests of the former producer with respect to the farm on which the peanuts were produced must have been substantially assumed by the person claiming succession.

§ 1446.99 Eligible producer.

(a) *Requirements.* An eligible producer for purposes of price support under this subpart shall be an individual, partnership, association, corporation, estate, trust, a State, a political subdivision of a State, any State agency, or other legal entity that produces peanuts as landowner, landlord, tenant, or sharecropper on a farm except as set out in this section.

(b) *Program ineligibility.* (1) Any person who produces any agricultural commodity on a field classified by the Soil Conservation Service as highly erodible land or as converted wetland shall be ineligible for price support. Any additional peanuts which are subject to this paragraph for which there is not an approved contract for sale of the peanuts to a handler, shall be disposed of in accordance with instructions of the association. Guidelines shall be supplied to the associations by the Executive Vice President, CCC. Such peanuts shall not be eligible for any price support payment and any such payment received shall be re-paid to the CCC with interest running from the date of the payment to the producer. Interest on such repayments shall be at the rate charged to the CCC by Treasury for borrowings by CCC during the relevant period unless otherwise specified by the Executive Vice President of CCC.

(2) A producer on a farm for which the farm operator fails to file, or does not file in a timely manner, a report of crop or land use acreage as required by Part 718 of this title shall not be eligible for price support at the quota loan rate unless the late-filed report was accepted by the county ASC committee to the extent permitted by Part 718 of this subpart. In addition, no producer shall be eligible for price support at the quota loan rate if the producer has filed an erroneous report of crop or land use acreage unless: (i) The determined

acreage does not differ from the reported acreage by more than the tolerance established by Part 718 of this title, or (ii) the county ASC committee determines that the producer acted in good faith in reporting the crop or land use acreage.

(c) *Estates and trusts.* A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or administrator of a deceased person's estate, a guardian of an estate or of a ward or incompetent person, and trustees of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the peanut production of the receiver, executor, administrator, guardian, or trustees attributable to the person represented shall be considered to be the production of the person represented. Loan documents executed by any such person shall be accepted by CCC only if they are valid and such person has the authority to sign the applicable documents.

(d) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if such minor meets one of the following requirements:

(1) The right of majority has been conferred on such minor by court proceedings or by statute; or

(2) A guardian has been appointed to manage such minor's property and the applicable price support documents are signed by the guardian; or

(3) A bond is furnished under which a surety acceptable to CCC guarantees to protect CCC from any loss for which the minor would be liable had such minor been an adult.

§ 1446.100 Peanuts ineligible for loan program.

Any person who causes or permits peanuts other than those eligible for loan under § 1446.98 of this subpart to be placed in the loan program shall be deemed to have agreed that:

(a) CCC may incur serious and substantial damage to its program to support the price of quota peanuts if such peanuts are placed under loans;

(b) That the amount of such damages will be difficult, if not impossible, to ascertain exactly; and

(c) That the handler shall, with respect to any ineligible peanuts placed under loan, pay to CCC, as liquidated damages and in addition to any penalty that is due, the difference between the average loan rate for the type of peanuts placed under loan and the market price as determined by CCC for such type for crushing, times the amount of peanuts placed under loan. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer. Such person shall pay the damages to CCC promptly upon demand in addition to penalties as may be due or assessed. Liquidated damages under this subsection may be reduced by the Executive Vice President of CCC, based upon consideration of the following factors:

(1) Whether the person causing or permitting ineligible peanuts to be placed in the loan program made a good faith effort to ensure that ineligible peanuts were not pledged as loan collateral;

(2) The degree of damage or potential damage to the price support program caused by the violation;

(3) The nature and circumstances of the violation;

(4) The extent of the violation; and

(5) Any other pertinent information.

§ 1446.101 Pools and determination of net gains.

(a) *Pools.* The association shall establish separate pools by area and segregation of peanuts and shall maintain separate, complete and accurate records for quota peanuts under loan and for additional peanuts under loan; provided further that separate pools shall be established for bright hull and dark hull Valencia peanuts produced in New Mexico.

(b) *Net gains for quota pools.* Net gains from peanuts in each quota pool shall consist of:

(1) The net gains which are in excess of the loan indebtedness on quota peanuts and other costs or losses which are incurred on peanuts placed in such pool; plus

(2) An amount from the applicable pool for additional peanuts to the extent of the net gains on peanuts sold from such additional peanut pool for domestic food and related uses equal to any loss incurred in disposing of any peanuts in the pool for quota peanuts.

(c) *Net gains for additional pool.* Net gains for peanuts in each additional pool shall consist of:

(1) The net gains which are in excess of the loan indebtedness and other costs or losses which are incurred by CCC on peanuts placed in the pool; less

(2) Any amount as provided in subparagraph (b)(2) of this section allocated to offset any loss on the pool for quota peanuts.

§ 1446.102 Distribution of net gains.

(a) *Pool distribution.* (1) Net gains as determined in accordance with § 1446.101 of this subpart on peanuts in each area pool shall be distributed to producers subject to the additional offsets set forth in paragraphs (b), (c) and (d) of this section and the other conditions set forth in this section;

(2) Distributions shall be made only to producers placing peanuts in the pool and shall not be assigned to any other party; and

(3) Any proceeds shall be distributed to each producer in proportion to the value of peanuts placed in the pool by that producer, except that the proceeds available for the amount of distribution shall be subject to the offsets set forth in paragraphs (b), (c), (d) and (e) of this section.

(b) *Pool offsets within marketing areas.* Distribution of net gains in any additional pool other than those for Valencia peanuts produced in New Mexico shall first be reduced to the extent of any loss by CCC on the corresponding pool for Segregation 1 quota peanuts and such reduction shall be made for purposes of this paragraph in the following priority; that is losses on quota peanuts shall be offset from other pools in the following order:

(1) From Segregation 2 additional peanuts pools; then

(2) From Segregation 3 additional peanuts pools; then

(3) From Segregation 1 additional peanuts pools.

(c) *Pool offsets between marketing areas.* Proceeds due any producer after reductions made under paragraph (b) of this section shall be reduced further to the extent of any losses in a pool for Segregation 1 quota peanuts in any other marketing area; except that, gains from pools for Valencia bright hull and Valencia dark hull peanuts produced in New Mexico shall not be used to offset losses in any pools in other areas.

(d) *Offsets for certain pool transfers.* Proceeds due any producer from any profit pool shall be reduced further to the extent of any loss that is incurred with respect to peanuts such producer has transferred from any additional loan pool to a quota loan for pricing purposes pursuant to the provisions of § 1446.103 of this subpart.

(e) *Priority of offsets between areas.* Insofar as practicable, losses offset in paragraph (c) of this section shall be recovered from the gains in other pools in the following order of priority that is, from other pools in the following order:

(1) From Segregation 2 quota peanut pools; then

(2) From Segregation 3 quota peanut pools; then

(3) From Segregation 2 additional peanut pools; then

(4) From Segregation 3 additional peanut pools; then

(5) From Segregation 1 additional peanut pools; then

(6) From Segregation 1 quota peanut pools;

§ 1446.103 Producer transfer of additional loan peanuts to quota loan.

(a) Except as provided in paragraph (b) of this section, producers may transfer Segregation 2 and Segregation 3 additional loan collateral peanuts to the quota loan pool after the producer has completed marketing and returned his marketing card to the county office. Such transfer may not exceed the smaller of the effective farm poundage quota minus the production of Segregation 1 peanuts on the farm, or the undermarketing of quota peanuts shown on the farm marketing card. As provided in this subpart, pool proceeds due such producer from peanuts in any other pool shall be reduced by the amount of any losses to CCC on the peanuts so transferred. The support values for any Segregation 2 peanuts so transferred shall be the support value for quota peanuts minus the damage discount published in the quota support schedule, and the support value for Segregation 3 peanuts shall be the support value for quota peanuts minus the applicable discount published in the quota support schedule. Producers who are eligible to transfer additional loan peanuts to the quota loan pool in accordance with the provisions of this section may apply for such transfers with the county office. The county office shall determine the quantity of undermarketings of quota peanuts and the quantity of additional peanuts which are eligible for transfer. The producer must indicate to the county office the net weight and applicable ASCS–1007 serial numbers for the peanuts to be transferred. Such pounds shall be considered as marketings of quota peanuts, and applicable ASCS–1007 shall be appropriately adjusted and the producer will be advanced the appropriate difference between the additional and quota support rates.

(b) Transfer of Segregation 2 and Segregation 3 additional loan collateral peanuts to a quota loan pool shall not be permitted under the provision of paragraph (a) of this section for a farm with respect to that quantity of peanuts for which the producers on the farm have executed a waiver of the right to make such a transfer in order to obtain indemnity benefits from the Federal Crop Insurance Corporation or has agreed to such a waiver with any other Federal agency.

§ 1446.104 [Reserved]

Contract Additional Peanuts

§ 1446.105 Approval as handler of contract additional peanuts.

(a) *Requirements of approval.* Any person who plans to acquire contract additional peanuts from any source must register and be approved as a handler of additional peanuts under the requirements of this subpart by July 31 for each crop, unless an alternative date is approved by the Executive Vice President of CCC. Consideration for approval will be made for each crop.

(b) *Evidence of adequate facilities.* Any person who plans to buy or otherwise acquire additional peanuts for processing, export or sale must, by July 31, provide evidence which shows that the person owns adequate facilities, or has a lease or sublease which provides for use and control by the person holding the lease or sublease of adequate facilities, necessary to receive, grade, store and otherwise handle and dispose of additional peanuts in accordance with the provisions of this subpart and in accordance with procedures issued by CCC. Facilities include, but are not limited to, peanut inspection facilities, receiving and storage facilities, loading and unloading facilities, conveyer-type handling equipment, drying equipment, truck scales, and commercial-type shelling equipment, excluding handheld or other types of seed shellers or bar shellers with a shelling capacity of less than 50 tons per day. Before the association approves the handlers to contract for additional peanuts, representatives of the association or the CCC may inspect or othewise verify that the facilities are adequate to receive and handle peanuts.

(c) *Evidence of adequate assets.* Any person who plans to buy or otherwise acquire additional peanuts must submit a financial statement to CCC in accordance with instructions issued by CCC. Such financial statement shall show to the satisfaction of CCC that the person has adequate assets to ensure the person's compliance with the obligation to export additional peanuts in accordance with the provisions of this subpart.

(d) *Substituting other facilities.* Unless the Executive Vice President of CCC shall otherwise agree in writing, once approved as having adequate facilities a handler may not substitute or otherwise use facilities other than those on which the approval was based except that substituted facilities may be approved by the association in accordance with paragraph (b) of this section and in accordance with instructions issued by CCC if the handler can show that the original facilities are no longer available for use due to circumstances beyond the handler's control such as, but not limited to, fire, flood, wind damage, or mechanical failure.

§ 1446.106 Letter of credit.

(a) *Financial guarantee (letter of credit).* For each marketing area in which a handler contracts or otherwise plans to acquire contract additional peanuts, the handler must present an irrevocable letter of credit to the marketing association used by CCC to make price support advances in that marketing area. Unless the Executive Vice President of CCC shall otherwise agree in writing, a separate letter of credit is required for each marketing area and must represent the amount contracted from within each area. Such letter or credit shall be issued in a form and by a bank which is acceptable to CCC and shall be submitted to the relevant association by July 31 of the year in which the peanuts were produced before contracts between the handler and producers will be approved and before producers will be issued marketing cards for contract additional peanuts. Unless the provisions of paragraph (b), (c) or (e) of this section are applicable, the amount of the letter of credit for each area shall be equal to the amount determined by multiplying the difference between the national average basic quota support rate and the national average basic additional support rate for all peanuts types, times:

(1) For handlers selecting nonphysical supervision, an amount not less than 15 percent of the total quantity of additional peanuts shown on contracts submitted for approval by the handler in that marketing area; or

(2) For handlers selecting physical supervision, an amount not less than 10 percent of the quantity of additional peanuts shown on contracts submitted for approval by the handler in that marketing area.

(b) *Increased letter of credit based on performance history.* For 1987 through 1990 crop years, any handler with a poor performance record in relation to the requirements of this subpart or who is associated with, as determined by the Executive Vice President of CCC, another handler who has such a record as evidenced by previous penalty assessments for violations of the provisions of this part, the amount of the initial letter of credit may be increased from the amount otherwise required by this subpart to an amount CCC determines necessary to assure that

contract additional peanuts will be exported.

(c) *1986 letter of credit requirements.* Notwithstanding provisions of paragraph (a) (1) or (2) of this section, for the 1986 crop only, the amount of the letter of credit submitted to the association in accordance with provisions of this subpart shall be equal to the amount determined by multiplying the difference between the national average basic quota support rate and the national average basic additional support rate for all peanuts types, times:

(1) For handlers selecting nonphysical supervision, an amount not less than 10 percent of the total quantity of additional peanuts shown on contracts submitted for approval by the handler in that marketing area; or

(2) For handlers selecting physical supervision, an amount not less than 5 percent of the quantity of additional peanuts shown on contracts submitted for approval by the handler in that marketing area.

(d) *Contract approval.* Contracts for additional peanuts for crushing or export between a handler and producers shall not be approved by the county ASC committee until each handler:

(1) Has submitted a letter of credit in accordance with this subpart and with any instructions issued by the Executive Vice President of CCC to cover the amount of peanuts shown on contracts submitted for approval; and,

(2) Has been determined by the association, in accordance with instructions issued by CCC, to have adequate facilities and assets as provided in this subpart.

(e) *Adjusting the letter of credit prior to contract approval.* The association will notify handlers who have not submitted an adequate letter of credit in accordance with the provisions of this subpart and will indicate the amount of shortage. Unless otherwise permitted by the Executive Vice President of CCC, handlers will have 15 days from the date of notification to amend the letter of credit or in the alternative to operate under physical supervision with an appropriate letter of credit. If the handler has selected nonphysical supervision but does not adjust the letter of credit to the amount required for nonphysical supervision within 15 days, all additional peanuts acquired by the handler must be handled and disposed of by such handler in accordance with the requirements of this subpart applicable to physical supervision: except that, if the handler's letter of credit is insufficient for physical supervision, all contracts entered into by such handler will be disapproved and the producers with whom the contracts were made will be permitted to transfer such contracts to other handlers in accordance with § 1446.110(a)(2) of this subpart.

§ 1446.107 Contracts for additional peanuts for crushing or export.

(a) *Submitting contracts for approval.* Handlers who have a U.S. address, and who are approved to handle contract additional peanuts, and who have submitted a letter of credit in accordance with § 1446.106 of this subpart may contract with producers to buy additional peanuts for crushing or exportation, or both. Persons who do not meet those requirements shall be ineligible to contract for additional peanuts with producers. However, notwithstanding the preceding sentence, producers approved as producer-handlers under Part 1421 of this title for the purpose of "immediate buyback" of their additional peanuts may not contract with themselves. All contracts for sales of additional peanuts shall be completed and submitted to the county office of the county in which the farm is administratively located for approval on or before July 31 of the year in which the crop is produced; except that, should July 31 fall on a Saturday or Sunday, or other nonwork day the contract must be submitted for approval no later than the last workday immediately preceding the final contracting date. Such contracts cannot be sold, traded or assigned, except under the terms and conditions specified in § 1446.110 of this subpart. In order to be approved by the county committee, the following information must appear on the contract:

(1) The name and address of the operator;

(2) The name and address of each producer sharing in the proceeds of the contract additional peanuts;

(3) The State and County code of the State and County in which the additional peanuts are to be produced;

(4) The farm serial number of the farm on which the peanuts are produced;

(5) The name, address, and registration number of the handler;

(6) The amount of Segregation 1, Segregation 2, or Segregation 3 peanuts stated in pounds;

(7) The final contract price as defined in accordance with § 1446.108 of this subpart to be paid by the handler shown as a set percentage of the loan rate for quota peanuts;

(8) A disclosure by the producer of any liens or encumbrances on the peanuts;

(9) The signature of the farm operator;

(10) The signature of each producer sharing an interest in the proceeds of the contract additional peanuts on the farm;

(11) The signature of the handler or the authorized agent of the handler;

(12) A prohibition against changing the price;

(13) The following statement by the handler regarding compliance with regulations:

"I agree that I will export, crush, or otherwise dispose of the peanuts delivered under this contract as provided in 7 CFR Part 1446, Subpart—Peanut Warehouse Storage Loans and Handler Operations for the 1966 through 1990 Crops.";
and

(14) The following statement regarding immediate buyback sales:

"The parties to this contract agree that additional peanuts may not be purchased for domestic use under the 'immediate buyback' provisions of the regulations found under 7 CFR Part 1446 until all of the contract additional peanuts that were contracted from the farm number shown on this contract have been delivered as determined by the County ASC Committee."

(b) *1986 Contract approval.* Notwithstanding the preceding provisions and for the 1986 crop only, the county committee may, in accordance with instructions of the Executive Vice President of CCC, approve a contract submitted by July 31, 1986, if the contract conforms to the requirements for the 1985 crop, provided, that the contract contain a final price and a prohibition against the disposition of contract additional peanuts for domestic edible or seed use, and provided further, that if it is determined that the contract does not contain sufficient specificity regarding the prohibition against the use of the peanuts for immediate buyback, an addendum may be filed to correct that deficiency. The addendum must be filed with the county office by September 1, 1986, and, unless the Executive Vice President agrees otherwise, the addendum may only address the prohibition against the use of the peanuts for immediate buyback.

§ 1446.108 Final contract price.

In order for a contract to be approved by the county committee, the contract price shall be:

(a) Expressed in such a manner that a third party may determine that the actual price of the peanuts without a need for additional negotiations; and

(b) Set at a level that is not lower than the additional loan rate for the type peanuts involved in the sale.

§ 1446.109 Adjusting the letter of credit.

(a) *Adjusting the letter of credit to reflect TKC obligation on final delivery.*

Except for increasing the letter of credit in accordance with § 1446.111 of this subpart for transfers of farmers stock peanuts, and except for any adjustment in the initial amount of the letter of credit required by § 1446.106 (d) and (e) of this subpart, the letter of credit may not be adjusted otherwise until January 31 of the calendar year following the year in which the peanuts were produced. Such adjustment shall reflect the final TKC export obligation for the farmers stock peanuts delivered to the handler.

(b) *Adjusting the letter of credit for acceptance proof of disposition.* The handler shall deliver to the association satisfactory evidence as described in § 1446.123 of this subpart, to verify that contract additional peanuts have been exported or otherwise disposed of in accordance with the provisions of this subpart. On January 31, of the calendar year following the year in which the peanuts were produced, and on March 31, May 31, and monthly thereafter, the association may reduce the letter of credit by an amount representing the quantity of peanuts for which acceptable proof of proper disposition has been presented to the extent that any potential marketing penalty on the remaining obligation is covered by a letter of credit.

(c) *Drawing against the letter of credit.* Evidence of export and disposition as described in § 1446.123 of this subpart, must be submitted no later than 30 days after the final date for export as established in § 1446.120 of this subpart, or 15 days prior to the expiration of the letter of credit, whichever occurs first. If satisfactory evidence is not presented by such date, CCC may authorize the association to draw against the letter of credit and apply the amount toward any penalty due for failure to properly dispose of or account for contract additional peanuts in accordance with this subpart. Any reduction in a letter of credit shall not compromise any penalty due CCC if the letter of credit is insufficient to cover the full amount of the penalty or prevent any redetermination of whether there has been a proper disposition and/or accounting for peanuts.

(d) *Special 1986 crop provisions.* Notwithstanding any other provisions of this section and for the 1986 crop only, the letter of credit required by this section may be filed after July 31, 1986, provided that the letter of credit is filed by August 31, 1986, or such other date that may be established by the Executive Vice President of CCC. In addition, for the 1986 crop only, the other requirements of this section which apply to letters of credit under this subpart may be waived by the Executive Vice President, to the extent determined necessary to facilitate the marketing of the 1986 crop.

§ 1446.110 Transfer of contracts prior to delivery.

(a) *Contract transfers and delivery of contracted peanuts to other handlers.* (1) If a handler is otherwise unable to perform under any contract with a producer for the purchase of additional peanuts due to conditions beyond the handler's control, the handler and the producer may agree to the delivery of the peanuts to other handlers under the terms of the original contract or under modified terms except that, the price, quantity, type, segregation or farm number as shown on the original contract may not be changed. Conditions deemed beyond the handler's control may include but are not limited to insolvency, bankruptcy, death, or destruction of warehouse facilities.

(2) If a handler does not amend the initial letter of credit within the 15 day period set by this subpart to the minimum amount required for physical supervision as set forth in § 1446.106 of this subpart, the county ASCS offices, in accordance with instructions issued by ASCS, shall notify producers that all contracts with such handler will not be approved by the county ASC committee and the producers may be given the opportunity to transfer their contracts to another handler under the terms of the original contract or under modified terms except that the price, quantity, type, segregation or farm number as shown on the original contract may not be changed.

(3) Before a transfer of a contract for additional peanuts to another handler as permitted by this section may be approved, the handler assuming the contract must amend the letter of credit to cover the total amount contracted and the amount transferred. Such transfers shall not be valid without the prior written approval of the Deputy Administrator, State and County Operations, ASCS. A transfer shall be approved by the Deputy Administrator only if it is determined by the Deputy Administrator that such transfer will not impair the effective operation of the peanut program.

(b) *Contract transfers and transfer of delivery obligations to other producers.* If a producer is unable to fully perform the terms of a contract with a handler for the purchase of additional peanuts due to conditions beyond the producer's control or other conditions as may be prescribed by CCC, the handler and the producer or his successor-in-interest may agree to a modification of the contract or to the substitution of another producer either under the original terms of the contract or modified terms that do not change the original contract price and quantity. Conditions deemed to be beyond the producer's control may include but are not limited to farm reconstitutions (combinations and divisions), insolvency, bankruptcy or death. Such modifications or transfers of contract obligations shall not be valid without the prior written approval of the Deputy Administrator, State and County Operations, ASCS. A transfer shall be approved by the Deputy Administrator only if it is determined by the Deputy Administrator that such modifications or transfers will not impair the effective operation of the peanut program. Contract modifications other than changes in producer, owner or operator, or changes prohibited by this section may be approved by the county ASCS office in accordance with instructions issued by ASCS.

§ 1446.111 Transfer of contract additional peanuts between handlers.

(a) *Liability and credit for export or crushing.* Except as permitted by this section, handlers may not (1) sell, assign or otherwise transfer liability for exporting or crushing contract additional peanuts to other handlers, or (2) sell, assign, or otherwise transfer credits for exporting or crushing contract additional peanuts to other handlers.

(b) *Transfer of farmers stock contract additional peanuts.* A one-time transfer of farmers stock peanuts may be made between the entity shown as applicant 1 and the entity shown as applicant 2 on the ASCS–1007 for the peanuts. Such transfers shall be made within the same marketing area unless approved otherwise by the association or the Deputy Administrator, State and County Operations, ASCS, and in accordance with instructions issued by CCC. Before the transfer may be approved, the receiving handler's letter of credit shall be amended by an amount that will cover the amount of peanuts transferred and the transferring handler must submit to the association for approval an application for transfer, CCC–1006, covering any proposed transfer of farmers stock peanuts. Such approval must be obtained before any physical movement of the peanuts from the buying point. No other transfer of peanuts as farmers stock peanuts after sale by the producer shall be permitted unless approved in writing by the CCC or the area association.

(c) *Peanuts for processing into products.* Handlers may transfer contract additional peanuts and the liability for the export of contract additional peanuts to a processor of peanut products. Such transfer shall be made in accordance with the provisions of § 1446.116 of this subpart.

(d) *Transfer of export credit for peanuts which have been exported.* Credit for peanuts exported under the provisions of this subpart will be given to the applicant shown on the FV-184/ Peanuts, Inspection Certificate (Peanuts), for the lot of peanuts that has been exported: Except that:

(1) If a bill of sale and a disclaimer to the credit for export is submitted with the applicable FV-184, the credit, may be claimed by the person to whom the peanuts were sold.

(2) If documentation of export for a lot of peanuts other than the one purchased for export is submitted, credit may be given only if the FV-184 and sales contract for the original lot is included with the documentation for the lot subsequently exported.

(3) In addition to the other documentation required by this subpart, handlers operating under physical supervision must submit the applicable CCC-1006 for the lot of peanuts sold and for the lot of peanuts exported, if different from the lot sold.

§ 1446.112 Inspection of contract additional peanuts.

The type and quality of each lot of contract additional peanuts delivered under contract shall be determined by the Federal-State Inspection Service when such peanuts are delivered by a producer. The inspection shall include determinations of:

(a) The total kernel content export obligation as well as the amount of sound mature kernels and sound split kernels in each lot in accordance with instructions issued by CCC; and

(b) The per pound value of the peanut kernels in each lot.

§ 1446.113 Purchase of additional peanuts for domestic edible use.

(a) *"Immediate buyback" purchase.* Except as provided in paragraph (b) of this section or as the Executive Vice President of CCC shall direct, a handler shall have the right to purchase additional peanuts during harvest season from the association for domestic edible use at buying points owned or controlled by such handler at prices equal to 100 percent of the quota loan value of such peanuts plus a charge to cover all costs incurred with respect to such peanuts for inspection, warehousing, shrinkage, and other expenses. Such "immediate buyback" purchases as are described in the preceding sentence may be made only from the association to which and only on the date on which the peanuts were delivered by the producer as collateral for a price support loan. The "immediate buyback" purchase shall be valid and accepted by the association only if the marketing card (ASCS-1002) is stamped or otherwise designated "eligible for buyback." The handler shall:

(1) Act for the association by advancing to the producer price support from CCC funds for the peanuts at the additional loan rate;

(2) Pay his own funds to the producer for any agreed premiums for the delivery of such peanuts by the producer to the handler; and

(3) Forward to the association a check payable to CCC from his own funds for the peanuts in an amount equal to the quota loan value of the peanuts as well as any handling charges. The check and applicable ASCS-1007 record will identify the peanuts as additional peanuts that may be used for domestic edible use and those documents must be transmitted to the association (as evidenced by a postmark) unless CCC otherwise approves, not later than the third workday (excluding Saturdays, Sundays, and Federal holidays) following the day the peanuts were inspected. Subject to offsets, such receipts will be credited to the additional loan pool for such peanuts.

(b) *Prohibition of "immediate buyback" sales.* (1) Notwithstanding the provisions of paragraph (a) of this section, additional peanuts may not be purchased from a farm under the "immediate buyback" provisions of this section until all of the peanuts contracted for export or crushing on such farm have been delivered. A producer's marketing card will not be stamped or otherwise designated eligible for immediate buyback until the producer for the farm number as shown on the contract has delivered the total amount contracted on such farm and the producer's marketing card shows a zero balance for contract additional peanuts;

(2) Under procedures issued by CCC and notwithstanding paragraph (b)(1) of this section, immediate buybacks otherwise prohibited in (b)(1) may be permitted by CCC in cases where there is more than one producer on a farm provided, that such producer has not shared in the additional peanuts for which there is a contract and did not otherwise participate in such contract as determined by the association. If additional peanuts are purchased under this section before the marketing card is stamped or otherwise designated eligible for immediate buyback the producer and handler shall be jointly and severally liable for a penalty to be assessed in accordance with § 1446.144 of this subpart for using additional peanuts in the domestic market or under any other provisions of that section that may apply.

(3) The balance shown on the marketing card for contract additional peanuts shall determine the eligibility for immediate buyback. Agreements between handlers and producers to void the contract submitted to the Secretary for approval shall not reduce the balance shown on the producer's marketing card for contract additional peanuts.

(c) *Purchase of quota and additional peanuts subsequent to delivery.* After delivery by producers to the association and under terms and conditions established by the association and CCC, handlers may purchase for domestic edible use quota or additional peanuts from the loan pool. The minimum price for such purchases shall be the applicable carrying charges plus: (1) Not less than 105 percent of the quota loan rate adjusted for quality of the peanuts if paid for not later than December 31 of the marketing year; or (2) not less than 107 percent of the quota rate adjusted for quality value if paid for after December 31 of the marketing year.

§ 1446.114 Recordkeeping requirements for contract additional peanuts.

All contract additional peanuts acquired by a handler shall be disposed of by domestic crushing or exportation to an eligible country in accordance with the conditions set forth in this subpart. Handlers shall ensure that any additional peanuts exported are evidenced by appropriate documentation as required by § 1446.123 of this subpart. All handler's records shall be subject to a review by the association, CCC, ASCS, or other representatives of the Secretary of Agriculture to determine compliance with the provisions of this subpart. Refusal to make such handler's records available to the association, CCC, ASCS, or other representative of the Secretary or the failure of such records to establish such disposition by the handler shall constitute prima facie evidence of noncompliance with this subpart for which a penalty may be assessed against the handler in accordance with § 1446.144 of this subpart. Reviews of handler records shall be made by the association in accordance with guidelines established by CCC.

§ 1446.115 Excess marketing of quota peanuts.

A handler will be subject to a penalty for noncompliance if it is determined by CCC that the handler marketed from any crop, for domestic edible use, a larger quantity, or higher grade or quality of peanuts, than could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of quota farmers stock peanuts purchased by the handler during the applicable marketing year and those purchased for domestic edible use in accordance with the provisions of § 1446.113 of this subpart, regardless of whether additional peanuts were acquired by the handler. In such case, the handler will be obligated to pay a penalty equal to 140 percent of the basic quota support rate with respect to that quantity of farmers stock peanuts which are determined by CCC to be necessary to produce the excess quantity or grade or quality of peanuts sold, except that such penalty may be reduced in appropriate circumstances under the terms set forth in §1446.145 of this subpart, which also prescribes the manner in which penalties will be assessed.

§ 1446.116 Processing additional peanuts into products.

(a) *Application for purchase of additional peanuts.* Processors of peanut products may apply to handle additional peanuts without physical supervision provided the processor:

(1) Agrees in writing to export additional peanuts in such quantities and in accordance with such procedures as are specified by this subpart;

(2) Provides the association with a letter of credit, in accordance with instructions issued by the Executive Vice President of CCC, in an amount equal to 140 percent of the national average quota support rate announced by the Secretary, times the quantity of peanuts shown on the applicable CCC-1006's; and

(3) Provides the association a description of the type of product that will be processed, the type of containers, size of containers, and the standard peanut processing yield for the product. Such application shall be made to the area marketing association. Upon verification of product yield by the association, approval of the transfer and approval of the letter of credit, a product export obligation will be established on association ledgers and the processor notified of the quantity of product export obligation.

(b) *Proof of export.* The processor shall submit to the association proof of export of like kind, as determined by the association, as that required for exports of peanuts under nonphysical supervision by this subpart. Upon receipt of acceptable documentation the association may reduce the letter of credit in accordance with this subpart and instructions issued by ASCS.

(c) *Applicability of regulations.* By agreeing to the provisions of this section, a processor is deemed to have agreed that the provisions of this subpart such as access to facilities, fraud, liens against peanuts on which penalty is due, and any other provisions that apply to a handler of additional peanuts shall apply to the processor and the processor shall be considered a handler for purposes of applying the penalty provisions of this subpart.

§ 1446.117 Marketing peanut products made from contract additional peanuts.

A handler will be subject to a penalty for noncompliance if it is determined by CCC that the handler marketed in the United States, including its territories and possessions and the District of Columbia, Canada, or Mexico any peanut products made from any crop of contract additional peanuts. In such case, the handler will be obligated to pay a penalty equal to 140 percent of the basic quota support rate with respect to that quantity of farmers stock peanuts which are determined by CCC to be necessary to produce the quantity of peanut products sold, irrespective of whether the products were produced domestically or outside the United States. Such peanuts shall be considered as not exported. Further, except for buyback or other purchases of loan peanuts for which use for domestic edible use is explicitly permitted by this subpart the marketing of any additional peanuts for domestic edible use shall be subject to a penalty at 140 percent of the quota support rate, irrespective of whether the peanuts have been previously exported and then reentered.

§ 1446.118 Storage requirements for contract additional peanuts prior to processing.

(a) *Commingled storage.* Handlers may commingle quota loan, quota commercial, additional loan, and contract additional peanuts. Contract additional peanuts, must be inspected on a farmers stock basis and accounted for on a dollar-value basis less a one time adjustment for shrinkage for each crop as permitted by § 1446.130(b) for physical supervision and § 1446.138 for nonphysical supervision.

(b) *Penalties.* Failure to store peanuts, account for peanuts or handle peanuts in accordance with the requirements of this section or other requirements of this subpart shall constitute noncompliance with this subpart for which a penalty may be assessed in accordance with § 1446.144 of this subpart; provided further that for handlers operating under the physical supervision requirements of this subpart, if there is a deficiency in the dollar value of peanuts graded out of commingled storage as contract additional peanuts, the handler shall be liable for a penalty in accordance with § 1446.144 for this subpart, for failing to export the amount of contract additional peanuts determined to be necessary to create such a deficiency.

§ 1446.119 Disposal of meal contaminated by aflatoxin.

All meal produced from peanuts which are crushed domestically and found to be unsuitable for use as feed because of contamination by aflatoxin shall be disposed of for nonfeed purposes only. If the meal is exported, the export bill of lading shall reflect the analysis of the lot by inclusion and appropriate completion thereon the following statement showing aflatoxin content as parts per billion (PPB):

"The shipment consists of lots of meal which contain aflatoxin ranging from _____ to _____ PPB and averaging _____ PPB."

§ 1446.120 Disposition date.

(a) *Final disposition date.* Handlers shall dispose of all contract additional peanuts by August 31 of the year following the calendar year in which the crop was grown.

(b) *Extension of final disposition date.* Unless otherwise specified by the Executive Vice President of CCC, the final disposition date may be extended by the association to November 30 of the year following the calendar year in which the crop was grown if, by August 31, the handler:

(1) Furnishes information to the association showing that the contract additional peanuts have been milled and positive lot identified;

(2) Furnishes the association with the name and location of the storage facilities where the contract additional peanuts are physically located; and

(3) Provides a written statement to the association agreeing to pay for any supervision costs which are incurred with respect to contract additional peanuts after August 31.

(c) *Disposition following an extension.* The identical contract additional peanuts with respect to which a request for extension of the final disposition date has been granted by the association or CCC must be disposed of

by export or crushing in conformity with the requirements of this subpart.

(d) *Penalties.* The failure of a handler to dispose of contract additional peanuts by the final date for disposition in accordance with the requirements of this subpart shall constitute noncompliance with the provisions of this subpart for failure to export or crush contract additional peanuts. In such cases, a penalty may be assessed against the handler in accordance with the provisions of § 1446.144 of this subpart.

§ 1446.121 Access to facilities.

A handler, by entering into contracts to receive contract additional peanuts or any person or firm otherwise receiving contract additional peanuts, shall be deemed to have agreed that authorized representative(s) of CCC and the association:

(a) May enter and remain upon any of the premises of the handler when such peanuts are being received, shelled, cleaned, bagged, sealed, weighed, graded, stored, milled, blanched, crushed, packaged, shipped, sized, processed into products, or otherwise handled;

(b) May inspect such peanuts and the oil, meal, and other products thereof; and

(c) May inspect the premises, facilities, operations, books, and records of the handler to the extent necessary to determine that such peanuts have been handled in accordance with this subpart.

§ 1446.122 Export provisions.

(a) *Export to a U.S. Government agency.* Except for the exportation of raw peanuts to the military exchange services for processing outside the United States, the export of peanuts in any form by or to a United States Government agency shall not be considered as export to an eligible country, but shall instead be considered a domestic edible use of such peanuts. However, sales to a foreign government which are financed with funds made available by a United States agency, such as the Agency for International Development or CCC, will not be considered sales to a United States Government agency if the peanuts are not purchased by the foreign buyer for transfer to a United States agency.

(b) *Export to an eligible country.* All contract additional peanuts which are not crushed domestically (including approved processing into flakes) and which are eligible for export shall be exported in accordance with the provisions of this subpart to an eligible country as peanuts or peanut products.

(c) *Penalty.* Contract additional peanuts or peanut products made from contract additional peanuts diverted or transshipped to any country other than an eligible country shall not be credited in the handler's favor against the handler's export obligation. Such handler shall be liable for a penalty as specified in § 1446.144 of this subpart, for failure to export unless the handler provides acceptable proof that additional peanuts or peanut products made from such peanuts have been exported to an eligible country and have not otherwise been transshipped or diverted.

§ 1446.123 Evidence of export.

(a) *Certified statement.* The handler shall provide a statement signed by the handler specifying the name and address of the consignee and certifying that the peanuts have been exported.

(b) *Documentation.* In addition to the statement required in paragraph (a) of this section and not later than 30 days after the final disposition date provided in § 1446.120 of this subpart, the handler shall furnish the association or CCC with the following documentary evidence of the export of peanuts or peanut products:

(1) *Export by water.* In the case where any of the peanuts are exported by water, a nonnegotiable copy of an onboard ocean bill of lading, signed on behalf of the carrier, showing the date and place of loading onboard vessel, the weight of the peanuts, peanut meal, or products exported, the name of vessel, the name and address of the U.S. exporter, and foreign buyer and the country of destination. Peanut meal which is unsuitable for use as feed because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this subpart.

(2) *Export by rail or truck.* In the case where any of the peanuts were exported by rail or truck, a copy of the bill of lading showing the weight of the peanuts or peanut meal or products exported, supplemented by a copy of the Shipper's Export Declaration or, in the alternative, a U.S., Canadian or Mexican customs document which shows entry into the country or other documentation acceptable to the association. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this subpart.

(3) *Export by air.* In the case where any of the peanuts were exported by air, a copy of the airway bill showing the weight of the peanuts, peanut meal, or peanut products exported, the consignee and shipper, and other documentation acceptable to the association. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the airway bill in accordance with this subpart.

(c) *Penalties.* Failure to obtain required supervision from the association, or failure to handle and dispose of contract additional peanuts in accordance with the provisions of this section, shall constitute noncompliance with the provisions of this subpart for which a penalty may be assessed in accordance with § 1446.144 of this subpart.

§ 1446.124 Prohibition on importation or reentry of contract additional peanuts.

No exported contract additional peanuts nor peanut products made from additional peanuts shall be reentered in commercial quantities by anyone into the United States in any form. If contract additional peanuts or peanut products made from such peanuts are reentered into the United States, the handler importing such peanuts products shall be liable for a penalty assessed in accordance with § 1446.144 of this subpart, for reentering contract additional peanuts. Liability for liquidated damages arising out of purchases of loan additional peanuts (peanuts purchased from inventories of additional peanuts pledged as price support loan collateral) are governed by the terms of announcements issued by CCC describing the terms and conditions of such sales. All penalties shall be in addition to such liquidated damages as may be due to CCC.

§ 1446.125 Loss of peanuts.

Should a handler suffer a loss of peanuts as a result of fire, flood or any other condition beyond the control of the handler, the portion of such loss allocated to contracted additional peanuts shall as determined by the association shall not be greater than the portion of the handler's total peanut purchases for the year attributable to contract additional peanuts purchased for export by the handler during such year. Such attribution shall take into account any dispositions of peanuts that occurred prior to the loss of the peanuts for which the attribution is made.

§ 1446.126 Selecting supervision.

(a) *General.* Except for disposition of contract additional peanuts by crushing or processing into products or as otherwise required by the regulations of this subpart, supervision of the handling of contract additional peanuts shall not be required if a handler, by July 31 of the year in which the peanuts were produced or by a date otherwise

approved by the Executive Vice President of CCC submits to the association a written statement agreeing to comply with the regulations of this subpart applicable to nonphysical supervision.

(b) *Choice.* Choice of supervision method shall be made by July 31. Unless the Executive Vice President of CCC agrees otherwise, no change of selection may be made after July 31 of the relevant crop year except that with respect to the 1986 crop such a change may be made prior to the commencement of shelling by the handler. If such change is made for the 1986 crop, the handler shall adjust the letter of credit accordingly.

(c) *Costs of supervision.* Regardless of the supervision option chosen, the handler shall bear the cost of supervision.

§§ 1446.127—1446.129 [Reserved]

Physical Supervision

§ 1446.130 Storage requirements under physical supervision.

(a) *Commingled storage.* For handlers operating under physical supervision, contract additional peanuts placed in commingled storage must be accounted for on a dollar value basis less a one time adjustment for shrinkage for each crop equal to 4.0 percent of the dollar value of the peanuts for Virginia-type peanuts and 3.5 percent for all other peanut types. However, if such contract additional peanuts are graded out and accounted for prior to February 1 of the year following the year in which the peanuts were grown, the adjustment of the dollar value for shrinkage shall be 3.5 percent for Virginia-type and 3.0 percent for all other peanuts.

(b) *Identity preserved storage.* Contract additional peanuts stored "identity preserved" shall be inspected as farmers stock peanuts and settled on a dollar value basis. The handler shall receive, store, and otherwise handle such peanuts in accordance with good commercial practices and instructions provided by CCC.

§ 1446.131 Physical supervision of contract additional peanuts.

(a) *Supervision.* Handlers who do not select nonphysical supervision as set forth in § 1446.126 of this subpart or handlers who fail to submit a letter of credit sufficient for nonphysical supervision as required by this subpart, but otherwise submit a letter of credit adequate for physical supervision shall be deemed to have agreed to the physical supervision provisions of this subpart. Such handler must arrange for and the association shall conduct onsite supervision of domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, milling, blanching, weighing, and shipping.

(b) *Final dates for scheduling supervision.* Contract additional farmers stock peanuts shall be scheduled for supervision by the association during the normal marketing period but not later than July 31 of the calendar year following the year in which the crop was grown, unless prior approval of a later date has been made by the association.

(c) *Notifying the association.* Before moving or processing any contract additional peanuts, the handler or person deemed as an agent of the handler shall notify the association of the time such operation will begin and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working days of advance notice to the association so that supervision can be arranged.

(d) *Processing.* The identical contract additional peanuts shall be shelled or otherwise milled, crushed, or shelled and crushed under supervision of the association as a continuous operation separate from other peanuts. Shelled peanuts shall be identified with positive lot identity tags before being stored and moved for crushing, exportation, or processing into peanut products to be exported. Except as otherwise authorized by the association, such peanuts will be considered as having been crushed or exported only if positive lot identity has been maintained in the following manner:

(1) *Transportation.* The peanuts shall be transported from storage locations in a covered vehicle such as a truck or railroad car. The vehicle shall be sealed unless the association determines that identity of the peanuts can be maintained without sealing.

(2) *Storage.* Farmers stock peanuts shall be stored in separate building(s) or bin(s) which can be sealed or which the association otherwise determines will satisfactorily maintain lot identity. Milled peanuts shall be stored in such a manner that the association, under procedures issued by CCC, may make periodic inventory verification of the contract additional lots that are shown on association records as being in the storage facility. The handler shall furnish the association with the name and location of the storage facilities where the contract additional peanuts are located.

(e) *Expense charged to handlers.* All supervision costs shall be borne by handlers.

§ 1446.132 Disposition of contract additional peanuts under physical supervision.

Except under the provisions of § 1446.133 of this subpart, the identical contract additional farmers stock peanuts and milled peanuts shelled under supervision of the association shall be disposed of in accordance with the provisions of this subpart applicable to contract additional peanuts and to physical supervision by domestic crushing or by export to an eligible country as follows:

(a) All kernels may be crushed domestically under supervision of the association representative; or

(b) All kernels may be exported for crushing, if fragmented; or

(c) All kernels that meet the edible export standards may be:

(1) Exported and the remaining kernels crushed domestically under supervision of the association representative, or

(2) Exported for crushing, if fragmented; or

(d) All of the peanuts may be exported as farmers stock peanuts, provided that such peanuts meet edible export standards and be positive lot identified; or

(e) The peanuts may be exported to an eligible country as peanut products if such products are produced domestically in accordance with instructions issued by CCC; or

(f) The peanuts may be exported as milled or inshell peanuts if they meet the edible export standards; or

(g) The peanuts may be considered exported or crushed if it is determined by CCC that such peanuts have been destroyed or otherwise made unsuitable for any commercial purpose.

§ 1446.133 Substitution of quota and additional peanuts.

(a) *Substitution of quota peanuts which have been exported*—(1) *Farmers stock peanuts.* With prior notification to and approval of the association, farmers stock quota peanuts of the same crop, type, quality, and area may be exported in place of such additional peanuts.

(2) *Milled peanuts.* With prior notification to and approved by the association peanuts milled under supervision of the association may be used to replace, in domestic edible use, quota peanuts of the same crop, type, area, and grade as recognized by the Peanut Administrative Committee (PAC) for edible quality grades, which have been previously exported. Such grades shall be established at the time the peanuts are milled and the lot is formed unless the Executive Vice President of

CCC directs otherwise in writing. The quota peanuts exported, for which substitution is requested, must have been positive lot identified and otherwise handled as additional peanuts.

(b) *Use of additional peanuts for domestic edible uses prior to substitution.* Additional peanuts may be used for domestic edible use with prior notification and approval of the association and upon presentation to the association of an irrevocable letter of credit in an amount which is not less than 140 percent of the quota support rate for any portion of the lot for which substitution has not been approved in accordance with paragraph (a) of this section. Such letter of credit is in addition to the letter of credit required under §§ 1446.106 and 1446.109 of this subpart as a condition for approval of contracts for additional peanuts. Such additional letter of credit for substitution shall be issued in a form and by a bank which is acceptable to CCC. The handler shall subsequently deliver to the association satisfactory evidence that a like amount of quota peanuts of appropriate grade has been handled as contract additional peanuts and exported in accordance with these regulations. Such evidence must be submitted no later than 30 days after the final date for export as established in § 1446.120 of this subpart, or 15 days prior to the expiration of the letter of credit, whichever comes first. If satisfactory evidence is not presented by such date, CCC may authorize the association to draw against the letter of credit the full amount of the penalty which would otherwise be due for failure to dispose of contract additional peanuts in accordance with this subpart.

(c) *Time limitations.* Substitution may not be requested or approved with respect to contract additional peanuts for which the final disposition date has been extended in accordance with § 1446.120(b) of this subpart.

§ 1446.134 Domestic sale or transfer of contract additional peanuts.

The exact additional peanuts or quota peanuts shelled as contract additional peanuts and formed into lots under supervision must be exported or disposed of as set forth in this subpart. The transfer of an export obligation is not permitted under the physical supervision requirement of this subpart and the export obligation shall remain with the handler who took delivery of the contract additional peanuts from a producer.

§§ 1446.135-1446.137 [Reserved]

Nonphysical Supervision

§ 1446.138 Storage requirements under nonphysical supervision.

For handlers operating under nonphysical supervision, contract additional peanuts placed in commingled storage must be accounted for on a TKC basis less a one time adjustment for shrinkage for each crop and for all peanut types equal to one-half of one percent (0.5 percent) of the total kernel content of the poundage obtained as contract additional peanuts.

§ 1446.139 Disposition requirements under nonphysical supervision.

In selecting nonphysical supervision a handler agrees to export to an eligible country the total kernel content of the peanuts of the same crop year and of like type, purchased by the handler as contract additional peanuts less, a one-time adjustment for shrinkage, equal to the following quantities:

(a) Sound split kernel peanuts in an amount equal to twice the poundage of such peanuts purchased by the handler as additional peanuts;

(b) Sound mature kernel peanuts in an amount equal to the poundage of such peanuts purchased by the handler as additional peanuts less the amount of sound split kernel peanuts purchased by the handler as additional peanuts;

(c) The remaining quantity of total kernel content of peanuts purchased by the handler as additional peanuts and not crushed domestically in accordance with the provisions of § 1446.140(c) of this subpart.

§ 1446.140 Disposition credits under nonphysical supervision.

(a) *Export credits for sound mature kernel peanuts.* The credits for sound mature export kernels of the same crop year and of like type may be earned for:

(1) The total pounds in a lot of exported peanuts which meet or exceed U.S. Standard grade for U.S. No. 1; or

(2) The poundage of a lot which meets PAC grades for whole kernels with splits or a lot of U.S. No. 2 Virginia excluding the portion of such lots attributable to splits as determined in paragraph (b)(2) of this section.

(b) *Export credits for sound splits.* Credits for sound splits of the same crop year and of like type may be earned for:

(1) The total pounds in a lot of exported peanuts which meet the U.S. Standard grade for splits; or

(2) The portion of a lot which meets PAC grades for whole kernel grades with splits or of a lot which meets U.S. Standard grade for U.S. No. 2 Virginia that is attributable to splits.

(c) *Export credits for all other kernels.* The balance of a TKC obligation less SMK and SS peanuts, from peanuts of the same crop year and of like type shall be disposed of in accordance with the provisions of this subpart applicable to contract additional peanuts and to nonphysical supervision by domestic crushing or by export to an eligible country as follows:

(1) The kernels may be crushed domestically under supervision of the association representative; or

(2) The kernels may be exported for crushing, if fragmented; or

(3) The kernels that meet Peanut Administrative Committee (PAC) grade for "other edible quality" may be exported and the remaining kernels: (i) Crushed domestically under supervision of the association representative, or (ii) exported for crushing, if fragmented; or

(4) The peanuts may be exported as farmers stock peanuts, provided that such peanuts meet PAC grade for other edible quality and be positive lot identified; or

(5) The peanuts may be exported to an eligible country as peanut products if such products are produced domestically in accordance with instructions issued by CCC; or

(6) The peanuts may be exported as milled or inshell peanuts if they meet PAC grade for other edible quality export standards; or

(7) The peanuts may be considered exported or crushed if it is determined by CCC that such peanuts have been destroyed or otherwise made unsuitable for any commercial purpose.

(d) Any quantity of SMK or SS kernels exported in excess of the amount required to be exported may be credited toward the export requirement for the remaining kernels.

(e) *Export credits for peanuts processed into products for export.* To receive disposition credit for contract additional peanuts used in products for export, the shelled peanuts must be identified with positive lot identity tags before being moved for processing and meet any additional standards as may be specified by the association in accordance with instructions of the Executive Vice President of CCC. Such peanuts must meet U.S. Standard grade for edible peanuts. The peanuts shall be processed under supervision of the association unless the handler selects to process such peanuts under the provisions of § 1446.116 of this subpart.

(f) *Blanching exception.* Notwithstanding any other provision of this subpart and to the extent permitted by the Executive Vice President of CCC, a blancher may be allowed credit for the

preblanching weight of peanuts blanched for export if the blanching and crushing of the residue is conducted under supervision of agents of the CCC or the association.

(g) *Export credits for inshell peanuts.* With respect to peanuts exported inshell, in accordance with instructions from the Executive Vice President of CCC, SS credits may be earned on the portion of the total kernel content of the lot that are SS, and SMK credits may be earned for the balance of the total kernel content of the lot that are not SS. Such inshell peanuts must meet edible export standards.

§§ 1446.141-1446.143 [Reserved]

Penalties

§ 1446.144 Assessment of penalties against handlers.

(a) *Penalty liability.* A handler shall be subject to the penalty for violations of the provisions of this subpart including, but not limited to, any or all of the following violations:

(1) Failure to register as a handler of peanuts as set forth in § 1446.77 of this subpart.

(2) Failure to examine and make entries on marketing card as required by §§ 1446.79 and 1446.80.

(3) Failure to keep or make available records in accordance with §§ 1446.83, 1446.84, 1446.85, 1446.86, or 1446.114 of this subpart; or

(4) Marketing excess quota peanuts, as set forth in § 1446.115 of this subpart, including any marketing of reentered contract additional peanuts or peanut products made from contract additional peanuts as set forth in § 1446.117 of this subpart, or any marketing of imported peanut products made from additional peanuts purchased from the inventory of CCC loan collateral peanuts; or

(5) Failure to store and account for contract additional peanuts in accordance with the requirements of this subpart.

(6) Failure to export or dispose of contract additional peanuts in accordance with the requirements of this subpart or failure to export or crush such peanuts by the final disposition date as established in § 1446.120 of this subpart; or

(7) Failure to obtain supervision of or to handle contract additional peanuts as required by this subpart; or

(8) Reentering or importing contract additional peanuts or products made from such peanuts as prohibited by § 1446.124 of this subpart; or

(9) Failure to comply with other provisions of this subpart.

(b) *Penalty rate and amount.* The penalty rate for any violation of this subpart shall be equal to 140 percent of the basic quota support rate for the applicable crop year for the type of peanuts involved in the violation times the quantity of peanuts:

(1) Handled by an unregistered handler; or

(2) Not properly entered on the marketing card; or

(3) For which records have not been properly kept or made available; or

(4) Marketed as excess quota peanuts; or

(5) Not properly stored; or

(6) Not properly disposed of or exported; or

(7) Not properly supervised or handled in accordance with the regulations of this subpart; or

(8) Imported as contract additional peanuts; or

(9) Determined by CCC to have been necessary to produce the quantity of peanut products made from contract additional peanuts imported and sold in the United States; or

(10) Involved in such other violation of this subpart as may occur.

(c) *Notice of assessment.* A handler shall be notified in writing of the assessment of a penalty by a CCC contracting officer. Such notice shall state the basis for the assessment of the penalty, and shall advise the handler of the handler's appeal rights under this subpart.

(d) *Interest liability.* The person liable for payment or collection of any penalty provided for in these regulations shall be liable also for interest thereon at a rate per annum equal to the rate of interest which was charged the CCC by the Treasury of the United States on the date such penalty became due. The date on which the penalty became due shall be the date on which the penalty was first assessed.

(e) *Applicability.* The provisions of this section are in addition to other remedies provided for by this subpart or other provisions of law.

§ 1446.145 Appeals and requests for reduction.

(a) *Appeals.* A handler who is dissatisfied with a penalty assessed by the CCC contracting officer pursuant to this subpart may file a written request for reconsideration of the assessment. Such request must be made to the CCC contracting officer no later than 15 days after the handler receives the notice of assessment. If the handler is dissatisfied with the determination of the contracting officer with respect to the reconsideration, the handler may appeal such determination by submitting a written notice of appeal to the Executive Vice President of CCC, within 15 days of the issuance of such determination by the contracting officer. Except as otherwise provided herein, such appeal shall be conducted in accordance with the appeal regulations set forth in Part 780 of this title.

(b) *Request for reductions of penalty*—(1) *Form of request.* A handler may request a reduction in the amount of the penalty which has been assessed. Such a request shall be treated as an appeal under paragraph (a) of this section, and must comply with the requirements of that paragraph. The handler may simultaneously contest liability for the penalty and, in the alternative, request that the penalty be reduced.

(2) *Reduction criteria.* The penalty assessed under this subpart may be reduced if the Executive Vice President of CCC, determines that:

(i) The violation for which the penalty was assessed was minor, or was done unintentionally or unknowingly by the handler; and

(ii) That the handlers made a good faith effort to comply fully with the terms and conditions of the program; and

(iii) That a reduction in the amount of the penalty would not impair the effective operation of the price support program for peanuts.

(3) *Reduction limits.* The penalty shall not be reduced to less than an amount which is equal to 40 percent of the basic quota support rate for the applicable crop year times the quantity of peanuts involved in the violation except that the amount of any penalty resulting from the failure to export contract additional peanuts shall not be reduced. There shall be no limitation on the amount by which an assessment of liquidated damages may be reduced.

§ 1446.146 Liens against peanuts on which a penalty is due.

(a) *Lien on peanuts.* Until the amount of any penalty which is imposed in accordance with this subpart is paid, a lien shall exist in favor of the United States for the amount of the penalty. Such lien shall apply on the peanuts with respect to which such penalty is incurred and on any other peanuts purchased or otherwise acquired in the same or subsequent marketing year in which the person liable for payment of such penalty has an interest.

(b) *Debt record.* The lien specified in subparagraph (a) shall be deemed to attach at the time the penalty is entered on the debt records which shall be maintained for this purpose by the associations.

(c) *List of peanut marketing penalty debts.* Each area marketing association shall maintain a debt record for all handlers indicating the amounts due from each handler. This list will be available for examination upon written request to the area association by any interested party.

§ 1446.147 Schemes and devices.

If the Executive Vice President of CCC or the association, with approval of the Executive Vice President, determines that a handler has knowingly adopted any scheme or device which tends to defeat the purpose of the regulations of this subpart or has made any fraudulent representation, or has misrepresented any fact affecting a program determination, such handler will be subject to a penalty which shall be assessed in such manner as is determined will correct for such scheme, or device fraud or misrepresentation.

Paperwork Reduction

§ 1446.148 Paperwork Reduction Act assigned numbers.

The information collection requirements contained in these regulations (7 CFR Part 1446) have been approved by the Office of Management and Budget (OMB) in accordance with 44 U.S.C. Chapter 35 and have been assigned OMB control numbers 0560-0003, 0560-0006, 0560-0014, 0560-0015.

Signed at Washington, DC on December 9, 1986.

Vern Neppl,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-27953 Filed 12-9-86; 4:40 pm]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 109

Employment Authorization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule will authorize employment for an alien who is a member of a nationality group who has been granted blanket extended voluntary departure. This change will grant a benefit to these individuals.

EFFECTIVE DATE: December 12, 1986.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536. Telephone: (202) 633-3048.

For Specific Information: Margo F. Creelman, Central Office Detention and Deportation, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536. Telephone: (202) 633-2328.

SUPPLEMENTARY INFORMATION: With a view toward more efficient management, the Service is granting employment authorization to aliens who are members of nationality groups who have been granted blanket extended voluntary departure.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is unnecessary because the rule provides a benefit to the public.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 109

Administrative practice and procedures, Aliens, Employment.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

PART 109—EMPLOYMENT AUTHORIZATION

1. The authority citation for Part 109 continues to read as follows:

Authority: Secs. 103, 245(c) of the Immigration and Nationality Act, 8 U.S.C. 1103, 1255(c).

2. Section 109.1, a new paragraph (a)(7) is added to read as follows:

§ 109.1 Classes of aliens eligible.

* * * * *

(a) * * *

(7) An alien who is a member of a nationality group who has been granted blanket extended voluntary departure.

* * * * *

Dated: October 24, 1986.

John F. Shaw,

Acting Associate Commissioner, Enforcement.

[FR Doc. 86-27880 Filed 12-11-86; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 212

Documentary Requirements; Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: In compliance with Pub. L. 99-239, this rule amends Service policy as it relates to the admission into the United States, its territories and possessions of citizens of the Republic of the Marshall Islands and the Federated States of Micronesia, formerly entities of the Trust Territory of the Pacific Islands.

EFFECTIVE DATE: December 12, 1986.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Inmigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536. Telephone: (202) 633-3048

For Specific Information: Ellis B. Linder, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-2745.

SUPPLEMENTARY INFORMATION: The Trust Territory of the Pacific Islands, created in 1947, under U.S. Administration, with oversight exercised by the United Nations has been terminated with respect to the Republic of the Marshall Islands and the Federated States of Micronesia. The two aforementioned governments voted to approve the Compact of Free Association, a multi-faceted document defining political, economic, military, and other terms of this relationship with the United States. Section 141 of the Compact provides that citizens of the Republic of the Marshall Islands and the Federated States of Micronesia (Freely Associated States) will be entitled to enter, reside and be enployed in the United States without regard to paragraphs (14), (20) and (26) of section 212(a) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182 (14), (20) and (26)).

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment will improve Service procedures and eliminate any uncertainties and inconvenience for the aliens involved.

In accordance with 5 U.S.C. 605(b), the

Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of section 1(b) E.O. 12291.

List of Subjects in 8 CFR Part 212

Administrative practice and procedure, Documentary requirements, Reporting and record keeping requirements.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for Part 212 continues to read as follows:

Authority: Secs. 103 and 212 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1182).

2. Section 212.1 is amended by revising the heading and paragraph (d) to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(d) *Citizens of the Freely Associated States, formerly Trust Territory of the Pacific Islands.* Citizens of the Republic of the Marshall Islands and the Federated States of Micronesia may enter into, lawfully engage in employment, and establish residence in the United States and its territories and possessions without regard to paragraphs (14), (20) and (26) of section 212(a) of the Act pursuant to the terms of Pub. L. 99-239. Pending issuance by the aforementioned governments of travel documents to eligible citizens, travel documents previously issued by the Trust Territory of the Pacific Islands will continue to be accepted for purposes of identification and to establish eligibility for admission into the United States, its territories and possessions.

* * * * *

Dated: November 18, 1986.

R. Michael Miller,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-27879 Filed 12-11-86; 8:45 am]

BILLING CODE 4410-10-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 620 and 621

Disclosure to Shareholders; Accounting and Reporting Requirements; Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule; correction.

SUMMARY: The Farm Credit Administration (FCA) is correcting errors in the final rule which amended provisions of Part 620 relating to annual reports to shareholders and Part 621 relating to nonaccrual loans. The final rule appeared in the **Federal Register** on November 21, 1986 (51 FR 42084).

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22101-5090.

SUPPLEMENTARY INFORMATION: On November 10, 1986, the FCA Board adopted amendments to § 620.3(j)(13)(i) relating to contents of the annual report to shareholders and § 621.2(a)(15)(iv) redefining criteria for nonaccrual loans.

A technical correction is made to § 620.3(j)(3)(i) by reinserting the word "that" at the end of the paragraph, which was inadvertently deleted in the amendment.

The amendment, as published on November 21, 1986 (51 FR 42084), incorrectly placed two paragraphs in § 621.2. Therefore, § 621.2 is corrected by relocating paragraphs (a)(11)(iii) and (a)(15)(iii) to the appropriate location within the regulation. In addition, a technical correction is made to § 621.2(a)(15)(iii) to clarify that a severely past due loan is expected from nonaccrual status only if it is adequately secured *and* in process of collection *and* fully compatible. This change makes the regulation consistent with the description of the action in the preamble that accompanied the initial publication of the regulation on March 13, 1986.

It should also be noted that the annual report disclosure requirements of § 620.3(j) apply only to loans made by an institution to family members and affiliates of persons who serve as officers or directors of the same institution.

The Board also restates and further clarifies its determination that, as a transitional matter, the FCA will not consider as a violation of § 620.3(j) the omission of a disclosure that would otherwise be required with respect to a senior officer or director who resigns or otherwise leaves office prior to July 1, 1987. For example, if disclosure with respect to an officer or director would otherwise be required in an annual report for the fiscal year ended December 31, 1986, such disclosure will not be required if the officer or director makes a binding commitment to the institution, prior to the time the report is printed and distributed to shareholders, to resign effective on or before July 1, 1987. The resignation of an officer or director after July 1, 1986, will not provide a basis for excluding from an annual report information for which disclosure is required under § 620.3(j).

PART 620—DISCLOSURE TO SHAREHOLDERS

Subpart A—Annual Reports to Shareholders

1. On page 42086, third column, amendatory instruction for § 620.3, the reference to "(j)(3)(i)" should have read "(j)(3)(i) introductory text" and the paragraph is correctly revised to read as follows:

§ 620.3 Contents of the annual report to shareholders.

* * * * *

(j) * * *

(3) * * *

(i) To the extent applicable, state that the institution has had loans outstanding during the last full fiscal year to date to its senior officers and directors, their immediate family members, and any organizations with which such senior officers or directors are affiliated that:

* * * * *

PART 621—ACCOUNTING AND REPORTING REQUIREMENTS

Subpart A—Accounting Requirements

2. Section 621.2, paragraphs (a)(11)(iii) and (a)(15)(iii), as published on November 21, 1986 (51 FR 42084), are correctly revised as follows:

§ 621.2 Definitions.

(a) * * *

(11) A debt shall be considered in process of collection only if all of the following conditions are met:

* * * * *

(iii) The plan is documented in the loan file and the institution and the borrower(s) have acted substantially in accordance therewith.

* * * * *

(15) * * *

(iii) The loan is severely past due and is not adequately secured, in process of

collection, and fully collectible with respect to all principal and interest.

* * * * *

Kenneth J. Auberger,

Secretary, Farm Credit Administration Board.

[FR Doc. 86-27893 Filed 12-11-86; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 376

[Docket No. 60850-6150]

Visitation Requirements for Computers; ECCN 1565A

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: On January 14, 1986, Export Administration issued a final rule (51 FR 1493-1495) that, among other regulatory changes, revised the requirements for periodic visits and reports on computer systems described by Advisory Note 12 of entry 1565A on the Commodity Control List, a listing of those commodities subject to Department of Commerce export controls.

This rule adds a provision to the Export Administration Regulations stating that the newer, more liberal visitation requirements effective on January 14, 1986 may apply to digital computers and equipment shipped before that date *if* the equipment meets the technical guidelines set forth in § 376.10(a)(3) of the Regulations.

EFFECTIVE DATE: This rule is effective December 12, 1986.

FOR FURTHER INFORMATION CONTACT: Raj Dheer, Computer Systems Tech Center, Export Administration, Telephone: (202) 377-0708.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

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

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

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

4. This rule involves a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This collection has been approved by the Office of Management and Budget under control number 0625-0038.

List of Subjects in 15 CFR Part 376

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 376 of the Export Administration Regulations (15 CFR Parts 368-399) is amended as follows:

PART 376—[AMENDED]

1. The Authority citation for Part 376 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. Section 376.10 is amended by designating the existing Note as Note 1 and adding a Note 2 in paragraph (a)(3), reading as follows:

§ 376.10 [Amended]

Note.—Validated license applications approved before January 14, 1986 were subject to visitation requirements more stringent than those set forth in § 376.10(a)(3). However, such applications are now eligible for the newer visitation requirements *if* the equipment meets the technical guidelines set forth in paragraph (a)(3) of this section.

Dated: December 8, 1986.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86-27889 Filed 12-11-86; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Virginia State Plan; Limited Resumption of Concurrent Federal Enforcement

AGENCY: Department of Labor, Occupational Safety and Health Administration (OSHA).

ACTION: Limited resumption of concurrent Federal enforcement.

SUMMARY: This document provides notice that concurrent Federal enforcement authority under section 18(e) of the Occupational Safety and Health Act of 1970 (hereinafter called "the Act") (29 U.S.C. 667(e)) will be exercised with respect to general schedule inspections resulting in denials of entry under the Virginia State Plan, effective October 1, 1986. The resumption of concurrent enforcement is intended as a temporary measure to allow Virginia to complete its efforts undertaken to legislatively address current difficulties in the area of right of entry.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-8148.

Background

Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under section 18 of the Act for the evaluation and monitoring of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. In States which have received initial plan approval under section 18(c), the Act provides that OSHA "may, but shall not be required to" exercise federal enforcement authority concurrently with the State. 29 U.S.C. 667(e); *See Environmental Improvement Division* v. *Marshall*, 661 F.2d 860 (10th Cir. 1981). OSHA regulations at 29 CFR 1954.3 provide guidelines and procedures for

the exercise of discretionary Federal enforcement authority with regard to Federal standards in issues covered under an approved State plan. In accordance with § 1954.3(b) of those regulations, Federal enforcement will not be exercised as to occupational safety and health issues covered under a State plan when a State is found to be "operational". A State is considered to be operational under § 1954.3(b) when it has provided for the following requirements: enacted enabling legislation; approved State standards; a sufficient number of qualified enforcement personnel; and provisions for the review of enforcement actions. In determining whether and to what extent a State plan meets the operational guidelines, the results of evaluations conducted under 29 CFR Part 1954 are taken into consideration. Once this determination has been made under § 1954.3(f) of this chapter, a notice of the determination of the operational status of a State plan as described in an agreement setting forth Federal-State responsibility is to be published in the **Federal Register.**

On September 28, 1976, notice of approval of the Virginia 18(b) plan was published in the **Federal Register** (41 FR 42655). On June 11, 1982, notice was published in the **Federal Register** (47 FR 25323) of the determination that Virginia had met the conditions for operational status and of the signing of an agreement effective October 1, 1981, between Robert F. Beard, Jr., Commissioner of the Virginia Department of Labor and Industry, and David H. Rhone, Regional Administrator.

Right of Entry Under the Virginia State Plan

Section 18(c) of the Act requires, as a condition of federal plan approval, that a State provide "adequate legal authority" for enforcement of safety and health standards. Adequate legal authority must include "a right of entry and inspection of all workplaces . . . which is at least as effective as that provided in section 8 [of the Federal Act], and includes a prohibition on advance notice of inspections." 29 U.S.C. 667(c) (3), (4).

The Virginia Occupational Safety and Health Act includes right of entry provisions similar to the Federal right of entry set forth in section 8 of the Act. *Compare* Va. Code § 40.1-6(8) (a), (b) *with* 29 U.S.C. 657(a) (1), (2). The basic Fourth Amendment requirements made applicable to Federal OSHA inspections by the Supreme Court in *Barlow's, Inc.* v. *Marshall,* 436 U.S. 307 (1981) are, of course, applicable as well to occupational safety and health inspections conducted by Virginia under its plan. The *Barlow's* decision held that, absent employer consent, a warrant is required to conduct OSHA workplace inspections. Such warrants may be issued upon a showing of administrative probable cause if a magistrate finds, based upon the warrant application, that the inspection was scheduled in accordance with "reasonable legislative or administrative standards." *Id.,* 387 U.S. at 538.

Although statutory authorities for State and federal inspections are similar and the general Fourth Amendment limitations on federal OSHA and the State are identical, recent Virginia court decisions involving the procedures which employers may use in challenging warrants after they have been issued, have resulted in significant procedural changes which have affected the State's ability to enforce general schedule inspection warrants.

The specific issue is whether, after the issuance by a judge or magistrate of a warrant authorizing a general schedule safety or health inspection of a particular workplace, the employer may, in a suit to invalidate the warrant, obtain a court-ordered discovery of agency information, documents and testimony which were not part of the application submitted to the magistrate who issued the warrant. In cases involving challenges to federal OSHA inspection warrants the courts have held such discovery improper under the "four corners" rule established by the U.S. Supreme Court in *Franks* v. *Delaware,* 438 U.S. 154 (1978). The rule provides that when the issuance of a search warrant by a lower court or magistrate is challenged, the reviewing court is restricted to considering the information actually presented to the issuing judge. Except in the rare instance where the challenging party can show deliberate falsehood or reckless disregard for the truth by the warrant applicant, the reviewing court may consider only the matter contained within the "four corners" of the warrant application. U.S. Courts of Appeals for three federal circuits have recognized the applicability of the four corners rule to cases involving OSHA general schedule inspection warrants. *Donovan* v. *Mosher Steel Co.* 791 F.2d 1535 (11th Cir. 1986) (pet. for cert. filed, 55 V.S.L.W. 3279); *Donovan* v. *Hackney, Inc.,* 769 F.2d 650 (10th Cir., 1985); *Brock* v. *Gretna Machine and Ironworks, Inc.,* 769 F.2d 1110 (5th Cir. 1895).

In *Mosher Steel-Virginia* v. *Teig,* 327 S.E. 2d 87 (Va., 1985) the Virginia Supreme Court, in a declaratory judgment suit by an employer seeking to invalidate a general schedule inspection warrant issued by a Virginia magistrate, held that the four corners rule would not be applied in cases involving *Barlow's* type OSHA inspection warrants. The court held *Franks* v. *Delaware* inapplicable to challenges to Virginia warrants obtained under the "reasonable legislative or administrative standards" test for probable cause derived from *Barlow's.* (327 S.E. 2d at 92-3.) The Virginia Supreme Court's opinion suggested, but did not expressly hold that Virginia employers challenging general schedule warrants would be entitled to discovery, including the release of confidential scheduling information and "establishment lists" of workplaces likely to be inspected in the future. In a recent declaratory judgment suit filed by the same employer in connection with a subsequent general schedule inspection warrant, the Circuit Court for the City of Roanoke, relying upon the 1985 *Teig* decision, has ordered State officials responsible for enforcing the plan to submit to discovery requested by the employer, which includes the submission of data underlying the Virginia inspection plan, deposition of officials responsible for developing and implementing the inspection scheduling plan, and the release to the employer of various confidential scheduling material including establishment lists. *Mosher Steel-Virginia* v. *Amato,* Chancery No. 86-04354 (filed June 20, 1986).

As previously discussed, in order to retain full operational status as well as continued Federal plan approval, a State must provide effective enforcement of safety and health standards, including a right of entry at least as effective as that exercised by OSHA under section 8 of the Act. States must have legal authority to obtain and execute inspection warrants on terms and conditions comparable to those afforded OSHA under Federal law. As various Federal courts have noted, there is "no reason to impose cumbersome discovery procedures on the enforcement of an OSHA inspection warrant" which by law must be "executed without delay and without prior notice." *Donovan* v. *Hackney, supra,* 769 F.2d at 653, citing *Barlow's, Inc., supra,* 436 U.S. at 316. To permit such proceedings "invite(s) misuse of the warrant process." *Donovan* v. *Mosher Steel, Inc. supra,* 791 F.2d 1535. Moreover, the release to employers of establishment lists or other employer-identifying data would in most instances violate the Act's prohibition of advance notice of OSHA inspections. 29 U.S.C. 666(f). Title 40.1 of the Labor

Laws of Virginia contains a similar prohibition.

Exercise of Concurrent Federal OSHA Authority in Virginia

The Assistant Secretary has determined that, as a result of recent judicial rulings in Virginia, the Virginia State plan is unable at present to meet all of the criteria for full operational status. Under such circumstances 29 CFR 1954.3(c)(3) provides for reinstatement of the appropriate level of concurrent Federal enforcement activity to ensure occupational safety and health protection to employees. Paragraph 4(i) of OSHA's operational status agreement with Virginia and 29 CFR 1952.372 ("Level of Federal Enforcement in Virginia") provides that in situations where the State is "temporarily unable to exercise its enforcement authority fully or effectively", limited resumption of Federal enforcement authority may occur. Section 4(j) of the agreement further provides for publication of a notice in the **Federal Register** of resumed federal enforcement authority, with a description of the reasons for any limitations upon such authority. (Federal enforcement authority may be exercised prior to the appearance of this notice in the **Federal Register.**)

The current deficiency in the Virginia plan is limited in scope to situations in which the State is required to seek and enforce general schedule inspection warrants. Because OSHA monitoring indicates that the state is satisfactorily administering its occupational safety and health program in all other respects; because the State has indicated that it will no longer pursue general schedule warrants in order to avoid being subjected to discovery demands; and since it is seeking remedial action, OSHA has accordingly limited its resumption of concurrent authority. By letter dated October 1, 1986 from Linda R. Anku, Regional Administrator, to Carol Amato, Commission of the Virginia Department of Labor and Industry, OSHA notified the State that concurrent Federal enforcement authority would be exercised in instances in which the State is denied entry for a general schedule inspection. With respect to further denials of entry, OSHA will confer with the State on a case-by-case basis and may defer to the State where it appears that entry can be achieved by a showing of specific probable cause. The letter noted that such State action may facilitate immediate entry but is not a satisfactory substitute for general schedule warrant authority.

The limited resumption of concurrent federal enforcement is intended to supplement the State's enforcement activities to ensure maximum worker protection. The resumption of concurrent enforcement is intended as a temporary measure to allow the State to complete the efforts it has undertaken to legislatively address current difficulties in the area of right of entry. The present **Federal Register** notice describes temporary Federal action which is within the existing terms of OSHA's operational status agreement with Virginia as codified at 29 CFR 1952.372. Accordingly, this notice neither modifies that agreement nor requires any revision to 29 CFR Part 1952.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1954, Secretary of Labor's Order No. 9-83 (43 35736))

Signed at Washington, DC, this 9th day of December, 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 86-27917 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Permanent Regulatory Program; Approval of State Program Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of program amendments submitted by the State of Maryland as modifications to its permanent regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments consist of revisions to the Code of Maryland Regulations (COMAR) at 08.13.09.07 concerning coal exploration activities and revisions to Title 7 of the Annotated Code of Maryland with regard to the State obtaining written consent of landowners for access across certain private property not otherwise accessible from a public road to inspect open-pit mining or prospecting operations. These revisions are intended to satisfy the requirements of 30 CFR 920.16(a-d) as set forth in the November 18, 1985 **Federal Register** notice (50 FR 47379-47386). The amendments also contain statutory revisions concerning notification by the operator of any changes in officers, directors, principal owners or resident agents of any coal mining operation, and authorization of any financial institution or Federal credit union in the State to issue a certificate of deposit in lieu of a corporate surety as security for a performance bond.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director has determined that the amendments meet the requirements of SMCRA and the Federal regulations. The Federal rules at 30 CFR Part 920 codifying decisions concerning the Maryland program are being amended to implement this action.

This final rule is being made effective December 12, 1986, in order to expedite the State program amendment process and encourage States to conform their program to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: December 12, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On March 3, 1980, OSMRE received a proposed regulatory program from the State of Maryland. This proposed program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FY 79430-79451). On February 18, 1982, following the submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214-7217).

On January 13, August 7, October 10, November 9, 1984 and June 5, 1985, the State of Maryland submitted proposed statutory and regulatory modifications to its approved permanent regulatory program. With certain exceptions, the Director of OSMRE approved the proposed amendments on November 18, 1985 (50 FR 47379-47386).

II. Submission of Program Amendments

On December 23, 1985, and January 14, 1986, the State of Maryland submitted statutory and regulatory revisions to its permanent regulatory program (Administrative Record Nos. MD 331 and 332). The proposed amendments are intended to satisfy all of the requirements of 30 CFR 920.16 (a), (b), (c) and (d). The amendments correct

the following deficiencies in Maryland's regulatory program:

(a) Maryland's program at COMAR 08.13.09.07 does not provide that coal exploration activities on lands designated unsuitable be approved by the regulatory authority as required by 30 CFR 772.12;

(b) Maryland's program at COMAR 08.13.09.07G(5)(a) does not prohibit the disturbance of habitats of unusually high value and critical habitats of endangered or threatened species during coal exploration activities as required by 30 CFR 815.15(a);

(c) The State program at COMAR 08.13.09.07G(5)(k) does not require the use of sediment control structures during coal exploration activities as provided by 30 CFR 815.15(i); and

(d) The Maryland program at section 7-507(c)(1) of Title 7 of the Annotated Code of Maryland does not provide for right of entry in accordance with section 517 of SMCRA and 30 CFR 840.12.

In addition to the proposed statutory provisions regarding right of entry, the December 23, 1985, submission also contained statutory revisions concerning notification by the operator of any change in control or ownership of the operation, replacement of water supplies, and restoration of offsite damage due to mining (Administrative Record No. MD 331).

On January 24, 1986, Maryland submitted proposed legislation which would authorize any financial institution in the State to issue a certificate of deposit in lieu of a corporate surety for a revegetation bond (Administrative Record No. MD 330).

On February 21, 1986, OSMRE acknowledged receipt of the amendments and requested that Maryland reconsider the submissions. Because some of the proposed legislation was expected to be amended prior to adoption and one bill was not likely to be approved by the Maryland General Assembly, OSMRE requested that only the right of entry legislation be considered with the proposed coal exploration regulations (Administrative Record No. MD 333).

On March 18, 1986, Maryland concurred with OSMRE's request of Feburary 21, 1986, and withdrew all proposed legislation except that concerning right of entry (Administrative Record No. MD 334).

On May 15, 1986, Maryland submitted to OSMRE revised House Bill 540 as adopted by the General Assembly and signed by the Governor on May 13, 1986. House Bill 540, which was initially submitted to OSMRE on December 23, 1985, was amended by the General Assembly and contains provisions regarding right of entry and notification by the operator of changes in officers, directors, principal owners or resident agents of the operator. Senate Bill 256, which was initially submitted to OSMRE on January 24, 1986, provides for the issuance of a certificate of deposit in lieu of a corporate surety. It also passed the General Assembly with amendments and was signed by the Governor on May 13, 1986. Proposed legislation that was submitted earlier concerning restoration of offsite damage due to mining and replacement of water supplies failed to pass the General Assembly (Administrative Record No. MD 336).

On August 8, 1986, OSMRE published a notice in the **Federal Register** which announced receipt of the proposed modifications and requested public comments on their adequacy (51 FR 28800-28801). The public hearing that was scheduled for August 28, 1986, was not held because no one expressed an interest in participating in the hearing. The public comment period closed on September 8, 1986 (Administrative Record No. MD 337).

III. Director's Findings

In accordance with 30 CFR 732.17 and SMCRA, the Director finds that the proposed modifications, as submitted by Maryland on January 14, 1986, and May 15, 1986, meet the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

1. As discussed in Finding 1 of the November 18, 1985 **Federal Register** notice, the Director found that section 7-507(c)(1) of Title 7 of the Annotated Code of Maryland was less stringent than section 517 (a) and (b)(3) of SMCRA and less effective than 30 CFR 840.12 in that the Maryland law required the Department and its agents to obtain the prior consent of the property owner or a court order for entry upon private property to inspect any open-pit mining or prospecting operation which was not accessible from a public road. The Director determined that such right of entry requirements had the potential for impairing the enforcement of Maryland's surface mining law and were contrary to the provisions and intent of SMCRA.

On December 23, 1985, Maryland submitted proposed legislation which contained revisions to the State's right of entry requirements for prospecting and open-pit mining operations (Administrative Record No. MD 331).

On May 15, 1986, Maryland submitted House Bill 540 which contained statutory revisions similar to those initially submitted to OMSRE on December 23, 1985. House Bill 540 was amended and adopted by the General Assembly and later signed by the Governor on May 13, 1986. House Bill 540 contains revisions to sections 7-505(g), 7-507(c)(1) and 7-514(C) of Maryland's Annotated Code regarding right of entry. Revised section 7-507(c)(1) provides that the Department and its authorized agents, without advance notice and upon presentation of appropriate credentials, shall have the right of entry to, on or through any open-pit mining or prospecting operation or any premises in which any record required to be maintained under this subtitle are located to determine conditions of safety and to assure compliance with the provisions of this subtitle, any rules and regulations promulgated under it and any permit conditions, and shall have access to and the right to copy any records, reports, or other information, and to inspect any monitoring equipment or method required by the Department under this subtitle. Maryland amended section 7-514(C) to require that for the purpose of performing duties under this section, the Department, its agents, employees, and contractors may enter on private property for access to and reclamation of any land affected by open-pit mining or prospecting. Entry onto private property for purposes other than reclamation of land in situations with a forfeited bond may not be undertaken without prior consent of the property owner. If, after real and bona fide effort, the consent of the property owner cannot be secured, the Department may apply to a court where the property or any part of it is located for an order directing the entry be permitted. "Bona Fide Effort" shall include either 30 days advance notice in writing by certified mail, return receipt requested, to the last known address of the property owner or posting notice on the property not less than 30 days in advance, or other requirements as the court may deem appropriate. The Department shall reimburse the landowner or lessee who is farming the property for agricultural products destroyed or damaged by the Department's agents, employees, or contractors. The Department shall be responsible for any other damages that may be incurred as a result of entry onto private property. The State also amended the provisions of section 7-505(g) to clarify that landowner consent is only required for an applicant to enter on land to be affected by open-pit coal mining and reclamation operations.

Because the State has amended sections 7-505(g), 7-507(c)(1) and 7-514(C) to provide the Department and its agents right of entry on or through any open-pit mining or prospecting operation in the State for inspection and

reclamation purposes and section 7-514(C) only requires a landowner's prior consent for entry onto private property for purposes other than the reclamation of bond forfeited lands, the Director finds that the State's right of entry requirements at sections 7-505(g), 7-507(c)(1) and 7-514(C). of Title 7 of the Annotated Code of Maryland. are no less stringent than section 517 (a) and (b)(3) of SMCRA and no less effective than 30 CFR 840.12. Accordingly, the adoption of the proposed amendments by the State will satisfy the requirements of 30 CFR 920.16(d).

2. On May 15, 1986, the State of Maryland submitted House Bill 540 which also contained provisions regarding notification of changes in officers directors, principal owners or resident agents of coal mining operations. Section 7-504(D) of Maryland's Annotated Code was amended to require all licensed operators to notify the Department within thirty days of any changes in officers, directors, principal owners, or resident agents. The amendment provides procedures for notifying the State of such changes and provides for suspension or revocation of any operator's license for failure to comply with the requirement.

The Director finds that the revised provisions of section 7-504(D) of Title 7 of the Annotated Code of Maryland which require a licensed coal operator to notify the Department of any change in officers, directors, principal owners or resident agents of the operator are no less stringent than those of sections 507 and 510 of SMCRA.

3. On May 15, 1986, Maryland also submitted Senate Bill 256. Senate Bill 256 passed the General Assembly with amendments and was signed by the Governor on May 13, 1986. Senate Bill 256 amended section 7-506(c) of Title 7 of the Annotated Code of Maryland. The revised provisions authorize certain open-pit or strip mine operators to obtain from any financial institution or Federal credit union in the State a certificate of deposit in lieu of a corporate surety as security for a performance bond. The certificate of deposit issued in an amount equivalent to the required bond must be accompanied by a written agreement of the financial institution or Federal credit union to pay on demand to the State the certificate of deposit in the event of bond forfeiture.

In accordance with section 509(b) of SMCRA, 30 CFR 800.21(a)(4) provides that the regulatory authority cannot accept an individual certificate of deposit in an amount in excess of $100,000 or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Association. Also, 30 CFR 800.21(a)(3) provides that the regulatory authority must require that certificates of deposit be made payable to or assigned to the regulatory authority. If assigned, the regulatory authority must require the banks issuing the certificates to waive all rights of setoff or liens against those certificates. Currently, COMAR 08.13.09.15F(2)(d) provides that the Bureau of Mines may only accept an individual certificate of deposit for a denomination not in excess of $40,000 or up to the maximum insurable amount as determined by F.D.I.C. and F.S.L.I.C., and COMAR 08.13.09.15F(2)(e) provides that the Bureau of Mines must require the bank issuing the certificates of deposit to waive all rights of setoff or liens which it has or might have against the certificates, and agree in writing that the certificates are payable in full to the Bureau upon demand.

Since Maryland limits the amount of an individual certificate of deposit pledged as a performance bond to $40,000 or to the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and requires the issuing institution to waive all rights of setoff or liens against such certificates, the Director finds that section 7-506(c) of Title 7 of the Annotated Code of Maryland is no less stringent than section 509(b) of SMCRA.

4. As discussed in Finding 6 of the November 18, 1985 **Federal Register** notice, the Director found that COMAR 08.13.09.07 did not require coal exploration activities on lands designated unsuitable for mining be approved by the regulatory authority as provided by 30 CFR 772.12.

On January 14, 1986, Maryland submitted a proposed amendment to its prospecting regulations at COMAR 08.13.09.07A, B and C (Administrative Record No. MD 332). The proposed revisions require that any person planning coal exploration activities on lands designated unsuitable for mining must obtain written approval from the regulatory authority prior to prospecting. Such approval is needed regardless of whether or not the proposed prospecting activities may substantially disturb the land surface or whether only 200 tons of coal are to be removed.

Since COMAR 08.13.09.07A, B and C contain specific approval standards for allowing coal exploration activities to be conducted on lands designated unsuitable for mining, the Director finds that the revised provisions of COMAR 08.13.09.07A, B and C are no less effective than those of 30 CFR 772.12. Accordingly, the adoption of the proposed amendment by the State will satisfy the requirements of 30 CFR 920.16(a).

5. As discussed in Finding 7 of the November 18, 1985 **Federal Register** notice, the Director found that COMAR 08.13.09.07G(5) and 08.13.07.26 did not prohibit the disturbance of habitats of unusually high value and critical habitats of endangered or threatened species during coal exploration activities as required by 30 CFR 815.15(a).

On January 14, 1986, Maryland submitted a proposed revision to its regulations at COMAR 08.13.09.07G(5)(a). The revision provides that habitats of unique or unusually high value for fish, wildlife and other related environmental values and critical habitats of threatened or endangered species identified pursuant to the Endangered Species Act of 1973 shall not be disturbed during prospecting activities.

Since COMAR 08.13.09.07G(5)(a) prohibits the disturbance of fish and wildlife habitats of unique or unusually high value and critical habitats of threatened or endangered species during coal exploration activities, the Director finds that COMAR 08.13.09.07G(5)(a) is no less effective than 30 CFR 815.15(a). Accordingly, the adoption of the proposed amendment by the State of Maryland will satisfy the requirements of 30 CFR 920.16(b).

6. As discussed in Finding 8 of the November 18, 1985 **Federal Register** notice, the Director found that COMAR 08.13.09.07G(5)(k) did not require the use of sediment control structures during coal exploration activities as provided by 30 CFR 815.15(i). OSMRE advised the State that surface drainage from coal exploration activities must be passed through a siltation structure unless the disturbed area is small and the operator demonstrates that sediment control measures are not necessary for drainage from the disturbed area to meet effluent limitations and applicable water quality standards.

On January 14, 1986, the State submitted a revision to its coal exploration regulations at COMAR 08.13.09.07G(5)(k). The proposed revision provides that prospecting shall be conducted in a manner which minimizes disturbance of the prevailing hydrologic balance and shall include sediment control measures such as those required in the regulatory program.

The Director finds that COMAR 08.13.09.07G(5)(k) is no less effective than 30 CFR 815.15(i), and the adoption of the amendment by the State will satisfy the requirements of 30 CFR 920.16(c).

7. On January 14, 1986, the State of Maryland submitted a revision to its regulations at COMAR 08.13.09.07G(2). Maryland's approved prospecting regulations limited each prospecting pit to not more than one acre in size. Under the revised regulations, the size of each prospect opening will be limited to not more than one acre, including topsoil and spoil storage area.

The Director finds that COMAR 08.13.09.07G(2) is no less effective than 30 CFR 815.15.

IV. Public Comments

Public comments on Maryland's proposed program revisions were solicited by OSMRE on August 8, 1986 (51 FR 28800–28801). No public comments were received on the revisions.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were solicited from various Federal agencies on the proposed amendments. Of those Federal agencies invited to comment, acknowledgments were received from the Department of Agriculture, Soil Conservation Service; the Department of Labor, Mine Safety and Health Administration; the Department of the Army, Corps of Engineers; the Environmental Protection Agency; and the Department of the Interior, Bureau of Land Management. Except for the Corps of Engineers, none of the agencies identified any deficiencies in the proposed program amendments.

The Corps of Engineers provided some comments on the State's proposed revisions to its coal exploration regulations. The Corps of Engineers indicated that the adoption of the proposed modifications to the State's coal exploration regulations could possibly preclude the use of nationwide permits in Maryland as provided by 33 CFR 330.5(a)(21) and would likely require individual permits. That agency concluded that while the adoption of the modifications may reduce regulation at the State level, it could increase Federal regulation for those activities involving discharges into waters of the United States (Administrative Record No. MD 358). After reviewing the requirements of 33 CFR 330.5(a)(21) the Director believes that the Corps of Engineers has misinterpreted the proposed amendment. If Maryland does not adopt the proposed modifications to its coal exploration regulations, the Director believes that the Corps of Engineers may have to issue individual permits for coal exploration activities involving discharges into wetlands or other waters of the United States. However, since the State intends to adopt proposed modifications which will resolve its existing program deficiencies, the Corps of Engineers should be, able to use its nationwide permit in Maryland for coal exploration activities.

V. Director's Decision

Based on the above findings, the Director is approving the statutory and regulatory modifications submitted by the State of Maryland on May 15, 1986, and January 14, 1986, respectively. Since the proposed amendments meet the requirements of SMCRA and 30 CFR Chapter VII, the Director is removing all of the required amendments codified at 30 CFR 920.16 and reserving the section. The Federal rules at 30 CFR Part 920 are being amended to implement this decision.

VI. Procedural Requirements

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 8, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB. The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

4. Environmental Protection Agency (EPA) Concurrence

On September 16, 1980, EPA transmitted its initial written concurrence on the Maryland permanent regulatory program as it relates to air and water quality standards under the authority of the Clean Air Act, as amended, (42 U.S.C. 1857 et seq.) and the Clean Water Act, as amended, (33 U.S.C. 1251 et seq.). Since the revised program modifications submitted by Maryland on January 14, 1986, and May 15, 1986, do not involve changes to State air and water quality standards that EPA has already reviewed and approved, it was not necessary to obtain EPA concurrence on those revisions.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 5, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

PART 920—MARYLAND

30 CFR Part 920 is amended as follows:

1. The authority citation for Part 920 continues to read as follows:

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

2. Section 920.15(d) is revised to read as follows:

§ 920.15 Approval of amendments to state regulatory program.

* * * * *

(d) The following statutory and regulatory amendments submitted to OSMRE on January 14, 1986, and May 15, 1986, are approved effective [Insert Publication Date]: Maryland's proposed modifications at COMAR 08.13.09.07A, B and C as submitted on January 14, 1986, for approving coal exploration activities on lands designated unsuitable for mining; the proposed revision to COMAR 08.13.09.07G(5)(a) as submitted on January 14, 1986, which prohibits the disturbance of fish and wildlife habitats of unique or unusually high value and critical habitats of threatened or endangered species during coal exploration activites; the proposed revision to COMAR 08.13.09.07G(5)(k) as submitted on January 14, 1986, which requires the use of sediment control structures during coal exploration activities; the proposed modification to COMAR 08.13.09.07G(2) as submitted on January 14, 1986, which limits the size of each prospect opening to one acre, including topsoil and spoil storage area; the statutory revisions to sections 7–505(g), 7–507(c)(1) and 7–514(C) of Title 7

of the Annotated Code of Maryland as submitted on May 15, 1986, providing for right of entry to, on or through open-pit mining or prospecting operations; the revision to section 7-504(D) of Title 7 of the Annotated Code of Maryland as submitted on May 15, 1986, which requires a licensed coal operator to notify the State of a change in officers, directors, principal owners or resident agents of the operator; and the statutory revision to section 7-506(c) of Title 7 of the Annotated Code of Maryland as submitted on May 15, 1986, which authorizes any financial institution or Federal credit union in the State to issue a certificate of deposit in lieu of a corporate surety as security for a performance bond. This approval is contingent upon the promulgation of the proposed regulations by the State in the identical form submitted for the Director's review and approval.

3. 30 CFR 920.16 is revised to read as follows:

§ 920.16 Required program amendments.

Pursuant to 30 CFR 732.17, Maryland is required to submit for OSMRE's approval the following proposed program amendments by the dates specified.

[FR Doc. 86-27923 Filed 12-11-86; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 175

[Docket No. HM-184D; Amdt. No. 171-91, 175-39]

Implementation of the ICAO Technical Instructions

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate the continued transport of hazardous materials in international commerce by aircraft when the 1987-88 edition of the ICAO Technical Instructions becomes effective on January 1, 1987, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Elaine Economides, International Standards Coordinator, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; telephone, (202) 366-0656.

SUPPLEMENTARY INFORMATION: On August 18, 1986, the RSPA published a notice (Docket HM-184D, Notice No. 86-5) in the **Federal Register** [51 FR 29503] which requested public comment on the need to amend the Hazardous Materials Regulations (HMR) in order to take account of the 1987-88 edition of the ICAO Technical Instructions.

Three commenters responded to Notice 86-5. Following full consideration of the comments received, the proposals contained in the notice are being adopted as proposed. Two of the commenters supported the proposed rulemaking in full. The third commenter supported the actions proposed in the notice, but recommended a further action be taken to ensure compliance with the additional requirements of the HMR relative to liquids that are toxic by inhalation.

The third commenter, E.I. du Pont de Nemours & Company (Du Pont), noted that the HMR at § 171.11(d)(7) requires persons who transport hazardous materials in accordance with the ICAO Technical Instructions to comply with all U.S. variations indicated therein. Du Pont further pointed out that there is currently no U.S. variation filed with ICAO requiring transporters to comply with the provisions of the HMR relative to the description, marking, labelling and packaging of liquids which are toxic by inhalation when transporting such liquids to, from or within the United States by air. In view of this apparent gap in coverage, Du Pont recommended: (1) That the U.S. file such a variation with ICAO and (2) that 49 CFR 171.11(d) be amended to include a new paragraph setting forth the requirement for compliance with the inhalation toxicity requirements as a specific condition for transporting hazardous materials in accordance with the ICAO Technical Instructions.

Subsequent to receipt of this comment, the United States filed a variation to the ICAO Technical Instructions specifically requiring persons who transport liquids toxic by inhalation to, from or within the United States by air to comply with the additional provisions of the HMR relative to the description, marking, labeling and packaging of such liquids. This variation will be published in the Addendum to the 1987-88 edition of the ICAO Technical Instructions. While recognizing that paragraph (d)(7) of 49 CFR 171.11 requires the transport of hazardous materials under the ICAO Technical Instructions to be performed in conformance with all U.S. variations thereto, RSPA agrees with Du Pont that specific reference to the additional requirements for liquids with poison inhalation hazards would clearly show U.S. shippers their legal obligations. This would be consistent with the inclusion in § 171.11 of references to other regulatory requirements which are the subject of U.S. variations from the ICAO Technical Instructions.

Du Pont suggested specific language for the new paragraph (d)(9) of § 171.11, but this necessarily differed from the phrasing of the new U.S. variation on liquids toxic by inhalation. Therefore, while adopting Du Pont's recommendation that § 171.11(d) be amended, RSPA has adopted text which more closely follows the phrasing of the new variation.

Administrative Notices

A. Executive Order 12991

The RSPA has determined that the effect of this final rule will not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures [44 FR 11034] and requires neither a Regulatory Impact Analysis, nor an environmental impact statement under the National Environmental Policy Act [49 U.S.C. 4321 *et seq.*]. A regulatory evaluation is available for review in the Docket.

B. Impact on Small Entities

Based on limited information concerning the size and nature of entities likely to be affected, I certify that this rule will not, as promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Incorporation by reference.

49 CFR Part 175

Hazardous materials transportation, Air Carriers.

In consideration of the foregoing, 49 CFR Parts 171 and 175 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. The authority citation for Part 171 is revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1.

2. In 171.7, paragraph (d)(27) is revised to read:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(27) International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284–AN/905 (ICAO Technical Instructions), 1987–88 edition.

* * * * *

3. In 171.11, paragraph (d)(9) is added to read as follows:

§ 171.11 Use of ICAO Technical Instructions.

* * * * *

(d) * * *

(9) When a hazardous material, which is subject to the requirements of the ICAO Technical Instructions, falls within the inhalation hazard criteria described in § 173.3a(b)(2):

(i) The shipping description must include the words "Poison-Inhalation Hazard", except that only the word "Poison" is required when the material is shipped in a combination packaging with inner packagings containing one liter or less;

(ii) The material must be packaged in accordance with the requirements of § 173.3a; and,

(iii) The package must be marked and labelled in accordance with the requirements of §§ 172.301(a) and 172.402(a)(10).

PART 175—CARRIAGE BY AIRCRAFT

3. The authority citation for Part 175 is revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1.

4. In § 175.10, the introductory text to paragraph (a)(4) and paragraph (a)(15) are revised to read as follows:

§ 175.10 Exceptions.

(a) * * *

(4) Non-radioactive medicinal and toilet articles carried by a crewmember or passenger in checked or carry-on baggage, and aerosols, with no subsidiary risk, for sporting or home use, when carried in checked baggage only, when:

* * * * *

(15) Alcoholic beverages, perfumes, colognes, and liquefied gas lighters that have been examined by the Bureau of Explosives (B of E) and approved by the Director, Office of Hazardous Materials Transportation, carried aboard a passenger-carrying aircraft by the operator for use or sale on the aircraft.

* * * * *

5. In § 175.30, in paragraph (e)(1)(ii) the period at the end of the sentence is revised to read "; or" and paragraph (e)(1)(iii) is added to read as follows:

§ 175.30 Accepting and inspecting shipments.

* * * * *

(e) * * *

(1) * * *

(iii) Not more than one package is overpacked.

* * * * *

Issued in Washington, DC, on December 8, 1986 under authority delegated in 49 CFR Part 1, Appendix A.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 86–27965 Filed 12–11–86; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 26, 36, and 96

Alaska National Wildlife Refuges, Management Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is issuing final regulations for Alaska National Wildlife Refuges (NWR). These rules further define two existing regulations and amend one other. These also remove 50 CFR 26.37 and Part 96, which were superseded by the enactment of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980 (16 U.S.C. 3101) and the subsequent development of 50 CFR Part 36. No new or additional restrictions or closures are contained in these regulations.

EFFECTIVE DATE: January 12, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. William Knauer, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, telephone (907) 786–3399, or the respective refuge manager at the address or telephone number listed below:

Refuge Manager, Alaska Maritime NWR, P.O. Box 3069, Homer, Alaska 99603, telephone (907) 235–6546

Refuge Manager, Alaska Peninsula NWR, P.O. Box 277, King Salmon, Alaska 99613, telephone (907) 246–3339

Refuge Manager, Arctic NWR, Federal Building and Courthouse, 101–12th Ave., Box 2, Fairbanks, Alaska 99701, telephone (907) 456–0250

Refuge Manager, Becharof NWR, P.O. Box 277, King Salmon, Alaska 99613, telephone (907) 246–3339

Refuge Manager, Innoko NWR, General Delivery, McGrath, Alaska 99627, telephone (907) 524–3251

Refuge Manager, Izembek NWR, Pouch 2, Cold Bay, Alaska 99571, telephone (907) 532–2445

Refuge Manager, Kanuti NWR, Federal Building and Courthouse, 101–12th Ave., Box 20, Fairbanks, Alaska 99701, telephone (907) 456–0329

Refuge Manager, Kenai NWR, P.O. Box 2139, Soldotna, Alaska 99669, telephone (907) 262–7021

Refuge Manager, Kodiak NWR, P.O. Box 825, Kodiak, Alaska 99615, telephone (907) 487–2600

Refuge Manager, Koyukuk NWR, P.O. Box 287, Galena, Alaska 99741, telephone (907) 656–1231

Refuge Manager, Nowitna NWR, P.O. Box 287, Galena, Alaska 99741, telephone (907) 656–1231

Refuge Manager, Selawik NWR, P.O. Box 270, Kotzebue, Alaska 99752, telephone (907) 442–3799

Refuge Manager, Tetlin NWR, P.O. Box 155, Tok, Alaska 99780, telephone (907) 883–5312

Refuge Manager, Togiak NWR, P.O. Box 10201, Dillingham, Alaska 99576, telephone (907) 842–1063

Refuge Manager, Yukon Delta NWR, P.O. Box 346, Bethel, Alaska 99559, telephone (907) 543–3151

Refuge Manager, Yukon Flats NWR, Federal Building and Courthouse, 101–12th Ave., Box 20, Fairbanks, Alaska 99701, telephone (907) 452–0407.

SUPPLEMENTARY INFORMATION: These final rules further define two sections and amend a third in the Management Regulations for Alaska NWRs (50 CFR Part 36). They were proposed in accordance with the requirements for public participation found in 50 CFR 36.42. The definition of off-road vehicles (ORV) is clarified to reduce confusion and to more closely conform with the definitions used by other Federal agencies.

The regulations governing the use of live standing timber for subsistence purposes is amended based on a request by the Interior Regional Council Committee in the Annual Report to the Secretary for 1983 and on field examination which showed the existing regulations to be burdensome and overly restrictive.

Certain terminology is deleted from the regulation (§ 36.21(e)) prohibiting the harassment of wildlife by aircraft to make it more consistent with the general National Wildlife Refuge System's regulation (§ 27.34).

The two rules in 50 CFR 26.37 (finalized 3/4/80) and Part 96 (finalized 12/26/78 and amended 3/14/79) were superseded by 50 CFR Part 36 and are no longer necessary. They, therefore, are removed from 50 CFR.

Corrections made in this final rule include the listing of current Office of Management and Budget (OMB) collection approval numbers and the listing of new refuge headquarters locations for permit applications and submissions.

The policy of the Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. On April 30, 1986, the proposed rule setting out these modifications was published in the **Federal Register** (51 FR 16083) and comments were solicited for 90 days. During that period and after notice in statewide and local newspapers and massive direct mailings, public hearings to receive comments were held in Anchorage, Fairbanks, Fort Yukon, and Galena, Alaska.

Responses to Comments

During the comment period, three letters were received. Substantive comments from the letters and the meetings are outlined and responded to below:

Issue 1: Three commenters expressed concern for the limited timber resources in the southern reaches of the Brooks Range and the potential impact of cutting.

Response: The Service has obtained additional data which indicates possible adverse impacts and fewer areas of timber in this area than initially suspected. Therefore, the northern limit for cutting on Arctic NWR under these regulations has been changed from "south of the divide of the Brooks Range" to "68 degrees North latitude."

Issue 2: All commenters addressed the confusion fostered by the "20 trees in 20 acres" standard. There was also a question whether the 20 trees applied to a party or one individual and whether it was for one cutting trip or some other period.

Response: The Service acknowledges the need for clarification and simplification on this section. As a result, the acre standard has been deleted and the wording has been improved.

Issue 3: Two commenters expressed concern for visual impacts of tree cutting especially along Wild and Scenic Rivers.

Response: The Service acknowledges this as a valid concern. Accordingly, a setback requirement has been added to the rules and other limitations on cutting have also been included.

Issue 4: One commenter requested that the format advising the public where to apply for permits be revised for ease of readability.

Response: The requested revision has been accomplished.

Conformance With Statutory and Regulatory Authorities

In accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd), the Secretary of the Interior (Secretary) is authorized under such regulations as he may prescribe to permit the use of any area within the System for any purpose whenever he determines that such uses are compatible with the major purposes for which such areas were established.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Act requires: (a) That any recreational use permitted not interfere with the primary purposes for which the area was established, and (b) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

Additionally, section 304 of ANILCA requires the Secretary to prescribe such regulations and impose such terms and conditions as may be necessary and appropriate to ensure that any activities carried out on a NWR in Alaska under any permit or easement granted under any authority are compatible with the purposes of that refuge.

Finally, with regard to those portions of the NWRs in Alaska that are also designated as wild and scenic rivers, section 10(c), 16 U.S.C. 1281(c), provides that components of the Wild and Scenic River System administered by the Secretary through the Fish and Wildlife Service shall become part of the National Wildlife Refuge System. The lands are to be subject to the provisions of the Wild and Scenic Rivers Act, as well as the National Wildlife Refuge System Administration Act. In case of conflict between the two Acts, the more restrictive provisions will apply. To the extent that the lands are designated as "wilderness units" under the Wilderness Act, 16 U.S.C. 1131–1136, the provisions of 50 CFR Part 35 will apply in addition to the general Refuge System regulations.

The purposes of all 16 Alaska NWRs were specified in sections 302 and 303 of ANILCA. Refuges that are affected by these regulations were all established with the following purposes: (a) Conservation of fish and wildlife populations and habitats, (b) fulfillment of international treaty obligations, and (c) protection of water quality and quantity. In addition, all Alaska refuges, except Kenai NWR, have as a purpose the opportunity for continued subsistence use when consistent with purposes (a) and (b) above. In addition to purposes (a), (b) and (c) above, Kenai NWR has the purposes of providing opportunities for scientific research, interpretation, environmental education and land management training, and providing opportunities for fish and wildlife oriented recreation, and Alaska Maritime NWR has the purpose of providing a program of scientific research on marine resources.

The Service has analyzed the impacts of public use and access on certain Alaska refuges in the following final environmental impact statements: Proposed Alaska Coastal NWR (October 1974); Proposed Alaska Peninsula NWR (1976); Proposed Arctic NWR (October 1974); Proposed Selawik NWR (1975); Proposed Koyukuk NWR (1974); Proposed Togiak NWR (October 1974); Proposed Yukon Delta NWR (October 1976); Operation of the National Wildlife Refuge System (November 1976); and Alternative Administrative Actions, Alaska National Interest Lands (1978).

Public use and access were also evaluated for compatibility with refuge purposes in an environmental assessment (EA) on proposed rules for management of Alaska NWRs in May 1981, and were found to be compatible with the purposes for which these Alaska refuges were established, as provided therein.

The regulations were also evaluated as to the impact on subsistence as required by section 810 of ANILCA. Based on the determination that the public use and access would not be significantly different from that previously allowed, these final regulations are consistent with the purposes and intent of section 810, and result in no significant restrictions on subsistence activities.

Environmental Considerations

The Final Environmental Statement for Operation of the National Wildlife Refuge System was filed with the Council on Enviromental Quality

November 12, 1976, and a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). An EA and Finding of No Significant Impact (FONSI) for proposed interim rules for Alaska NWRs was approved on May 13, 1981. These regulations do not involve a significant change in the level of use previously permitted. A thorough review was made of the environmental impact statements, EA, and FONSI mentioned in the section above. A FONSI for these rules was made on May 23, 1985.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 et seq.) requires each information collection requirement to display an OMB clearance number and contain a statement to inform the person receiving the request why the information is being collected, how it will be used, and whether a response is voluntary, mandatory, or required to obtain a benefit. The Service has received approval from OMB for the information collection requirements of these regulations under the approval number 1018–0014. These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that public uses be compatible with the primary purposes for which the areas vere established. The information collection is necessary for the refuge manager to issue permits and a response is required to obtain benefits.

Economic Effects

Executive Order 12291, "Federal Regulation," of February 19, 1981, requires the preparation of regulatory impact analysis for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organization or governmental jurisdictions.

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291, and certifies that it will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. This rule is expected to cost the National Wildlife Refuge System less than $1,000 annually for permit processing and is expected to cost the users of refuge resources who need permits less than $500 annually ($15 estimated individual cost for time and information to develop a permit application). This rulemaking will impose no costs on small entities; the exact number of businesses and the amount of trade that will result from this refuge-related activity is unknown. The aggregate effect is a positive economic effect on a number of small entities. The number of small entities affected is unknown, but the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue pre-existing uses of refuge areas indicates that they will not be significant.

William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, Anchorage, Alaska, is the primary author of these regulations.

List of Subjects

50 CFR Part 26

National Wildlife Refuge System, Recreation, Wildlife refuges.

50 CFR Part 36

Alaska, National Wildlife Refuge System, Public land-mineral resources, Public lands-rights-of-way, Recreation, Traffic regulations, Wildlife refuges.

50 CFR Part 96

Alaska, Recreational areas, Wildlife refuges.

Accordingly, 50 CFR is amended as follows:

PART 26—[AMENDED]

1. The authority citation for Part 26 is revised to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, 680d, 685, 690d, 715, 725; 43 U.S.C. 315a.

§ 26.37 [Removed]

2. Section 26.37 is removed from 50 CFR Part 26.

PART 36—[AMENDED]

3. The authority for Part 36 continues to read as follows:

Authority: 16 U.S.C. 460k et seq., 668dd et seq., 742(a) et seq., 3101 et seq.; 44 U.S.C 3501 et seq.

§ 36.2 [Amended]

4. Amend 36.2(h) by adding the following sentence to the end of the paragraph:

* * * * *

(h) * * * "It includes, but is not limited to, four-wheel drive or low-pressure-tire vehicles, motorcycles and related two-, three-, or four-wheel vehicles, amphibious machines, ground-effect or air-cushion vehicles, air-thrust boats, recreation vehicle campers, and any other means of transportation deriving motive power from any source other than muscle or wind." immediately after the words "as defined in this section."

* * * * *

§ 36.3 [Amended]

5. Revise the first sentence of § 36.3 to read as follows: "The information collection requirements contained in §§ 36.15, 36.21, 36.22, 36.23, 36.24, 36.33, 36.39 and 36.41 of these regulations have been approved by the Office of Management and Budget under 44 U.S.C. 3501 and assigned clearance number 1018–0014. * * *"

§ 36.15 [Amended]

6. Revise paragraphs (a) (1) and (2), and add a new paragraph (a)(3) to read as follows:

(a) * * *

(1) For live standing timber greater than six inches diameter at breast height (4½ feet above ground level), the Refuge Manager may allow cutting in accordance with the specifications of a special use permit if such cutting is determined to be compatible with the purposes for which the refuge was established;

(2) For live standing timber between three and six inches diameter at breast height, cutting is allowed on the Arctic National Wildlife Refuge south of latitude 68 degrees North and on the Innoko, Kanuti, Koyukuk, Nowitna, Selawik, Tetlin, and Yukon Flats National Wildlife Refuges unless restricted by the Refuge Manager, except that no more than 20 trees may be cut annually by an individual without a special use permit, no cutting may be done within 50 feet of a stream, lake, or river and no more than one tree in five (20%) may be cut in any specific stand; on the remainder of the Arctic National Wildlife Refuge and on all other Alaska National Wildlife Refuges, the Refuge Manager may allow cutting in accordance with the specifications of a special use permit if such cutting is determined to be compatible with the purposes for which the refuge was established;

(3) For live standing timber less than three inches diameter at breast height, cutting is allowed unless restricted by the Refuge Manager.

* * * * *

§ 36.21 [Amended]

7. Revise § 36.21(e) to read as follows:

* * * * *

(e) The operation of aircraft resulting in the harassment of wildlife is prohibited.

* * * * *

§ 36.41 [Amended]

8. Revise Subpart F, § 36.41(a)(1), to read as follows:

(a) * * * (1) These regulations and other regulations generally applicable to the National Wildlife Refuge System require that permits be obtained from the Refuge Manager. For activities on the following refuges, permits are to be obtained from the respective refuge office as indicated:

Refuge	Office location
Alaska Peninsula National Wildlife Refuge	King Salmon.
Alaska Maritime National Wildlife Refuge	Homer.
Aleutian Islands Unit, Alaska Maritime NWR	Adak.
Arctic National Wildlife Refuge	Fairbanks.
Becharof National Wildlife Refuge	King Salmon.
Innoko National Wildlife Refuge	McGrath.
Izembek National Wildlife Refuge	Cold Bay.
Kanuti National Wildlife Refuge	Fairbanks.
Kenai National Wildlife Refuge	Soldotna.
Kodiak National Wildlife Refuge	Kodiak.
Koyukuk National Wildlife Refuge	Galena.
Nowitna National Wildlife Refuge	Galena.
Selawik National Wildlife Refuge	Kotzebue.
Tetlin National Wildlife Refuge	Tok.
Togiak National Wildlife Refuge	Dillingham.
Yukon Delta National Wildlife Refuge	Bethel.
Yukon Flats National Wildlife Refuge	Fairbanks.

In all cases where a permit is required, the permittee must abide by the conditions under which the permit was issued.

* * * * *

PART 96—[REMOVED]

9. Part 96 is removed from 50 CFR Subchapter H.

Dated: November 20, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-27901 Filed 12-11-86; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 51, No. 239
Friday, December 12, 1986

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

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 207

Admission of Refugees

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to modify the procedure to be used in determining eligibility to be considered for refugee admission under section 207 of the Immigration and Nationality Act, as amended by the Refugee Act of 1980. The modification would require that applicants eligible for immigrant visas under the preference classes established in subsection 203(a) of the Act and for whom a visa number would be available within one year not be admitted as refugees unless it is in the public interest.

DATE: Written comments must be submitted on or before February 10, 1987.

ADDRESS: Please submit written comments in duplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street, NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: *For General Information:* Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633-3048.

For Specific Information: Daniel Solis, Immigration Inspector, Office of Refugee, Asylum and Parole, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633-5463.

SUPPLEMENTARY INFORMATION: The Refugee Act of 1980 created a statutory basis for refugee admissions to the United States. It established a distinct channel for refugee admission with admissions numbers determined annually. These refugee admissions numbers were totally separated from the visa numbers for the immigrant preference classes, in contrast to the conditional entrant numbers that had been available for refugees under the old section 203(a)(7) of the Act prior to the passage of the Refugee Act of 1980.

Refugee admissions numbers are limited and should be available for persons of special humanitarian interest to the United States and who have no other recourse to lawful entry into the United States. For this reason a person who is eligible for classification under the immigrant preference system should not be admitted as a refugee and use the scarce refugee admissions numbers if he/she would be assigned a visa number under the preference system within twelve months, unless the Attorney General has determined that it is in the public interest to process the person as a refugee.

The principle of eligibility for immigrant processing precluding refugee processing is already established by regulation for persons who qualify as immediate relatives and special immigrants. This rule would extend that principle to persons eligible for classification under sections 207(a) (1), (2), (3), (4), (5), (6), or (7) of the Act. Section 207(c)(2) would continue to apply to the spouse and minor unmarried children of any refugee who qualifies for admission as long as the relationship existed prior to the principal alien's approval as a refugee to the United States and the relationship must also exist at the time the benefit is being sought. With regard to third and sixth preference cases, the eligibility for classification would be established by an approved application for labor certification.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule, if promulgated, will not be a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 207

Administrative practice and procedure, Refugees, Immigration.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 207—ADMISSION OF REFUGEES

1. The authority citation for Part 207 continues to read as follows:

Authority: Secs. 101, 103, 201, 207, 209, and 212 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1101, 1103, 1151, 1157, 1159, and 1182).

2. In § 207.1, paragraph (d) would be revised as follows:

§ 207.1 Eligibility.

* * * * *

(d) *Immediate relatives, special immigrants, and preference visa beneficiaries.* Any applicant for refugee status who qualifies as an immediate relative, or as a special immigrant shall not be admitted as a refugee unless the Attorney General has determined that it is in the public interest. Any applicant who may be eligible for classification under sections 203(a) (1), (2), (3), (4), (5), (6), or (7) of the Act, and for whom a visa number is now available or may become available within twelve months, shall not be admitted as a refugee unless the Attorney General has determined that it is in the public interest. Section 207(c)(2) will continue to apply to the spouse and minor unmarried children of any refugee who qualifies for admission as long as the relationship existed prior to the principal alien's approval as a refugee to the United States and the relationship must also exist at the time the benefit is being sought. With regard to applicants who would be classified under sections 203(a) (3) and (6), the eligibility for classification would be established by an approved application for labor certification.

* * * * * *

Dated: November 19, 1986.

R. Michael Miller,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-27881 Filed 12-11-86; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-225B]

Occupational Exposure to Formaldehyde

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; limited reopening of rulemaking record.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is reopening its record on the proposed revision of the regulation for occupational exposure to formaldehyde, 50 FR 50412, December 10, 1985, to include new information regarding epidemiologic studies of persons exposed to formaldehyde, additional data on employee exposure to formaldehyde in the foundry industry, and other feasibility-related issues. This information was received after the formaldehyde record closed in August. The information is relevant to issues which generated a substantial amount of discussion during OSHA's rulemaking hearings on formaldehyde. The Agency has determined that these data may be useful for a full consideration of these issues and that it is in the public interest to consider the information and allow the public an opportunity to comment on it. This decision to reopen the record for limited comment on specified new data in no way alters the stated target date for issuance of a final standard of September 1987.

DATE: Written comments on the new submissions must be postmarked on or before January 12, 1987.

ADDRESS: Written comments on the data described below should be submitted in quadruplicate to the Docket Office, Docket No. H-225B, Room N-3670, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The rulemaking record, including the new information, is available for inspection and copying at this address between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: On December 10, 1985, OSHA published a Notice of Proposed Rulemaking (NPR) on occupational exposure to formaldehyde (50 FR 50412-50499). Options considered in this proposal were the regulation of formaldehyde as an irritant or as a carcinogen with a permissible exposure limit (PEL) of either 1 or 1.5 parts of formaldehyde per million parts of air (ppm).The possibility that OSHA would include a short term exposure limit (STEL) in a final rule should circumstances warrant it was also announced.

The new reports which have been received and inserted into the record are listed and briefly summarized below. To the best of our knowledge, these are the only significant documents that have come to OSHA's attention.

Exhibit Numbers

[200-1] Sterling TD; Weinkam JJ: Reanalysis of NCI Study on "Mortality Among Industrial Workers Exposed to Formaldehyde." November 24, 1986, 20 pp.

Sterling and Weinkam obtained data tapes of the NCI study and conducted additional analyses on cancer mortality for white and black males in relation to their formaldehyde exposure levels. Multivariate analysis was performed for deaths from all causes, all cancers, and lung cancer. This analysis involved fitting a log-linear model to the number of deaths classified by length of employment, average exposure, job type, and age. Sterling and Weinkam reported a significantly elevated relative risk (RR) of death from all causes, all cancers, and lung cancer for hourly workers as compared to salaried workers.

Sterling and Weinkam then evaluated the above causes of death for hourly workers in relation to average formaldehyde exposure levels of less than 0.5 ppm and greater than 0.5 ppm. For all causes of death and for all cancer deaths, the RR was not significantly elevated for workers who had experienced average formaldehyde concentrations of greater than 0.5 ppm as compared to those who had been exposed to less than 0.5 ppm. For lung cancer mortality, however, there was a significantly elevated RR for white males (1.28) and for black and white males combined (1.36) who had been exposed to formaldehyde concentrations of greater than 0.5 ppm in comparison to hourly workers exposed to lower levels.

For buccal and pharyngeal cancer, Sterling and Weinkam reported a statistically nonsignificant, but suggestive, increase in age-adjusted RR among employees with greater than 0.5 ppm average exposure in plants manufacturing formaldehyde resins.

[200-2] Vaughan TL; Strader C; Davis S; Daling JR: Formaldehyde and cancers of the pharynx, sinus and nasal cavity: 1. Occupational exposures. 26 pp manuscript to appear in the International Journal of Cancer, December 1986.

This population-based case-control study was performed under contract for the U.S. Environmental Protection Agency (EPA). The purpose of the study was to determine if occupational exposure to formaldehyde was related to cancer of the oropharynx, hypopharynx, nasopharynx, or sinus and nasal cavity. The authors found no significant association between occupational exposure to formaldehyde and any of the cancer sites under study. However, relative risk estimates associated with the highest exposure categories were elevated for cancer of the oro- and hypopharynx (odds ratio (OR)=1.3, 95% Confidence Interval=0.6-3.1) and nasopharyngeal cancer (OR=2.1, 95% CI=0.4-10.0) when an induction period was taken into account. When only live interviews, as opposed to those with next-of-kin, were considered, the ORs for oro- and hypopharyngeal cancer and for nasopharyngeal cancer increased to 1.7 and 3.1, respectively.

[200-3] Vaughan TL; Strader C; Davis S; Daling JR: Formaldehyde and cancers of the pharynx, sinus and nasal cavity: 11. Residential exposures. 17 pp Manuscript to appear in the International Journal of Cancer, December 1986.

This is the second publication resulting from a study performed under contract for the EPA. The authors found a strong association between a history of residence in a mobile home and nasopharyngeal cancer, but not with sinus and nasal cancer. The risk of nasopharyngeal cancer increased with number of years lived in a mobile home: For those with 1 to 9 years, the odds ratio (OR) was 2.1 (95% CI=0.7-6.6) and for those with 10 or more years, the OR=5.5 (95% CI=1.6-19.4). The authors noted that the association found with living in a mobile home must be interpreted with caution since it is based on a small number of cases and may be due to factors other than formaldehyde.

[200-4] Blair A; Stewart PA; Hoover RN; Fraumeni JF; Walrath J; O'Berg M; Gaffey W: Cancers of the nasopharynx and oropharynx and formaldehyde exposure. 6 pp manuscript to be published in the Journal of the National Cancer Institute, January 1987.

The authors further analyzed the results of the NCI study of industrial workers exposed to formaldehyde to explore factors that might account for the observed excess mortality from cancers of the nasopharynx and oropharynx. Among white men, there

seven deaths from cancer of the nasopharynx and five from cancer of the oropharynx. For persons exposed to both formaldehyde and particulate dust, the risk of death from cancer of the nasopharynx increased with cumulative exposure to formaldehyde from a standardized mortality ratio (SMR) of 192 for less than 0.5 ppm-years, to 403 for 0.5 to 5.5 ppm-years, and 746 for greater than 5.5 ppm-yrs. No such trend was seen among workers unexposed to dust. Although the number were small and the trend in the SMRs with cumulative exposure was not statistically significant, the authors felt that the information suggested simultaneous exposure to formaldehyde and particulates as a possible risk factor for nasopharyngeal cancer.

[200–5] Transcript of "All Things Considered". Friday, September 5, 1986. Mobile Homes Kill. 4 pp.

After release of the reports by Vaugan and his colleagues, Daniel Zwerdling of National Public Radio interviewed Dr. Blair on his views regarding formaldehyde as a carcinogen. Dr. Blair stated that, in his opinion, the evidence is fairly strong now that formaldehyde probably causes cancer of the nasal sinuses and nasopharyngeal cancer in humans.

[200–6] Letter from John F. Murray, Formaldehyde Institute, to OSHA regarding recent epidemiologic studies of persons exposed to formaldehyde. 4 pp. with Attachments. October 10, 1986.

The Formaldehyde Institute provides a brief review of epidemiologic studies by Partanen and Kauppinen and by Vaughan and his coworkers and concludes that "the spot excesses which Vaughan finds are in no way inconsistent with chance." The Formaldehyde Institute also submitted the following analysis by Cole and Delzell.

[200–6A] Cole P; Delzell E: Review and Critique of "A case-control study of cancers of the pharynx, nasal sinuses and nasal cavity" by T.L. Vaughan, *et al.* September 19, 1986. 5 pp.

Drs. Cole and Delzell evaluate the two papers by Vaughan, Strader, Davis, and Daling. They state that the main finding by Vaughan *et al.* is a moderately strong positive association between nasopharyngeal cancer (NPC) and a history of having lived in a mobile home. Cole and Delzell then evaluate the possible interpretations of this finding. They conclude that the association of mobile home occupancy with nasopharyngeal cancer may be due to chance, that it is difficult to accept the idea that formaldehyde would cause nasopharyngeal cancer but not sinonasal cancer, and that confounding and bias have not been ruled out as explanations. For these reasons, Cole and Delzell state that "attributing the observed association of NPC with mobile home residence to a causal relationship between formaldehyde and NPC" would be "unjustified."

[200–7] Letter from Charles E. Adkins, Acting Director of Health Standards Programs, OSHA, to Richard T. Paul, Motor Vehicle Manufacturers Association (MVMA), requesting clarifying information on the MVMA posthearing submission to the formaldehyde docket, Ex. 122. September 16, 1986. 3 pp.

[200–8] Letter from Fred W. Bowditch, Vice President of Technical Affairs, MVMA, to Charles E. Adkins, OSHA, responding to OSHA's letter of September 16, 1986. October 14, 1986. 2 pp. with a 44 pp. Attachment.

With regard to information on exposures in the foundry industry, the MVMA submitted individual monitoring results for 941 breathing zone samples taken in nine automotive foundries from 1980 through 1985. The bulk of the monitoring data, 615 samples, was from one large foundry employing 3,700 persons, and all of these samples were collected in 1984 or 1985. The size of the foundries and the amont of iron used varied, but all would be considered medium to large foundries, the smallest employing 800 persons and the largest employing 4,520 persons. Nearly all of the samples were collected in the breathing zone of employees in the coreroom, with the majority of samples being measurements of core machine operators. The total sampling time varied considerably, from as little as 15 minutes to an 8-hour estimate. Many samples were collected for about 1 hour. The following table is a synopsis of the information provided.

TABLE 1.—EXPOSURE OF FOUNDRY WORKERS TO FORMALDEHYDE

Plant	No. samples	No. above 1 ppm	No. above 0.5 ppm
A	53	35	45
B	3	0	2
C	6	1	5
D	615	118	340
E	34	15	32
F	13	0	3
H	111	39	70
I	85	48	60
J	21	13	19

[200–9] Letter from Stephen Derman, Industrial Commission of Arizona, to Susan Sherman, Department of Labor, regarding exposure to formaldehyde in a nonferrous foundry. September 17, 1986. 3 pp.

This letter reports measurements for a mold maker in a single nonferrous foundry.

[200–10] Eure JA; Hahne RMA; Muldoon J; McLain KC; Schwabbauer IA; Lange AF: A Study of Formaldehyde Exposure of Iowa Funeral Directors. Division of Disease Prevention, Iowa State Department of Health, Des Moines, and the University Hygienic Laboratory, University of Iowa, Iowa City, Iowa. 18 pp. (Undated).

In 1982 and 1983, the Iowa State Department of Health, along with the University of Iowa Hygienic Laboratory, tested formaldehyde concentrations in 44 funeral homes chosen at random from a comprehensive list of the 408 licensed facilities in Iowa. Formaldehyde exposures during embalming ranged from non-detectable to 2.98 ppm, with a mean of 0.48 ppm, and one funeral home registered an 8-hour TWA of 1.62 ppm. Extensive data were also collected on embalming room ventilation, which showed a strong link between the amount of ventilation and the levels of exposure.

[200–11] Ingraham P: Pickled pigs and formaldehyde frogs. The Animals' Agenda, September 1986. pp. 14–15.

This article discusses the exposures to formaldehyde experienced by biology instructors.

References

A complete set of references is available for examination and copying at the OSHA Technical Data Center, Docket Office, Room N–3670, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Request for Comments

OSHA invites interested persons to submit written comments on the materials described herein. In particular, interested persons are requested to submit evidence relevant to how the new information should affect conclusions regarding human risk or technologic or economic feasibility. Comments are also requested on how the contents of the various provisions of the proposed standard and the proposed start-up dates for these provisions would be affected by the new information. Comments pertinent to the materials listed in this notice only are invited. We also request that comments on the new material listed herein be kept as short and concise as possible.

Material previously submitted has already been placed in OSHA's docket on formaldehyde and is considered a part of the record of the proceeding. Therefore, we request that the public

refrain from resubmitting comments already submitted.

Interested persons must submit their comments in response to this Notice on or before January 12, 1987, in quadruplicate, to the Docket Office, Docket No. H-225B, Room N-3670, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

The comments that are submitted will be available for public inspection and copying at the above address. Timely written submissions will be made a part of the record of the proceeding.

Authority and Signature

This document was prepared under direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

List of Subjects in 29 CFR Part 1910

Formaldehyde, Occupational safety and health, Chemicals, Cancer, Health risk-assessment.

Signed at Washington, DC, this 4th day of December 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 86-27693 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-26-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2613, 2617, 2619

Determination of Plan Sufficiency; Termination of Sufficient Plans; Valuation of Plan Benefits in Single-Employer Plans; Guaranteed Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This rule amends the regulations of the Pension Benefit Guaranty Corporation on Guaranteed Benefits, on Determination of Plan Sufficiency and Termination of Sufficient Plans, and on Valuation of Plan Benefits in Single-Employer Plans. Those regulations set forth rules concerning the circumstances under which benefits in a terminating single-employer pension plan may be paid in a form other than an annuity. This rule would raise the limit on benefit amounts that may be paid in an alternative form, such as a single lump sum. This rule is needed to recognize the effects of inflation on the value of small benefits payable under a pension plan. The effect of this rule is to permit benefits with a value of $3,500 or, less to be paid in a form other than an annuity form.

DATE: Comments must be received on or before February 10, 1987.

ADDRESSES: Comments should be addressed to the Director, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, Suite 7300, 2020 K Street, NW., Washington, DC 20006. Written comments will be available for public inspection in Suite 7100, at the above address, between the hours of 9:00.a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202-956-5050 (202-956-5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title IV of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (29 U.S.C. 1301 *et seq.* (1982)), ("ERISA") established a pension plan insurance program that is administered by the Pension Benefit Guaranty Corporation ("PBGC"). ERISA was further amended in 1986 by the Single-Employer Pension Plan Amendments Act of 1986, Pub. L. 99-272, 100 Stat. 82, 237 ("SEPPAA"), which substantially altered the rules governing voluntary termination of single-employer plans. SEPPAA, however, did not alter the basic rules relating to benefits guaranteed by the PBGC or the rules relating to the distribution by the plan administrator of benefits payable under a terminated single-employer plan.

The PBGC's regulation on Guaranteed Benefits, 29 CFR Part 2613, describes those benefits that are guaranteed by the PBGC. In general, the PBGC guarantee extends only to benefits that are payable as an annuity (29 CFR 2613.2 and 2613.3). If, under the terms of a plan, benefits are payable in a single installment, the PBGC guarantees an alternative annuity form of benefit (29 CFR 2613.8 (a) and (c)).

There are three exceptions to the annuity requirement, two of which are relevant to this proposed rule. Under those exceptions, the total value of a guaranteed benefit may be paid in a single installment: (1) If the value of the benefit is $1,750 or less or (2) if the benefit is payable under a plan for which the PBGC has issued a notice of sufficiency (29 CFR 2613.8(b)). The first exception permits the PBGC to pay a participant's guaranteed benefit in a single lump sum when the value of the guaranteed benefit is small enough that the monthly annuity benefit would be minimal. This rule is based on administrative economy and on recognition that small monthly benefits may be of less value to participants than a single payment of the benefit amount. The second exception, which was intended to make clear that the preclusion of single installment payments of guaranteed benefits does not apply to a plan that is issued a notice of sufficiency, will be deleted because of SEPPAA changes discussed in the following paragraph.

The PBGC's regulation on Determination of Plan Sufficiency and Termination of Sufficient Plans, 29 CFR Part 2617, prescribes rules for demonstrating plan sufficiency and the manner in which the plan administrator may proceed with termination of a plan after the PBGC issues a notice of sufficiency. Under SEPPAA, the rules concerning plan "sufficiency" have been changed and the PBGC will no longer issue a notice of sufficiency. Simply stated, SEPPAA provides that a single-employer plan may terminate in a "standard termination" only if its assets are sufficient to satisfy all nonforfeitable benefits under the plan (rather than just guaranteed benefits, as under prior law) and that the PBGC will issue a notice of noncompliance with the standard termination requirements under appropriate circumstances (rather than a notice of sufficiency). Different rules apply if a plan is terminating under a "distress termination," and those rules vary depending on the level of plan funding (*i.e.*, whether sufficient for nonforfeitable benefits, guaranteed benefits, or neither). Although much of PBGC's Sufficiency regulation is inapplicable to the new procedures, the rules therein continue to govern the final distribution of assets in a plan terminating under either a standard termination or a distress termination.

Concerning the distribution of assets on termination of a plan, the PBGC's Sufficiency regulation provides that benefits must, generally, be provided in annuity form unless a participant elects another form of distribution provided by the plan, such as a single lump sum payment or transfer to another pension plan (29 CFR 2617.4). There are two exceptions to the prohibition of an alternative form of distribution without participant consent. Under those exceptions, a benefit need not be provided in annuity form: (1) If the monthly amount of the benefit is less than the smallest monthly benefit normally provided by an insurer or (2) if

the present value of the benefit is $1,750 or less (29 CFR 2617.4(b)).

Thus, as in the Guaranteed Benefits regulation, the Sufficiency regulation provides for an exception to the annuity/consent requirement when the value of a benefit is small enough that the monthly annuity benefit would be minimal, but the reasons for the exceptions differ somewhat. Administrative economy is of minimal importance in terminated, sufficient plans, since the plan must distribute all plan assets (29 CFR 2617.21), and the plan administrator does not have the burden of administering small benefits. However, the exceptions in the Sufficiency regulation do recognize that small monthly benefits may be of less value to participants than a single payment of the benefit amount, and also recognize that annuities providing these small monthly benefits may not be available from an insurer.

The exceptions in the Sufficiency regulation are duplicated in § 2619.26(a) of the PBGC's regulation on Valuation of Plan Benefits in Single-Employer Plans, 29 CFR Part 2619, which sets forth methods for valuing benefits in terminating single-employer plans.

The $1,750 limit in these three regulations corresponds to the "cash-out" provisions in Title I of ERISA, section 204(d), and in the Internal Revenue Code ("Code"), section 411(a)(7)(B), although Title IV contains no similar provisions. The "cash-out" provisions of Title I and the Code permit a pension plan to disregard, for purposes of determining a participant's accrued benefit, service for which the participant has received a cash-out of his nonforfeitable benefits upon termination of participation in the plan. As enacted into law in 1974, those provisions permitted an involuntary cash-out if the present value of the benefit was $1,750 or less, and were designed to relieve plans of the cost of administering *de minimis* benefits. The limit on involuntary cash-outs was raised to $3,500 by sections 105 and 205 of the Retirement Equity Act of 1984, Pub. L. 98-397, 98 Stat. 1426 ("REA"), amending ERISA section 204 and Code section 411, "in recognition of the effects of inflation on the value of small benefits payable under a pension plan." Sen. Rept. 98-575, 130 Cong. Rec. S9671, S9678 (daily ed. Aug. 2, 1984), *reprinted in* Gill, *ERISA: The Law and the Code* 1-44, 1-59 (1985 ed.).

Although the "cash-out" provisions cited above do not apply to terminating plans, the rules in the PBGC's regulations are analogous thereto. In similar recognition of the "effects of inflation on the value of small benefits," therefore, the PBGC believes that it would be in its interest and in the interest of plan participants to raise the limit on the amount of benefits that can be paid out in a form other than an annuity without participant consent. This proposed rule would amend § 2613.8(b)(1) of the PBGC's Guaranteed Benefits regulation to permit the PBGC to pay guaranteed benefits with a value of $3,500 or less in a lump sum payment. This rule also would amend § 2617.4(b)(2) of the PBGC's Sufficiency regulation to raise from $1,750 to $3,500 the limit on the value of benefits that may be provided in other than annuity form without a participant's consent. Although § 2619.26(a) of the PBGC's Valuation of Benefits regulation includes a similar provision for the lump sum payment of benefits valued at less than $1,750, it is not being similarly amended. Instead, § 2619.26(a) would be deleted by this proposed rule since it does not contain valuation rules, as such, and is duplicative of the lump sum distribution provisions in § 2617.4(b)(2). Paragraphs (b) and (c) of § 2619.26 would be renumbered accordingly.

Other amendments in this proposed rule are technical corrections and not substantive changes.

Comments Invited

Interested persons are invited to submit written comments on this proposed rule. Comments should be addressed to: Director, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. Written comments will be available for public inspection at the above address, Suite 7100, between the hours of 9:00 a.m. and 4:00 p.m. Each comment should identify this rule and should include the name and address of the person submitting it and the reasons for any recommendation. This proposal may be changed in light of the comments received.

Classification: E.O. 12291 and Regulatory Flexibility Act

The PBGC has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The PBGC certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, that this rule will not have a significant economic effect on a substantial number of small entities. This rule will not have such an impact since it affects only the distribution of benefits of minimal size. Accordingly, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

List of Subjects

29 CFR Part 2613

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2617

Employee benefit plans, Pension insurance, Pensions, and Reporting requirements.

29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, it is proposed to amend Parts 2613, 2617, and 2619 of Chapter XXVI of Title 29, Code of Federal Regulations, as follows:

PART 2613—[AMENDED]

1. The authority citation for Part 2613 is revised to read as follows:

Authority: Secs. 4002(b)(3) and 4022, Pub. L. 93-406, 88 Stat. 1004 and 1016, as amended by secs. 403(1) and 403(c), Pub. L. 96-364, 94 Stat. 1302 and 1301, and by sec. 11016(c)(9), Pub. L. 99-272, 100 Stat. 82, 237 and 274 (29 U.S.C. 1302(b)(3) and 1322).

2. Section 2613.2 is amended by revising the entry for "Act" to read as follows:

§ 2613.2 Definitions.

* * * * *

"Act" means the Employee Retirement Income Security Act of 1974, as amended.

* * * * *

§ 2613.8 [Amended]

3. Section 2613.8(b)(1) is amended by changing "$1,750" to read "$3,500" and by removing the phrase "or in any case in which a benefit is payable under a plan for which the PBGC has issued a notice of sufficiency pursuant to section 4041 of the Act,".

§ 2613.8 [Amended]

4. Section 2613.8(b)(2)(i) is amended by changing "§ 2618.7" to read "§ 2618.12" and by deleting "(Valuation of Benefits)".

PART 2617—[AMENDED]

5. The authority citation for Part 2617 is revised to read as follows:

Authority: Secs. 4002(b)(3), 4041 and 4044, Pub. L. 93–406, 88 Stat. 1004, 1020 and 1025, as amended by secs. 403(1), 403(d) and 402(a)(7), Pub. L. 96–364, 94 Stat. 1299, 1301 and 1302, and by secs. 11007–11009 and 11016(c) (12) and (13), Pub. L. 99–272, 100 Stat. 82, 237, 244–252 and 274 (29 U.S.C. 1302(b)(3), 1341 and 1344).

§ 2617.4 [Amended]

6. Section 2617.4(b)(2) is amended by changing "$1,750" to read "$3,500".

PART 2619—[AMENDED]

7. The authority citation for Part 2619 is revised to read as follows:

Authority: Secs. 4001(a)(17), 4001(a)(18), 4001(a)(19), 4002(a)(2), 4002(b)(3), 4041, 4044 and 4062, Pub. L. 93–406, 88 Stat. 1004, 1020, 1025 and 1029, as amended by secs. 403(1), 403(d) and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301 and 1299, and as further amended by secs. 11004(a), 11008(a), 11009(a), 11016(c)(12), 11016(c)(13) and 11011(a), Pub. L. 99–272, 100 Stat. 82, 237, 244–252, 253 and 274 (29 U.S.C. 1302, 1341, 1344 and 1362).

§ 2619.26 [Amended]

8. In §2619.26, paragraph (a) is removed and paragraphs (b) and (c) are redesignated as paragraphs (a) and (b), respectively; newly redesignated paragraph (a)(1) is amended by removing the phrase "payable under this section", and newly redesignated paragraph (b)(1) is amended by changing the reference to "paragraph (b)" to read "paragraph (a)".

Issued at Washington, DC, this 5th day of December 1986.

William E. Brock,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving this regulation and authorizing its chairman to issue same.

Edward R. Mackiewicz,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 86–27877 Filed 12–11–86; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF EDUCATION

34 CFR Part 760

Secretary's Discretionary Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the Secretary's Discretionary Program by establishing procedures for funding unsolicited proposals, and revising the point values of the selection criteria, placing emphasis on those criteria most important in attaining the objectives of the program. These proposed amendments are intended to enhance the program's capacity to accomplish the objectives of the Education Consolidation and Improvement Act of 1981 (ECIA) by providing the Secretary with a wider range of possible responses to promising ideas and innovative approaches to improving elementary and secondary education.

DATES: Comments must be received on or before January 12, 1987.

ADDRESSES: All comments concerning the proposed regulations should be addressed to Thomas E. Enderlein, Secretary's Discretionary Fund, U.S. Department of Education, Room 1011, 400 Maryland Avenue, SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Thomas E. Enderlein. Telephone: (202) 732–3595.

SUPPLEMENTARY INFORMATION:

The Secretary's Discretionary Program supports projects designed to meet the special educational needs of educationally deprived children or to improve elementary and secondary education consistent with the purposes of the ECIA.

These proposed regulations establish procedures for funding an unsolicited application within the purposes of the ECIA that does not happen to conform with the timing or subject matter of regular competitions. These procedures would permit limited resources to be used efficiently and effectively and would support the statutorily broad discretion of the Secretary to exercise leadership in education by the funding of innovative ideas that hold promise for improving education.

Summary of Major Provisions

The major changes are as follows:

(1) A new § 760.31 is proposed to establish the process by which the Secretary may accept and consider for funding unsolicited applications for projects that do not meet an established priority, but otherwise meet the purposes of the ECIA.

(2) Under proposed § 760.32, the point values for selection criteria used in evaluating applications have been revised, placing greater emphasis upon those criteria which are most important in attaining for objectives of the program, such as § 760.32(f) (Improving elementary and secondary education).

(3) Proposed § 760.33(b) adds an additional special consideration which the Secretary may use in selection applications for funding. The Secretary may select applications, other than the most highly rated applications, if doing so would improve the diversity of activities or projects under a particular competition or under this program.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for many regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

This is a relatively small program that awards a limited number of grants each year. These proposed regulations would not impose excessively burdensome or unnecessary requirements. Rather, the proposed regulations would impose only minimal requirements to ensure the proper expenditure of program funds.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 1011, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

To assist the Department in complying with the specific requirement of Executive Order 12291 and the overall requirements of reducing regulatory burdens, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 760

Education, Education of disadvantaged, Elementary and secondary education, Grant programs-education, Reporting and recordkeeping requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Number 84.122, Secretary's Discretionary Program)

Dated: December 1, 1986.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Part 760 of Title 34 of the Code of Federal Regulations as follows:

PART 760—SECRETARY'S DISCRETIONARY PROGRAM

1. The authority citation for Part 760 continues to read as follows:

Authority: 20 U.S.C. 3851, unless otherwise noted.

§ 760.32 [Redesignated as 760.33]

2. Section 760.32 is redesignated as § 760.33, and is amended by revising the reference to "§ 760.31" in paragraph (a) to read "§ 760.32", and by revising paragraph (b) to read as follows:

§ 760.33 How does the Secretary select an application for funding?

* * * * *

(b) The Secretary may select other applications for funding if doing so would improve—

(1) The geographic distribution of projects funded under a particular competition or under this program; or

(2) The diversity of activities or projects funded under a particular competition or under this program.

* * * * *

§ 760.31 [Redesignated as § 760.32]

3. Section 760.31 is redesignated as §760.32, and is amended by revising the points assigned under paragraphs (a) and (f) to read as follows:

§ 760.32 [Amended]

(a) *Plan of operation.* (15 Points)

* * * * *

(f) *Improving elementary and secondary education.* (15 Points)

* * * * *

4. A new § 70.31 is added to read as follows:

§ 760.31 How does the Secretary evaluate unsolicited applications?

(a) At any time during a fiscal year, the Secretary may accept and consider for funding unsolicited applications for projects that do not meet a priority established in accordance with § 760.11(a) and (b).

(b) Notwithstanding the provisions of 34 CFR 75.100, the Secretary may fund an unsolicited application without publishing an application notice in the Federal Register.

(c) The Secretary may select an unsolicited application for funding in accordance with the procedures contained in § 760.30(a) through (c).

(d) The Secretary assigns the reserved 15 points under § 760.30(b) to the selection criterion at § 760.32(g) (National significance) so that the maximum number of possible points for this criterion is 30.

(Authority: 20 U.S.C. 3851)

§ 760.30 [Amended]

5. Section 760.30 is amended by revising "§ 760.31" in paragraphs (a), (b), and (d), to read "§ 760.32".

[FR Doc. 86-27929 Filed 12-11-86; 8:45 am]

BILLING CODE 4000-01-M

POSTAL SERVICE

39 CFR Part 111

Supplements To Second-Class Publications

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposal is to clarify current postal regulations and procedures concerning the mailing of supplements to second-class publications in order to maintain a clear distinction between second-class mail and other classes of mail. In addition, substantive rules are proposed which would (1) allow the mailing of loose supplements with bound second-class publications when they are sent together under the same cover, (2) prescribe the proper manner of addressing copies of second-class publications which are enclosed in plastic wrappers with supplements, and (3) place a limit on the amount of supplemental material that may be mailed with each second-class publication.

DATE: Comments must be received on or before January 11, 1987.

ADDRESS: Written comments should be mailed or delivered to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza, West SW., Washington, DC 20260-5360. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday, in Room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Young (202) 268-5321.

SUPPLEMENTARY INFORMATION:

At the request of the second-class mailing industry, the Postal Service published at 51 FR 31673-31674 (September 4, 1986) a proposal to broaden the general conditions under which publishers may include supplements in the regular issues of a newspaper or other periodical publication entered as second-class mail. As a result of the comments received, the Postal Service is publishing a new proposed rule to redefine and more clearly specify the conditions under which supplements may be mailed at the second-class rates.

Historically, second-class mail has enjoyed preferential status and more favorable rates than other forms of printed matter because newspapers and other periodical publications are intended to inform the public, and are circulated to persons who have made their desire to receive them known to the publishers. Their preferential status reflects the value of the publication to the recipient.

Recently, in discussions with customers, the Postal Service has become aware of potential dangers to the preferred status of second-class mail that may come about through indiscriminate use of "supplements" with second-class publications. (Currently a *supplement* must consist of one or several printed sheets and contain advertising or nonadvertising matter, or a combination of both. It must be germane to the issue, having been omitted in the interest of space, time, or convenience.)

In some disturbing cases, "supplements" have the appearance of being wholly independent publications. In other cases, the "supplement" consists of more pages than the copies of the issue which are being supplemented. And in some instances, "supplements" bear third-class permit imprints.

In the first case described above, it appears that some publishers wish merely to accept independent publications and "piggyback" them on publications having second-class status. In the second case, it appears that, measured quantitatively (by size and page count), the primary piece to be mailed is not the second-class publication, but instead, the supplementary material. And in the third case, the permit imprints indicate that third-class postage on the supplementary matter has been paid under the permit imprint system. This, therefore, makes it difficult to justify that the material is germane to the issue, having been omitted in the interest of space, time, or convenience. Moreover, section 145.71 of the Domestic Mail Manual, provides, in part, that imprints must not ordinarily appear on matter which has not had postage so paid

thereon (as, for example, matter which is circulated by means other than mail or which is circulated as an enclosure with other matter either by mail or by means other than mail). In light of these situations and the need to clarify the Domestic Mail Manual, a description of the proposed changes follows:

Section 425.4 currently provides no guidance concerning the content of a supplement. The Postal Service considers a supplement to consist or one or several printed sheets, containing advertising or nonadvertising matter, or a combination of both. It is proposed that this definition be added to section 425.41.

Sections 422.231 and 422.6b impose limitations on the percentage of advertising that may be contained in issues of second-class publications. However, they do not specify that the advertising content of a supplement must be measured and taken into consideration when determinations are made concerning the total percentage of advertising matter in each issue. Therefore, it is being proposed that this requirement be added as section 425.42b.

The ability to include supplements with a second-class publication is a privilege that has been made possible at the request of the mailing industry. In extending this privilege, the Postal Service must formulate regulations that are consistent with the intent of Congress as that intent relates to eligibility for second-class rates. Our responsibility to protect the integrity of second class must be considered in any regulatory changes affecting the class. Proposed sections 425.42c and 425.44b are designed to protect that integrity by ensuring that the primary mailing piece, as presented by the mailer when requesting and receiving original second-class eligibility, continues to be the primary mailing piece.

Moreover, no issue of a requester publication (422.6) currently may contain more than 75 percent advertising matter. Publications of institutions and societies (422.3) which are authorized to carry advertisements of other persons or organizations in their publications, as well as general publications (422.2) which are designed primarily for advertising purposes, may not qualify for second-class mail privileges if they contain more than 75 percent advertising in more than half of the issues published during any twelve month period.

It is permissible to prepare a second-class newspaper or other periodical publication in two or more editions and prepare a supplement for inclusion in one or more of them. Thus, if copies of an issue are prepared in two editions, it is permissible to include supplements in copies of one of the editions which are addressed for delivery in particular areas, such as, for example, within the county of publication or for Zones 1 and 2. Because the characteristics of the editions vary, separate Forms 3541, Statement of Mailing—2nd Class Publications Except Requester Publications or Forms 3541-A, Statement of Mailing-Second-Class/Requester Publications, must be filed with the copies of each edition presented for mailing. These requirements are not published in section 425.4. Therefore, it is proposed that the requirements concerning supplements in editions be published in section 425.43.

As a general rule, a supplement is not required to be bound into bound second-class publications because it is recognized that it is supplementing a publication. However, the mailing of a loose supplement with a bound publication creates processing problems for the Postal Service since they may become separated. Accordingly, we propose to add a new section that requires loose supplements mailed with a copy of a bound second-class publication to be mailed together under cover (in an envelope, sleeve, or paper or plastic wrapper) to preclude the possibility of the supplement becoming separated from the publication while they are being handled in the mails. This section makes it clear that supplements to bound publications which are not under cover (in an envelope, sleeve, or paper or plastic wrapper) must be permanently attached in the publications. Additionally, under current policy, if a supplement is mailed by itself, it is subject to the applicable third- or fourth-class rates of postage, according to its weight. It is proposed that these requirements be published in sections 425.44 and 425.46b.

Pages prepared as supplements, and printed materials subject to the third-class rates, frequently have the same physical appearance. This may lead to misunderstandings when the publication is presented for mailing. Thus, it is suggested that publishers identify printed materials prepared as supplements. Suggested methods of identifying supplements to a publication are listed in proposed section 425.45.

Second-class publications must be formed of printed sheets. Thus, for example, merchandise samples, swatches of material, and envelopes containing coupons which could not form bona fide pages of a second-class publication may not be included within copies of a supplement to a second-class publication unless postage at the appropriate third-class rate is paid on them. This limitation is set forth in proposed section 445.46.

In addition to the conditions listed in section 425.42 a and b of the proposed rule change dated September 4, 1986, subsections c through f would be added as follows:

Subsection c would limit the number of pages that can be in the supplement.

Subsection d would prescribe a size limitation for the supplement.

Subsection e would specify that permit imprints must not appear on supplements.

Subsection f would specify that supplements must indicate "Supplement to" followed by the name of the publication. Alternatively, the words "Supplement to" could be followed by the publisher's name, for example, John Doe Publications.

Section 425.91 would be changed to specify that loose supplements may be mailed together with bound publications when the combination is totally enclosed in an envelope, plastic wrapper (polybag), or paper wrapper; or when the combination is contained in a sleeve and the supplements are inserted within the pages of the publications or secured in such a manner that they will not be separated from the publications while in the mails.

Finally, proposed section 452.1g sets forth the proper manner of addressing second-class publications which are enclosed in plastic wrappers. This new requirement would facilitate the handling of these copies in the mails.

In summary, the intent of these changes is to clarify the existing regulations and to preserve the integrity of second-class mail.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. of 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 404, 407, 408, 3001-3011, 3201-3219, 3403-3406, 3621, 5001.

2. Revise 425.4 to read as follows:

§ 425.4 Supplements.

.41 *Definition.* A supplement consists of one or several printed sheets, containing advertising or nonadvertising matter, or a combination of both. It must be germane to the issue, having been omitted in the interest of space, time or convenience.

.42 *General Conditions.* Publishers may include supplements in the mailed copies of a regular issue of a second-class newspaper or other periodical publication provided:

a. The supplements are folded and mailed with the regular issue.

b. The advertising content of the supplement is included when determining the total percentage of advertising matter in each issue.

c. The total number of pages of all supplements may not exceed the number of pages in the copy of the issue which is to be supplemented.

d. The external dimensions of the supplement may not exceed the external dimensions of the second-class publication when presented for mailing.

e. The supplement may not bear a permit imprint.

f. The supplement must indicate "Supplement to" followed by the name of the publication or the name of publisher.

g. The requirements pertaining to supplements may not be circumvented by designating them as pages, parts or sections.

.43 *Editions.* Supplements may be included in copies of editions. A separate mailing statement must be filed for each edition.

.44 *Bound Publications.*

.441 Loose supplements may be mailed together with bound publications when:

a. The combination is totally enclosed in an envelope, plastic wrapper (polybag), or paper wrapper; or when the combination is contained in a sleeve and the supplements are inserted within the pages of the publications or secured in such a manner that they will not be separated from the publications while in the mails; and

b. The total weight of the supplementary material does not exceed 50 percent of the weight of the publication which it is supplementing. NOTE: Mailed pieces in which the 50 percent weight limitation is exceeded will be charged with postage at the applicable third- or fourth-class rates for all loose supplements; and

c. The publisher ensures that the second-class title is prominently displayed on the addressed side of the mail piece.

.442 Supplements which are not mailed under the conditions prescribed in .441a must be bound into bound publications.

.45 *Identification.* In addition to meeting the requirements in 425.42, it is recommended that in order to avoid possible confusion at the time of mailing, supplements be identified in one or more of the following ways:

a. Include the material in the pagination of the copies of the second-class publication.

b. List the materials in a table of contents, or elsewhere in the copies of the second-class publication.

c. Show the second-class title and date of issue in the foot- or date-lines of the material.

.46 *Limitations.*

a. Third- or fourth-class materials such as calendars, independent publications, merchandise samples, swatches of materials, and envelopes containing coupons may not be included as supplements or as parts of supplements to publications mailed at the second-class rates of postage. See section 136.31.

b. Supplements may not be mailed by themselves at the second-class rates of postage, but are subject to the applicable third- or fourth-class rates of postage according to weight. See section 425.1.

3. In 452.1, add new subsection g as follows:

§ 452.1 General Addressing.

g. Addresses, including address strips, may appear on a label carrier (card or paper stock) which must be placed on top of publications which are enclosed in a plastic wrapper (polybag). The label carrier should be positioned in the manner shown in Exhibit 452.6. To avoid problems in mail processing, label carriers which are not the same size as the publication must be prepared in one of the following ways:

(1) Attached to the publication or supplement placed inside the plastic wrapper; or

(2) Secured in such a manner so as to prevent the label carrier from shifting inside the plastic wrapper.

4. Revise section 425.91 to read as follows:

§ 425.9 Advertisements.

.91 *Integral Part of the publication.* Advertisements must be an integral part of the publication. Advertisements must be permanently attached in bound publications except those prepared as loose supplements under the conditions prescribed in section 425.44a. Pagination is not required in periodicals. However, it is recommended that some or all pages of a periodical be numbered or allowed for in the pagination, in a manner which indicates that pages containing advertisements are an integral part of the publication, rather than an independent publication. Independent publications may not be inserted in periodicals as advertisements.

An appropriate amendment to 39 CFR Part 111 to reflect these changes will be published if the proposal is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-27925 Filed 12-11-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3125-7]

Standards of Performance for New Stationary Sources; Addition of Alternative Procedure for Measuring Volume and Flow Rate to Method 6, Appendix A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this proposed rule is to add an alternative procedure to Method 6. The alternative procedure involves using critical orifices for volume and flow rate measurements. The intended effect of these revisions is to reduce the cost of sampling without sacrificing accuracy. This alternative would apply to all sources where regulations specify the use of Method 6 equipment to extract a gas sample.

A public hearing, if requested, will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule.

DATES: *Comments* must be received on or before February 25, 1987.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by January 2, 1987, a public hearing will be held on January 26, 1987, beginning at 10:00 a.m. Persons interested in attending the hearing should call the contact mentioned under **ADDRESSES** to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by January 2, 1987.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section

(LE–131), Attention Docket Number A–86–13, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at the Emission Measurement Laboratory in Research Triangle Park. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Candace Sorrell, Emission Measurement Branch (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2237.

Docket. Docket No. A–86–13, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m. Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Sorrell or Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

An alternative procedure for measuring the volume and flow rate in gas sampling trains using critical orifices is being added to Method 6.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, the rulemaking would simply add test procedures associated with emission measurement requirements that would apply irrespective of this rulemaking.

II. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed test method in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble. A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC. (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials [section 307(d)(7)(A)]).

C. Office of Management and Budget Review

Executive Order 12291 Review. Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

D. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this attached rule, if promulgated, will not have any economic impact on small entities because no additional costs will be incurred.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Fossil fuel-fired steam generators, and Petroleum refineries.

Dated: December 2, 1986.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

It is proposed that 40 CFR Part 60 be amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

Appendix A—[Amended]

2. Appendix A is amended by adding section 7.2 to Method 6 to read as follows:

7. Alternative Procedures

* * * * *

7.2 *Critical Orifices for Volume and Rate Measurements.* A critical orifice may be used in place of the dry gas meter specified in Section 2.1.10 provided that it is selected, calibrated, and used as follows:

7.2.1 *Preparation of Collection Train.* Prepare the sampling train as shown in Figure 6–2. The rotameter and surge tank are optional but are recommended in order to detect changes in the flow rate.

Note.—The critical orifices can be adapted to a Method 6 type sampling train as follows: Insert sleeve type, serum bottle stoppers into two reducing unions. Insert the needle into the stoppers as shown in Figure 6–3.

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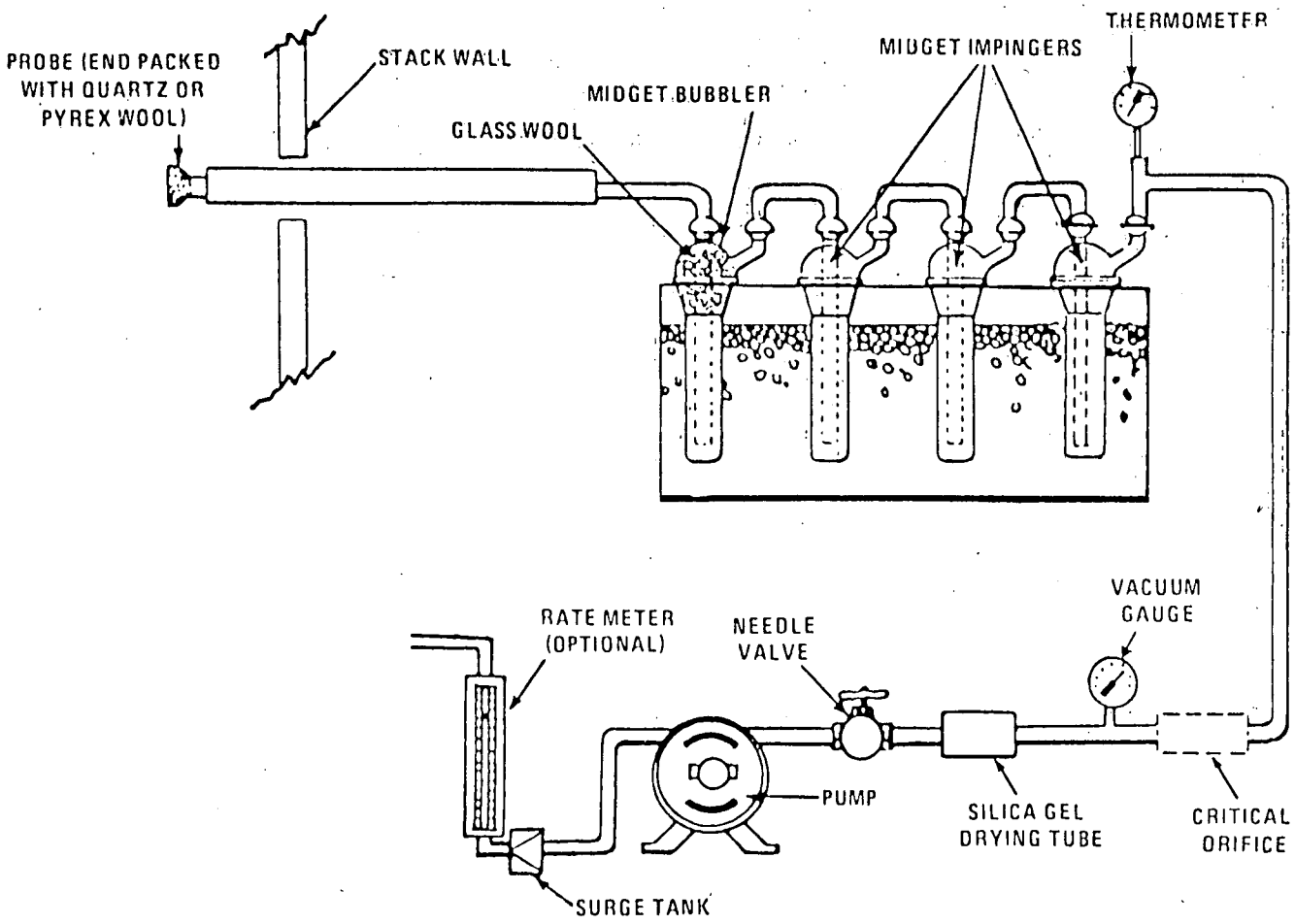

Figure 6-2. SO_2 sampling train using a critical orifice.

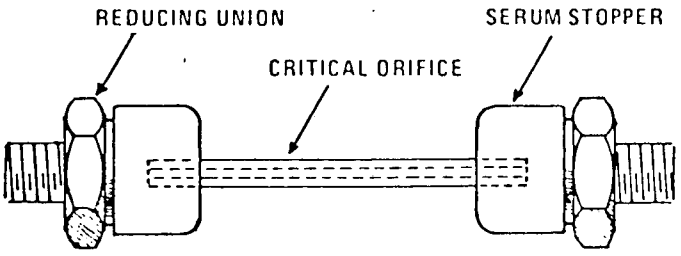

Figure 6-3. Critical orifice adaptation for Method 6 sampling train.

BILLING CODE 6560-50-C

7.2.2 *Selection of Critical Orifices.* The procedure that follows describes the use of hypodermic needles and stainless steel needle tubings, which have been found suitable for use as critical orifices. Other materials and critical orifice designs may be used provided the orifices act as true critical orifices, i.e., a critical vacuum can be obtained, as described in this section. Select a critical orifice that is sized to operate at the desired flow rate. The needle sizes and tubing lengths shown below give the following approximate flow rates.

Gauge/cm	Flow rate, cc/min
21/7.6	1,100
22/2.9	1,000
22/3.8	900
23/3.8	500
23/5.1	450
24/3.2	400

Determine the suitability and the appropriate operating vacuum of the critical orifice as follows: If applicable, temporarily attach a rotameter and surge tank to the outlet of the sampling train. Turn on the pump, and adjust the valve to give a vacuum reading corresponding to about half of the atmospheric pressure. Observe the rotameter reading. Slowly increase the vacuum until a stable reading is obtained on the rotameter. Record the critical vacuum, which is the vacuum when the rotameter first reaches a stable value. Orifices that do not reach a critical value shall not be used.

7.2.3 *Field Procedure.*

7.2.3.1 *Leak-Check Procedure.* A leak-check before the sampling run is recommended, but is optional. The leak-check procedure is as follows:

Temporarily attach a suitable (e.g., 0–40 cc/min) rotameter and surge tank, or a soap bubble meter and surge tank to the outlet of the pump. Plug the probe inlet, pull a vacuum of at least 254 mm Hg (10 in. Hg) and note the flow rate as indicated by the rotameter or bubble meter. A leakage rate not in excess of 2 percent of the average sampling rate is acceptable. Carefully release the probe inlet plug before turning off the pump.

7.2.3.2 *Moisture Determination.* Determine the percent moisture of the ambient air using the wet and dry bulb temperatures or, if appropriate, a relative-humidity meter.

7.2.3.3 *Critical Orifice Calibration.* Calibrate the entire sampling train using a 500-cc soap bubble meter which is attached to the inlet of the probe and a vacuum of 25 to 50 mm Hg (1 to 2 in. Hg) above the critical vacuum. Record the information listed in Figure 6–4.

Calculate the standard volume of air measured by the soap bubble meter and the volumetric flow rate, using the equations below:

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$$V_{sb(std)} = V_{sb}\left(\frac{T_{std}}{T_{amb}}\right)\left(\frac{P_{bar}}{P_{std}}\right) \qquad \text{Eq. 6-4}$$

$$Q_{std} = \frac{V_{sb(std)}}{\theta} \qquad \text{Eq. 6-5}$$

where:

P_{bar} = Barometric pressure, mm Hg (in. Hg).

P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).

Q_{std} = Volumetric flow rate through critical orifice, sm^3/min (scf/min).

T_{amb} = Ambient absolute temperature of air, °K (°R).

T_{std} = Standard absolute temperature, 273°K (528°R).

V_{sb} = Volume of gas as measured by the soap bubble meter, m^3 (ft^3).

$V_{sb(std)}$ = Volume of gas as measured by the soap bubble meter, corrected to standard conditions, sm^3 (scf).

θ = Time, min.

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Date _____ Train ID _____

Critical orifice size _____ Critical vacuum _____

		Pretest	Post-test
Soap bubble meter volume, V_{sb}	cc		
	m^3 (ft^3)		
Time, θ	sec		
	min		
Barometric pressure, P_{bar}	mm Hg (in. Hg)		
Ambient temperature, t_{amb}	°K (°F)		
Pump vacuum	mm Hg (in. Hg)		
$V_{sb(std)}$	m^3 (ft^3)		
Flow rate, Q_{std}	$\frac{m^3}{min}\left(\frac{ft^3}{min}\right)$		

Figure 6-4. Critical orifice calibration data.

7.2.3.4 *Sampling.* Operate the sampling train for sample collection at the same vacuum used during the calibration run. Start the watch and pump simultaneously. Take readings (temperature, rate meter, and pump vacuum) at least every 5 minutes. At the end of the sampling run, stop the watch and pump simultaneously.

Conduct a post-test calibration run using the calibration procedure outlined in Section 7.2.3.3. If the Q_{std} obtained before and after the test differ by more than 5 percent, void the test run; if not, calculate the volume of the gas measured with the critical orifice, $V_{m(std)}$, using Equation 6-6 and the average Q_{std} of both runs, as follows:

$$V_{m(std)} = \bar{Q}_{std}\,\theta_s\,(1-B_{wa}) \qquad \text{Eq. 6-6}$$

where:

$\bar{Q}_{std}$ = Average flow rate of pretest and post-test calibration runs, sm^3 (scf).

B_{wa} = Water vapor in ambient air proportion by volume.

θ_s = Sampling time, min.

If the percent difference between the molecular weight of the ambient air at saturated conditions and the sample gas is more than ± 3 percent, then the molecular weight of the gas sample must be considered in the calculations using the following equation:

$$V_{m(std)} = \bar{Q}_{std}\,\theta_s\,(1-B_{wa})\sqrt{\frac{M_a}{M_s}} \qquad \text{Eq. 6-7}$$

where:

M_a = Molecular weight of the ambient air at saturated conditions, g/g-mole (lb/lb-mole).

M_s = Molecular weight of the sample gas, g/g-mole (lb/lb-mole).

Note.—A post-test leak-check is not necessary because the post-test calibration run results will indicate whether there is any leakage.

Drain the ice bath, and purge the sampling train using the procedure described in section 4.1.3.

3. By adding two citations to the Bibliography as follows:

8. Bibliography

* * * * *

11. Lodge, J.P., Jr., J.B. Pate, B.E. Ammons, and G.A. Swanson. The Use of Hypodermic Needles as Critical Orifices in Air Sampling. J. Air Pollution Control Association. *16*:197–200. 1966.

12. Shigehara, R.T., and Candace B. Sorrell. Using Critical Orifices as Method 5 Calibration Standards. Source Evaluation Society Newsletter. *10*(3):4–15. August 1985.

[FR Doc. 86-27706 Filed 12-11-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine the Black-Capped Vireo To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the black-capped vireo (*Vireo atricapillus)* as an endangered species under provisions of the Endangered Species Act of 1973, as amended. This small bird formerly bred from Kansas through Oklahoma and Texas to central Coahuila in Mexico. The vireo population is declining. It no longer occurs in Kansas, is gravely endangered in Oklahoma where it was found in only three small areas in 1986, and is no longer found in several parts of its former range in Texas. The black-capped vireo is threatened by brown-

headed cowbird (*Molothrus ater)* nest parasitism and by loss of habitat due to such factors as urbanization, grazing, range improvement, and succession. This proposal, if finalized, will implement the protection provided by the Endangered Species Act of 1973, as amended, for *Vireo atricapillus.* The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by March 12, 1987. Public hearing requests must be received by January 26, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Service's Regional Office of Endangered Species, 500 Gold Avenue SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Alisa Shull, Endangered Species Biologist, Albuquerque, New Mexico (see **ADDRESSES** above) (505/766–3972 or FTS 474–3972).

SUPPLEMENTARY INFORMATION:

Background

The black-capped vireo is a small (4 inches), insectivorous bird that was described as a new species by Woodhouse (1852). He first discovered the species when he collected two specimens on May 26, 1851, along the Rio San Pedro (now called Devil's River) in Sutton County, Texas (Deignan 1961).

The adult male black-capped vireo is olive green on the upper surface, white beneath, with flanks faintly yellowish green. The crown and upper half of the head is black with a partial white eye-ring and lores. This pattern is unique in the family Vireonidae. The iris is brownish red, the bill black. The adult female is duller colored with the crown slate gray instead of black and the underparts washed with greenish yellow (Marshall *et al.* 1985).

The black-capped vireo formerly bred from Kansas through Oklahoma and Texas to central Coahuila in Mexico with an outlying, possibly temporary, colony in Nuevo Leon. Winter residents ranged from Sonora to Oaxaca, Mexico, but occurred mostly in Sinaloa and Nayarit. The species disappeared from Kansas after 1953 (Grzybowski *et al.* 1984, Marshall *et al.* 1985). Graber (1961) believed that land use (grazing) and climatic conditions (drought) had made the former habitat in southern Kansas unsuitable. The northernmost breeding areas found by her, from 1954 to 1956, were in northern Oklahoma. The present breeding range is from Blaine County in central Oklahoma south through Dallas, the Edwards Plateau, and Big Bend National Park in Texas to at least the Sierra Madera in central Coahuila, Mexico (Marshall *et al.* 1985).

In 1986, only 44–51 adult birds were located in Oklahoma (Grzybowski, pers. comm.) and were limited to three small areas. Only 35–39 birds were found there in 1985 when limited cowbird control measures were started (Grzybowski 1985a). A total of 280 adults were found in 33 places in Texas in 1985; slighlty higher numbers of vireos were found at five of these Texas sites in 1986 during survey and cowbird studies (Grzybowski, pers. comm.). Some 24 adults were found in breeding areas in Mexico in 1983–1984 (Marshall *et al.* 1985).

Black-capped vireos and their habitat in the U.S. occur on Federal, State, and private land. The vireo's habitat consists of a few small trees scattered among separated clumps of many shrubs or bushes. The bushes are in the open, and their foliage reaches the ground. Bushes occur in clumps separated by bare ground, rocks, grasses, or wildflowers (Marshall *et al.* 1985). These bushes are the most important requirement for nests, which are mostly 0.5 to 1.0 meter (18–40 inches) above ground and screened from view by foliage (Grzybowski *et al.* 1984). Marshall *et al.* (1985) summarized known nest sites and found that 63 percent of all 164 documented nests were located in four species of shrubs: *Quercus marilandica, Q. shumardii texana, Q. stellata,* and *Rhus virens.* The remaining 37 percent were found in some 20 other kinds of plants.

Many of the black-capped vireo territories are located on steep slopes, such as the heads of ravines and along sides of arroyos. On such steep, eroded slopes, the shallow soil slows succession and the many micro-climates provided by the rugged terrain perpetuate clumping of vegetation, keeping an area suitable for the vireo (Graber 1961). On level terrain vireo habitat will tend to change, due to succession, to prairie-grass, closed-canopy hardwood forest, or cedar brakes so dense that the necessary understory shrubs will be suppressed (Grzybowski *et al.* 1984). Under natural conditions, some areas of early successional stage vegetation were present due to wildfires and wildlife grazing. These areas provided black-capped vireo habitat.

The black-capped vireo was included as a category 2 species on the Service's December 30, 1982, Notice of Review (47 FR 58454) but was changed to a category 1 species in the September 18, 1985, Notice of Review (50 FR 37958). Category 1 includes those species for which the Service currently has substantial information to support the biological appropriateness of proposing to list the species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the black-capped vireo (*Vireo atricapillus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Major threats to black-capped vireo habitat include possible real estate development; grazing by sheep, goats, and other exotic herbivores (which remove vegetation cover near ground level that is necessary for vireo nesting); and range improvement that involves the removal of broadleaved, low bushes (Marshall *et al.* 1985). In addition, any activity that divides the habitat into narrow strips that make the vireo's nest more vulnerable to cowbird parasitism poses a threat (Grzybowski *et al.* 1984).

In the Austin area, which contains the largest known concentration of black-capped vireos, 88 percent of the vireo population is presently threatened by extirpation from development activity and road construction (J. Carrasco *in litt.*). The City of Austin's Department of Planning and Growth Management (DPGM) estimates that most of the habitat for this population will be lost in the next 5 to 10 years, if the anticipated rate of development is realized. The Austin City Manager further states that "proposed development plans and roadway improvement *presently* before the City of Austin for consideration

could eliminate 20 pairs in the immediate (1 to 5 year) future" (J. Carrasco *in litt.*).

In addition, extensive evidence of heavy grazing, trampling, and browsing exists on the Edwards Plateau. In addition to a substantial Angora goat enterprise, the Plateau contains a variety of herbivorous, African game species (Marshall *et al.* 1985).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The black-capped vireo is especially attractive to both ornithologists and amateur birders. Nests have failed or been abandoned due to excessive activities of photographers; and a territory was possibly abandoned, in one case, because of frequent harassment from tape-recorded songs (Marshall *et al.* 1985).

C. Disease or Predation

Black-capped vireos are remarkably free of disease and ectoparasites (Graber 1961). However, eggs and young vireos are subject to some predation that is thought by the Service to be normal for this type of bird. Of 134 eggs lost, Graber (1961) found 12 (9 percent) lost to predators, including snakes and a fox squirrel. She also found 16 of 95 hatchlings (17 percent) lost to predators, including snakes and ants. Little evidence of predation on adults exists. The first known instance of predation on an adult occurred in 1985: a female brooding young on a low nest was eaten during the night (Marshall *et al.* 1985).

D. The Inadequacy of Existing Regulatory Mechanisms

The Migratory Bird Treaty Act (16 U.S.C. 703–711) protects this species from being killed or taken captive by persons under U.S. jurisdiction. The black-capped vireo is also proposed for addition as threatened to the Texas State list. However, neither that Act nor the Texas listing provide any protection to the species' habitat.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Graber (1961) found that 55.1 percent of all black-capped vireo eggs laid were lost before hatching and of this 72.3 percent was due to brown-headed cowbird (*Molothrus ater*) activity. During the nestling period, the chief loss was also due to cowbird parasitism. Cowbirds lay their eggs in vireo nests before the vireo clutch is completed. The cowbird eggs hatch 2–4 days before the vireos and by the time the vireos hatch the cowbird nestlings outweigh them tenfold. In all cases where a cowbird occupied the nest, no vireo chicks survived (Graber 1961). In a recent study done by Grzybowski (1985b), cowbird nest parasitism was 79 percent in selected areas in Texas and Oklahoma. When cowbird trapping was initiated in those same areas, nest parasitism dropped to 22 percent. Nest success (nests producing vireos) was 14 percent without cowbird removal and 39 percent with cowbird removal.

Man-made changes in landscape and land-use patterns, in particular the opening up of forested areas and the spread of cattle in North America over the past 150 years or so, appear to have favored the brown-headed cowbird. The brown-headed cowbird is an "edge species" and appears to have increased in abundance, range, and the number of species it parasitizes. Cowbirds feed near cattle and agricultural areas and commute daily to areas where they search for nests; therefore, host populations nesting in extensive unbroken tracts may escape parasitism entirely (May and Robinson 1985). With clearing of brush and consequent interspersing of scrub habitats with potentially more suitable cowbird feeding habitats, the vireos may be more accessible to cowbirds than in the past (Grzybowski 1985b).

Natural vegetational succession may also lead to a reduction in vireo habitat. On level terrain with good soil, succession will convert vireo habitat either to prairie grass, closed-canopy hardwood forest, or cedar brakes so dense that the necessary understory shrubs are suppressed (Grzybowski *et al.* 1984).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the black-capped vireo (*Vireo atricapillus*) as endangered. A decision to take no action would constitute failure to properly classify this species pursuant to the Endangered Species Act and would exclude it from protection provided by the Act. A decision to propose only threatened status would not adequately reflect the severity of the threats facing this species throughout a significant part of its range and the resulting danger of this species becoming extinct. For the reasons given below, no critical habitat has been proposed for this species.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. For this particular situation, however, the Service has concluded that there is no demonstrable benefit to the vireo in designating critical habitat and that such an action is not prudent. The black-capped vireo occurs in scattered, small areas; occupied habitat would be difficult to delineate and may vary over time due to succession. Service recovery actions will continuously update and address the vireo's habitat management needs. In addition, as mentioned under "B" in Summary of Factors Affecting the Species, the black-capped vireo is popular among bird-watchers. Possible increased harrassment could occur from the required publication of critical habitat descriptions and maps in the **Federal Register.** Should the Service receive additional information on this subject, which would warrant reconsideration of this decision, the Service could propose critical habitat in the future. Future proposal of critical habitat would require an additional **Federal Register** publication.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 (see revision at 51 FR 19926; June 3, 1986). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry

out are not likely to jeopardize the continued existence of such a species. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service.

Federal agencies with lands on which vireos have been reported recently include the National Park Service (NPS), Fish and Wildlife Service, and U.S. Army (Fort Hood). Fort Hood personnel have already expressed an interest in protecting this species, and NPS parks and Service refuges are responsible for protecting natural resources. Therefore, little adverse Federal involvement is expected. No Federal activities are known to be presently occurring on the State and private lands containing black-capped vireos.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, etc.—see definitions at 50 CFR 17.3), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally.

Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or lack thereof) to the black-capped vireo;

(2) The location of any additional populations of black-capped vireos and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the past or present range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on *Vireo atricapillus* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director (see **ADDRESSES**).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Deignan, H.G. 1961. Type specimens of birds in the United States National Museum. Bull. U.S. Natl. Mus. 221:1–718.

Graber, J.W. 1961. Distribution, habitat requirements, and life history of the black-capped vireo *(Vireo atricapillus)*. Ecol. Monogr. 31:313–336.

Grzybowski, J.A. 1985a. Final report: Population and nesting ecology of the black-capped vireo *(Vireo atricapillus)*. Part I: Population status of the black-capped vireo in Oklahoma—1985. Prepared for the U.S. Fish & Wildlife Service, Albuquerque, NM. 50 pp.

Grzybowski, J.A. 1985b. Final report: Population and nesting ecology of the black-capped vireo *(Vireo atricapillus)*. Part II: Nesting ecology of the black-capped vireo. Prepared for the U.S. Fish & Wildlife Service, Albuquerque, NM. 50 pp.

Grzybowski, J.A., R.B. Clapp, and J.T. Marshall. 1984. Interim status report on the black-capped vireo. Prepared for U.S. Fish and Wildlife Service, Albuquerque, NM. 86 pp.

Marshall, J.T., R.B. Clapp, and J.A. Grzybowski. 1985. Status report: *Vireo atricapillus* Woodhouse (black-capped vireo). Prepared for U.S. Fish and Wildlife Service, Albuquerque, NM. 55 pp.

May, R.M., and S.K. Robinson. 1985. Population dynamics of avian broad parasitism. Amer. Nat. 126(4):475–494.

Woodhouse, S.W. 1852. Descriptions of new species of the genus *Vireo*, Veill, and *Zonotrichia*, Swains. Proc. Acad. Natural Sciences Phil. 6:60.

Author

The primary author of this proposed rule is Alisa M. Shull, Endangered Species Biologist, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under Birds, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Birds							
Vireo, black-capped	*Vireo atricapillus*	U.S.A. (KS, LA, NE, OK, TX), Mexico.	Entire	E		NA	NA

Dated: December 2, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-27926 Filed 12-11-86; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Parts 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, and 107

Yukon Flats and Becharof National Wildlife Monuments; Withdrawal of General Land Management and Mining Proposed Rules

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Withdrawal of previously proposed rules.

SUMMARY: The Fish and Wildlife Service is withdrawing proposed Parts 97 through 107 of 50 CFR Subchapter H. Proposed Parts 97 through 106 (general land management regulations for Yukon Flats and Becharof National Wildlife Monuments) (44 FR 37754, June 28, 1979) and Part 107 (mining on the two Monuments) (45 FR 2616, January 11, 1980) address monuments which since publication have been designated national wildlife refuges under the Alaska National Interest Lands Conservation Act of 1980. Therefore, these proposed Parts have become obsolete and are no longer relevant.

FOR FURTHER INFORMATION CONTACT: Nancy Marx, Division of Refuges, Fish and Wildlife Service, 18th and C Streets NW., Washington, DC 20240, telephone (202) 343-3922.

Dated: November 20, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-27900 Filed 12-11-86; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 61220-6120]

Groundfish of the Gulf of Alaska

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 15 to the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP). Amendment 15 would revise the FMP's management goals and objectives and (1) establish a single optimum yield (OY) range and an administrative framework procedure for setting annual harvest levels for each species category of groundfish; (2) establish an administrative procedure for setting prohibited species catch limits (PSCs) for fully utilized groundfish species applicable to joint venture and foreign fisheries; (3) revise an existing domestic reporting requirement for catcher/processor and mothership vessels; (4) establish four time/area closures to nonpelagic trawling around Kodiak Island for a three-year period to protect king crab; and (5) modify the inseason authority to authorize the Secretary of Commerce (Secretary) to make certain inseason changes to gear regulations, seasons, and harvest quotas.

The intended effect of this action is to implement conservation and management measures that respond to the best available biological and socioeconomic information on the status of the groundfish and king crab fishery, while providing for full development and utilization of Gulf of Alaska groundfish resources.

DATE: Written comments must be received on or before January 17, 1987.

ADDRESSES: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. Copies of the amendment, the environmental assessment (EA), and the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) may be obtained by contacting the North Pacific Fishery Management Council (Council), P.O. Box 103136, Anchorage, AK 99510, 907-274-4563.

Comments on the collection-of-information requirement should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NOAA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the Gulf of Alaska are managed under the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented December 1, 1978 (43 FR 52709, November 14, 1978).

Prior to 1984, the Council would receive proposals to amend the FMP at any meeting. During its April 1984 meeting, the Council adopted a policy whereby proposals for amendments would be received only once a year. By the December 7, 1984 deadline for the first amendment cycle, over thirty proposals to amend the FMP were submitted. Because the Council had received such a large number of proposals, only certain ones were selected for consideration at that time as part of Amendment 14. The remaining proposals were held for consideration for inclusion in a future amendment. Normally, the Council would again have invited proposals at its December 1985 meeting. However, with so many proposals remaining, it elected to consider those remaining rather than invite new ones. The Council, therefore, directed its Plan Team to analyze the biological, ecological, and socioeconomic impacts of the six proposals now contained in Amendment 15, that the Council deemed of high priority. The Council's Plan Team prepared drafts of an environmental assessment and a regulatory impact review, which analyzed each proposal and its alternatives as required by the National Environmental Policy Act of 1969, other Federal laws, and Executive Order 12291. The Council reviewed these documents at its June 1986 meeting and released them for public review. In response to comments received, the Plan Team revised the draft analyses for consideration by the Council at its September 24-26, 1986, meeting. At that meeting, the Council reviewed the analyses, heard further public comment, and approved the six parts of Amendment 15.

A description of each of the five parts of Amendment 15 that would be implemented by regulation follows. A

description of the sixth part, the proposed management goals and objectives, can be found in the Amendment, EA, and RIR/IRFA that are available from the Council at the address above.

1. Establish a single optimum yield (OY) range and an administrative framework procedure for setting annual harvest levels for each species category.

Under the current FMP, OYs are established for every groundfish species or species group being managed by the FMP. Because the status of some stocks changes annually, some OYs have had to be adjusted on an annual basis. These adjustments require that the FMP be amended, a procedure that normally takes about a year. However, proposed OY changes, which are based on the best available scientific information and are often necessary to prevent overfishing, must often be implemented immediately. For the last three years, OYs have been adjusted by emergency rule under section 305(e) of the Magnuson Act, followed by an FMP amendment. If an amendment were not in place at the time the emergency rule expired, then the former OYs are reinstated until the amendment becomes effective. This situation is undesirable for several reasons. First, OYs that are not based on the best available scientific information come back into effect. Second, the current system is administratively inefficient because required documentation and review procedures for the emergency rule and the amendment are duplicative. Finally, it causes confusion within the fishing industry and risks potential economic losses if harvests were prematurely terminated or overfishing were to occur as a result of out-of-date OYs being reinstated.

To resolve this problem the Council has proposed a framework procedure that allows the setting of target quotas (TQs) for each species category on an annual basis without an FMP amendment. The Council has also proposed a change in the present concept of OY contained in the FMP, which prescribes a separate OY for each species. Twenty (20) percent of each OY is assigned to a species-specific reserve. The remaining 80 percent is then annually apportioned among domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF). The Council has recommended that a single OY range of 116,000–800,000 metric tons (mt) be established for all of the groundfish species for the Gulf of Alaska. The low end of the range, 116,000 mt, equals the lowest historical groundfish catch during the 21-year period from 1965 to 1985. The high end of the range, 800,000 mt, equals ninety-five percent of the average (845,670 mt) of the sums of the individual species maximum sustained yields (MSYs) over a period of five years from 1983 to 1987.

Each year, the Council will recommend a TQ for each species category. The sum of the TQs must fall within the OY range. If the sum were to fall outside of this range, the TQs would be adjusted or an FMP amendment would be necessary. Twenty percent of each TQ will be set aside as a reserve for possible reapportionment among DAP, JVP, and TALFF during the year. The remaining 80 percent will be initially apportioned among DAP, JVP, and TALFF at the beginning of the year. In recommending TQs, the Council will follow procedures similar to those followed in previous years for apportioning species-specific OYs among DAP, JVP, and TALFF. The procedure, which is outlined below, will promote full public participation both prior to and during Council meetings, and will comply with notice and comment standards set forth by the Administrative Procedure Act.

(1) In September, the Council' s Plan Team prepares a draft Resource Assessment Document (RAD) , which proposes preliminary TQs for all managed groundfish species. TQs will be specified for the regulatory areas and districts of the Gulf of Alaska and apportioned among DAP, JVP, and TALFF.

(2) At the September Council meeting, the Council approves preliminary TQs and apportionments and proposes them with the RAD for a 30-day public review.

(3) As soon as practicable after October 1, the Secretary, upon receiving the Council's recommendations, will publish a notice in the **Federal Register** specifying the proposed TQs and the apportionments thereof to DAP, JVP, and TALFF. Public comments on the proposed TQs and apportionments will be accepted by the Secretary for 30 days after the notice is filed with the Office of the Federal Register.

(4) In November, the Plan team prepares the final RAD.

(5) At its December meeting, the Council reviews the final RAD and any public comments received, takes public testimony, and then makes final recommendations on annual TQs and apportionments.

(6) As soon as practicable after receiving the Council's final recommendations, the Secretary will publish a notice in the **Federal Register** that establishes final TQ limits for the new fishing year.

(7) On January 1, or as soon as practicable after that date, the TQs and apportionments will take effect for the new fishing year.

With the exception of the "other species" management category, the framework procedure described above will be used to determine TQs for every groundfish species and species group managed by the FMP. The "other species" category of groundfish includes those species currently of slight economic value and which generally are not targeted upon. This category, however, also contains species with economic potential or which have importance to the ecosystem, but sufficient data are lacking to allow separate management. Accordingly, a single TQ, equal to five percent of the combined TQs for other target species will apply to this category.

This proposal is a significant improvement to the status quo but is not substantially different from other alternatives considered, which are described in the RIR/IRFA. Compared to the status quo, this measure would relieve NOAA from the administrative burden of preparing annual emergency rules and plan amendments, resulting in a savings of approximately $100,000. No measurable costs are imposed on the harvesting, processing, and marketing sectors, or on consumers. It will ensure that harvest quotas for each fishing year are established using the best available scientific information and will prevent overfishing.

2. Establish an administrative procedure for setting prohibited species catch limits (PSCs) for fully utilized species applicable to joint venture and foreign fisheries.

Certain species of groundfish are fully utilized by DAP fishermen. The Magnuson Act requires that all of such species be made available to DAP fishermen. Other fisheries (i.e., the joint venture and foreign fisheries) which target on other groundfish species for which they have an allocation, will catch incidentally some of the species that are fully utilized by DAP fishermen. Under the current FMP, specifications of DAP must equal OY for those species that are fully utilized. Under Magnuson Act sections 201(d)(2) and 204(b)(6)(B)(ii), no amounts of the OY of fully utilized species can be made available for harvest in foreign fisheries or in joint ventures. In addition, any harvest of fully utilized species in excess of the OY is also inconsistent with the provisions of the FMP, which

provides only for a harvest equal to the specified OY for any species category.

Therefore, no foreign fishery in the Gulf of Alaska can be allowed and joint ventures could be terminated early, absent an amendment to the FMP or an emergency rule that would authorize the treatment of these species as a prohibited species under 50 CFR §§ 611.11 and 672.20(d)(2). These regulations require that such species be sorted promptly and returned to the sea with a minimum of injury, regardless of condition, after allowing for sampling by an observer. In 1985 and 1986, PSC limits for foreign and joint venture fisheries were established by emergency rule under section 305(e) of the Magnuson Act. This action was required before foreign fisheries could legally take place.

Under this part of Amendment 15, the Council recommends a framework administrative procedure that allows the Council to recommend PSC limits on an annual basis without an FMP amendment. The procedure parallels almost exactly that recommended for the setting of annual TQs and the apportionments to DAP, JVP, and TALFF, discussed above under part 1 to this amendment.

This measure for administratively establishing PSC limits is an improvement over the status quo, because it also relieves NOAA of the administrative burden of preparing annual emergency rules or FMP amendments. No measurable costs are imposed on the harvesting, processing, and marketing sectors, or on the consumers as long as PSC limits are established when necessary. Failure, however, to establish PSC limits on joint venture fisheries could result in waste if groundfish, which could have been delivered as a DAP product to a domestic processor, is discarded at sea. Failure to establish PSC limits on foreign fisheries would prevent them from legally taking place.

3. Revise an existing domestic reporting requirement for at-sea catcher/processor and mothership processor vessels.

The Council approved a proposal to revise an existing reporting requirement at § 672.5(a)(3) which requires that any catcher/processor vessel that freezes or dry-salts any part of its catch on board and retains it at sea for more than 14 days from the time it is caught, or any mothership which receives groundfish at sea from a domestic fishing vessel and retains it for more than 14 days from the time it is received, submit to the Regional Director a weekly catch or receipt report for each weekly period, Sunday through Saturday during which groundfish were caught or received at sea. The Council has proposed that all catcher/processor and mothership processor vessels be required to submit weekly catch reports regardless of how long their catch is retained before landing. Weekly catch reports are necessary because the large amounts of catches that might be onboard vessels would not otherwise be reported on State of Alaska fish tickets until the fish were landed, often weeks or months later.

Under the current regulation, catcher/processors and mothership/processors that land fish within 14 days are not required to submit a weekly catch report to the Regional Director. This exception to the weekly catch report requirement was allowed under the assumption that any catch landed within 14 days and reported on an Alaska Department of Fish and Game (ADF&G) fish ticket would be incorporated into the catch monitoring data base in a relatively short period of time. In practice, the catch information is not received quickly due to delays in submitting tickets by vessel operators or processors. Large, efficient catcher/processor vessels and other vessels that are fishing on small quotas can harvest those quotas over short time periods. Timely catch and effort information from these operations is necessary to foster effective fishery management. When receipt of this information is delayed, fishery managers may have already had to make critical management decisions based on incomplete information. Incorrect management decisions, as a result of incomplete catch and effort information, could result in serious over- or underharvest and substantial inconvenience and cost to the fishing industry. Compounding this problem is the fact that recent ADF&G budget cuts due to declining State revenues may result in ADF&G fish tickets being collected even more slowly.

The current reporting requirement has resulted in other problems as well. A lack of consistency of catch records has occurred for some vessels which report weekly part of the time and submit only fish tickets at other times when landings are made within 14 days. This has resulted in double counting of catch in trying to resolve catch information from the two reporting system's which has resulted in overestimates of harvest rates. This same lack of consistency in submission of weekly catch reports has made enforcing the reporting requirement nearly impossible because agents don't know when a report is missed whether or not the vessel landed and completed an ADF&G fish ticket. For these reasons, the Council approved this part of Amendment 15, which requires that all catcher/processors and mothership/processors submit weekly catch reports regardless of how long they retain their catch so that inseason harvest management decisions can be made using the best available information.

The Council also proposes a new definition of "processing" which means the preparation of fish to render it suitable for human consumption or industrial use, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, and rendering into meal or oil. Under this definition, any vessel that processes any part of its catch or receipts of another vessel's catch on board within the meaning of "processing" would be required to report its catches or receipts weekly to the Regional Director.

This measure conveys a benefit to the fishing industry by providing management agencies more timely information with which to manage the fisheries. It, therefore, reduces the risk of overharvesting fishery resources, which promotes more stable economic returns to the industry. Also, it reduces the risk of underharvesting the fishery resources, which allows a larger economic return to the industry in any current fishing year.

4. Establish four time/area closures to non-pelagic trawling around Kodiak Island for a three-year period to protect king crab.

The numbers of red king crab in the area around Kodiak Island are at historically low levels. The directed commercial king crab fishery has been closed since 1983 in an attempt to rebuild king crab stocks. No significant recruitment has occurred during the past seven years. During this same period a developing domestic groundfish fishery, using a variety of gear, has displaced most foreign fisheries. While the cause for the decline of the resource is not known, most researchers believe that the decline can be attributed to a variety of environmental factors that independently or in combination led to the depressed condition of the resource. Whether the king crab decline is due in part to commercial fishing, either directed or incidental, is unknown.

Measures to protect concentrations of king crab, especially when they are in a soft shell condition, are needed to facilitate stock rebuilding. King crab are known to concentrate in certain areas around Kodiak Island during the year. In the spring they migrate inshore to molt and mate. Approximately 70 percent of the female red king crab stocks are

estimated to congregate in two areas known as the Alitak/Towers and Marmot Flats. The Chirikof Island and Barnabas areas also possess concentrations of king crab but in lesser amounts. Past studies have shown that most king crab around Kodiak molt and mate from March through May, although some molting crab can be found during late January through mid-June. Adult female king crabs must molt to mate and extrude eggs. After molting, their exoskeleton (shell) is soft, and they are known as soft-shell crabs. The new exoskeletons take 2–3 months to harden and fill with flesh. During the soft-shell period, the crabs are particularly susceptible to damage and mortality from handling and from encounters with fishing gear. Because many of the present and potential groundfish trawling grounds overlap the mating grounds of king crab, the potential exists for substantial king crab mortality.

The mortality inflicted on king crab by any gear type is assumed to be high while the crab are in their soft-shell condition. The mortality inflicted on king crab is not known while the crab are in their hard-shell condition. Trawl fishing can kill or injure king crab in two ways. First, crab caught in the net can be crushed during the tow or injured (often fatally) as the net is unloaded in the fishing vessel. Second, crabs might be struck with parts of the gear (e.g., trawl doors, towing cables, groundlines, roller gear) as the trawl is towed along the bottom.

In January 1986, the Council approved an emergency rule to close specified areas around Kodiak Island to bottom trawling while king crabs were in their soft-shell condition. This action was approved by the Secretary and implemented on March 7, 1986 (51 FR 8502, March 12, 1986). This action expired on June 6, 1986, when the crabs were no longer in their soft-shell condition. The Council assembled an industry workgroup to review recent actions taken by federal and state management agencies and to develop a long-term solution that would meet the needs of all interested fishing industry groups. Supporting the workgroup were fishery scientists and managers who presented the latest biological and fishery information on the status of the king crab stocks and on areas where commercial fishing operations for groundfish, crab, and shrimp are conducted. After reviewing the recommendations of the workgroup, the Council adopted a modified recommendation to close four areas around Kodiak Island to all trawling other than pelagic trawling for all or certain times of the year at § 672.24(c). This measure would be in effect for three years, until December 31, 1989. Before this date, the Council would review the need for the measure and recommend that either it be extended, revised, or allowed to terminate.

Two types of time/area closures are defined on the basis of crab concentrations in the areas. Type I is an area where crab concentrations are high and maximum protection is necessary to promote rebuilding. Type I areas are closed year round to all trawling except with pelagic gear. Type II areas are those where crab are found but in smaller numbers than in Type I areas. Protection is necessary to promote rebuilding although rebuilding is not expected to occur as fast as in Type I areas. Type II areas are closed during February 15 through June 15 to all trawling except trawling with pelagic gear.

This proposal establishes the Alitak Flats/Towers and Marmot Flats, described in this notice under proposed § 672.24(c)(1), as Type I areas. In these areas, no person may fish with, or have on board, a trawl other than a pelagic trawl year around. The measure also establishes the Chirikof Island and Barnabas areas, described in this notice under proposed § 672.24(c)(2), as Type II areas. In these areas, no person may fish with, or have on board a trawl other than a pelagic trawl during the period from February 15 through June 15.

Adoption of this alternative would protect about 85 percent of the Kodiak Island king crab resource from bottom trawls during their soft-shell period. It would also protect 70 percent of the king crab resource year around, while still providing bottom trawl fishing opportunities close to established processing and support facilities. A historical perspective implies that significant benefits could accrue should the king crabs recover to past levels of abundance. During the last five years (1978–1983), annual catch averaged 16 million pounds, which in 1986 dollars would be worth $63 million, exvessel. To the extent that this measure contributes to the full rebuilding of king crab, a benefit is conveyed to the fishing industry.

5. Modify the Regional Director's authority to make inseason adjustments in the fishery.

The Regional Director is currently authorized by the FMP to make inseason time/area adjustments in the Gulf of Alaska groundfish fishery. These adjustments are accomplished by regulations published in the Federal Register. The FMP states that the Regional Director may issue "field orders" for conservation reasons only. His adjustments are to be based on the following considerations:

1. The effect of overall fishing effort within the area in comparison with preseason expectations;

2. Catch per unit of effort and rate of harvest;

3. Relative abundance of stocks within the area in comparison with preseason expectations;

4. The proportion of halibut or crab being handled;

5. General information on the condition of stocks within the area;

6. Information pertaining to the optimum yield for stocks within the statistical area; or

7. Any other factors necessary for the conservation and management of the groundfish resource.

Current regulations require the Regional Director to make adjustments on the basis of a determination that (1) the condition of any groundfish or halibut stock in any portion of the Gulf of Alaska is substantially different from the condition anticipated at the beginning of the year, and (2) such differences reasonably support the need for inseason conservation measures to protect groundfish or halibut stocks.

The Council concluded that such limited authority prevents the Secretary from using all relevant information on which to base inseason adjustments. The Council also concluded that authority should not be limited only to making time/area adjustments.

The need for adjustment may be related to several circumstances. For instance, certain target or bycatch groundfish species may have decreased in abundance. When new information indicates that a groundfish species has decreased in abundance, failure either to reduce the allowable harvest or to institute other measures designed to reduce the harvest of that species could result in overfishing. Likewise, new information relating to the stock status of incidentally-caught prohibited species (e.g., crab and halibut) may require the adjustment of PSC limits or season or gear modifications to prevent overfishing of those species.

Information may become available inseason to indicate that the status of a groundfish or prohibited species stock is greater than was anticipated at the time harvest levels and other management measures were established, and that certain harvest levels or PSC limits are too low. In this case, closing a fishery at the originally specified harvest quota or PSC limit could result in underutilization of groundfish and fishermen would

unnecessarily forego economic benefits unless the TQ or PSC limit were increased and the fishery allowed to continue.

Therefore, the Council recommends that the Secretary be authorized to make inseason adjustments to prevent overfishing and adjust incorrectly specified TQs and PSC limits on the basis of all relevant information. Three possible types of adjustments are authorized. First, a fishing season may be closed, opened, or extended. Second, fishing gear that is allowed in all or part of a management area may be restricted or its usage modified. Third, specifications of TQs or PSC limits may be adjusted if the best available scientific information on biological stock status indicates they are incorrectly specified. For example, if the biological status of a groundfish target species indicated that stocks had decreased in abundance and further harvesting could increase the risk of overfishing, the TQ for that species could be adjusted downward. Conversely, if the biological status of a groundfish target species indicated that stocks had increased in abundance, and additional retention would not cause harm to the stocks, the TQ for that species could be adjusted upward.

The amendment, however, would not authorize the Secretary to make inseason adjustments to TQs or PCSs which are not initially specified on the basis of biological stock status, unless an adjustment is necessary to prevent overfishing.

The Secretary is constrained, however, in his choice of management reponses to prevent overfishing by having to select the least restrictive adjustment from the following management measures to achieve the purpose of the adjustment: (1) Any gear modification that would protect the species in need of conservation, but which would still allow fisheries to continue for other species; (2) a time/area closure that would allow fisheries for other species to continue in noncritical areas and time periods; and (3) total closure of the management area. An example of a potential gear restriction would be the closure of an area to non-pelagic trawling to prevent overfishing of a bottom dwelling species.

The exercise of the Secretary' s authority to adjust TQs or PSC limits requires a determination, based on the best available scientific information, that the biological status or condition of a stock is different from that on which the currently-specified TQs or PSC limits were specified. Any adjustments to a specified TQ or PSC limit must be reasonably related to the change in stock status.

For example, a PSC limit for a crab stock derived from a specific level of the crab biomass could be adjusted upwards or downwards if the new stock status information showed that the crab biomass had changed. If, however, a TQ or PSC limit were based on factors other than the biological stock status of that species, the Regional Director would be unable to make the determination that the TQ or PSC limit was incorrectly specified. For example, the PSC limit for red king crab in Zone 1 of the eastern Bering Sea in 1986 was a negotiated level between representatives of the crab and trawl fishermen. In this instance, any change in the stock status of red king crab would not result in exercise of this authority, since the PSC limit was not directly related to the stock status of red king crab. The only exception would be if new stock status information indicated that a negotiated PSC limit would result in overfishing.

The types of information that the Regional Director must consider in determining whether stock conditions exist that require an inseason adjustment are as follows, although the Regional Director is not precluded from using information not described but determined to be relevant to the issue:

1. The effect of overall fishing effort within a regulatory area;
2. Catch per unit of effort and rate of harvest;
3. Relative abundance of stocks within the area;
4. The condition of the stock within all or part of a regulatory area;
5. Any other factors relevant to the conservation and management of groundfish species or any incidentally caught species that are designated as a prohibited species or for which a PSC limit has been specified.

The Secretary will publish a notice of adjustments in the **Federal Register** for comment before they are made final, unless the Secretary finds good cause that such notice and comment is impractical or contrary to the public interest. If the Secretary determines that the prior opportunity for comment should be waived, he will still request comments for fifteen days after the notice is made effective. He will respond to any comments received by publishing a notice in the **Federal Register** that either continues, modifies, or rescinds the adjustment.

Under the Magnuson Act, the Secretary is required by law to prevent overfishing. One of the major underlying concerns this part addresses is that management not be so shortsighted as to allow short term benefits to accrue in a fishery at the expense of a continuing stream of benefits for future generations. Inseason measures adjusting a gear restriction or season or to reduce a TQ or PSC limit would be taken to preserve future benefits from the fishery by preventing overfishing. This would only occur in cases where FMP flexibility is inadequate to deal with the situation through normal processes. When inseason management authority would be required to adjust a TQ or PSC limit upward, immediate benefits would be realized by the fishery due to the increased potential harvest in the target fishery and the sale of that harvest.

Regulatory Changes

NOAA has made certain minor changes to the regulations submitted by the Council.

Sections 672.20 (a)(i)(A) and (b)(2) are changed to remove the reference to the Resource Assessment Document as the definitive source for information on the biological condition of target groundfish species and prohibited groundfish species. The NOAA notes that the title of a document is not important. What is important is the information contained in that document or any other document that is available to the Council for review.

Section 672.24(c)(1)(ii) is changed by adding a fifth coordinate, 57°58' N. latitude/152°00' W. longitude, to complete the closure for the Marmot Flats area.

Section 672.5(a)(3)(iv) is changed to require catcher/processors and mothership/processors to submit a weekly catch or receipt report after checking into a fishing area under § 672.5(a)(3)(i), regardless of whether any groundfish were caught or received. NOAA is also proposing certain technical changes to domestic reporting requirements to make reporting more efficient.

Section 672.5(a)(l) is revised to make it clear that landings in the State of Alaska include those landings made to floating processors within the territorial sea.

Section 1672.5(a)(1) is revised to make it clear that landings made outside of Alaska include at-sea landings in the EEZ off the State of Alaska.

Classification

This proposed rule is published under section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 99-659, which requires the Secretary to publish regulations proposed by a Council within 15 days of receipt of the amendment and regulations. At this time

the Secretary has not determined that the amendment these regulations would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making these determinations, will take into account the data and comments received during the comment period.

The Council prepared an environmental assessment (EA) for this amendment and concluded that no significant impact on the environment will occur as a result of this rule. A copy of the EA may be obtained from the Council at the address above.

The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) prepared by the Council. A copy of the RIR/IRFA may be obtained from the Council at the address above.

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review which concludes that this rule, if adopted, would have significant effects on small entities. These effects have been discussed earlier in this document relative to each specificaction. You may obtain a copy of this analysis from the Council at the address listed above.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). A request to collect this information has been submitted to the Office of Management and Budget for review under section 3504(h) of the PRA.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

List of Subjects

50 CFR Part 611

Fisheries, Foreign fishing.

50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Dated: December 8, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resouce Management, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Parts 611 and 672 are proposed to be amended as follows:

PART 611—[AMENDED]

1. The authority citation for 50 CFR Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. In § 611.92, paragraphs (c)(1) (i) and (ii); (c)(2)(i)(C); (c)(2)(ii)(A); and (g) are revised to read as follows:

§ 611.92 Gulf of Alaska groundfish fishery.

* * * * *

(c) * * *

(1) TQs, TALFFs, Reserves, and PSC limits.

(i) See 50 CFR Part 672, Subpart B, for procedures to determine target quotas, domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), reserves, and prohibited species catch (PSC) limits. Species listed in paragraph (b)(1) and Table 1 of this section as "unallocated species" or species for which the TALFF is zero, including species for which a PSC limit has been specified, will be treated in the same manner as prohibited species under § 611.11.

(ii) Apportionment of reserves and initial DAH, and adjustment of PSC limits. See 50 CFR Part 672, Subpart B, for procedures to apportion reserves, initial domestic annual harvest (DAH), and adjustment of PSC limits.

(2) * * *

(i) * * *

(C) As otherwise prohibited by this section or 50 CFR Part 672, Subpart B.

* * * * *

(ii) * * *

(A) TQ for any groundfish species, species group, or species category in a regulatory area or district: The Secretary will issue a notice prohibiting, through December 31, fishing using trawl gear for groundfish in that regulatory area or district by vessels subject to this section, except that if the TQ for sablefish or Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section.

* * * * *

(g) *Inseason Adjustments.* See 50 CFR Part 672, Subpart B, for procedures to make inseason adjustments. It will be unlawful for any person to conduct any fishing contrary to a notice of inseason adjustment issued under 50 CFR 672.22(a).

* * * * *

PART 672—[AMENDED]

3. The authority citation for 50 CFR Part 672 continues to read as follows:

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

4. The Table of Contents is revised by removing the titles for §§ 672.20 and 672.22 and inserting new titles to read as follows:

* * * * *

Sec.

672.20 General limitations.

* * * * *

672.22 Inseason adjustments.

* * * * *

5. In § 672.2, the following definitions are added in proper alphabetical order to read:

§ 672.2 Definitions.

* * * * *

Net-sonde device means a sensor used to determine the depth from the water surface at which a fishing net is operating.

Pelagic trawl means a trawl in which neither the net nor the trawl doors (or other trawl-spreading device) operate in contact with the seabed, and which does not have attached to it any protective device (such as chafing gear, rollers, or bobbins) that would make it suitable for fishing in contact with the seabed.

Processing, or to process, means the preparation of fish to render it suitable for human consumption, industrial uses, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, and rendering into meal or oil, but does not mean heading, and gutting.

Regional Director means Director, Alaska Region, National Marine Fisheries Service, or a designee.

Trawl means a funnel-shaped net that is towed through the water for fish or other organisms. The net accumulates its catch in the closed, small end (usually called the cod end). This definition includes, but is not limited to, Danish and Scottish seines and otter trawls.

* * * * *

6. Section 672.5 is amended by revised paragraph (a)(1) introductory text; paragraph (a)(2)(ii); and paragraphs (a)(3) introductory text and (a)(3) (i) and (iv) to read as follows:

§ 672.5 Reporting requirements.

(a) * * *

(1) *Landing in Alaska.* The operator of any fishing vessel regulated under this part that lands fish in the the State of Alaska will, for each sale or delivery of groundfish caught in any Gulf of Alaska regulatory area, be responsible for the

submission to ADF&G of an accurately completed State of Alaska fish ticket.

* * * * *

(2) *Landing outside of Alaska.*

(i) * * *

(ii) The operator of any fishing vessel regulated under this Part who lands fish outside the State of Alaska, including the EEZ adjacent to the State of Alaska, must, for each sale or delivery of groundfish caught in any Gulf of Alaska regulatory area, submit a completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket, together with the additional information required by paragraph (a)(1)(ii) of this section, to the ADF&G within one week after the date of each such sale or delivery. Send these documents to the Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, P.O. Box 3-2000, Juneau, Alaska 99802.

(3) Catcher/processor and mothership/processor vessels. The operator of any fishing vessel regulated under this part who processes, within the meaning of process under § 672.2, any groundfish on board that vessel must, in addition to the requirements of paragraphs (a)(1) and (a)(2) of this section, meet the following requirements:

(i) Twenty-four hours before starting and upon stopping fishing or receiving groundfish in any area, the operator of that vessel must notify the Regional Director of the date and hour in GMT and the position of such activity.

* * * * *

(iv) After notification of starting fishing by a vessel under paragraph (a)(3)(i) of this section, and continuing until that vessel's entire catch or cargo of fish has been off-loaded, the operator of that vessel must submit a weekly catch or receipt report, including reports of zero tons caught or received, for each weekly period, Sunday through Saturday, GMT, or for each portion of such a period, during which groundfish were caught or received at sea. Catch or receipt reports must be sent to the Regional Director within one week of the end of the reporting period through such means as the Regional Director will prescribe upon issuing that vessel's permit under § 672.2 of this part. These reports must contain the following information:

* * * * *

7. Section 672. 7 is amended by resignating paragraph (h) as paragraph (i) and adding a new paragraph (h) to read as follows:

§ 672.7 General prohibitions.

* * * * *

(h) Conduct any fishing contrary to a notice of inseason adjustment issued under § 672.22 (a) of this part;

* * * * *

8. Section 672.20 is amended, by removing the section heading "Optimun Yield" and adding a new section heading "General limitations", revising paragraphs (a) and (b) in their entirety, redesignating paragraphs (c), (d), and (e) as new paragraphs (d), (e), and (f), adding a new paragraph (c), and revising redesignated paragraph (d)(4) introduction text, (d)(4)(v) (D), (E), and (F) and paragraph (e)(4) to read as follows:

§ 672.20 General limitations.

(a) *Harvest limits* — (1) *Optimum yield.* The optimum yield (OY) for the fishery regulated by this section and by 50 CFR 611.92 is a range of 116,000 to 800,000 mt for target species and the "other species" category in the Gulf of Alaska management area, to the extent this amount can be harvested consistently with this part and 50 CFR Part 611, plus the amounts of "non-specified species" taken incidentally to the harvest of target species and the "other species" category. The species categories are defined in Table 1.

(2) *Target quota.* The Secretary, after consultation with the North Pacific Fishery Management Council (Council), will specify the annual target quota (TQ) for each calendar year for each target species and the "other species" category, and will apportion the TQ among domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF). The 800,000 mt for target species and the "other species" category.

(i) The annual determinations of the TQ for each target species and the "other species" category, the reapportionment of reserves, and the reapportionment of surplus DAH may be adjusted, based upon a review of the following:

(A) Assessments of the biological condition of each target species and the "other species" category will include, where practicable, updated estimates of maximum sustainable yield (MSY), and acceptable biological catch (ABC); historical catch trends and current catch statistics; assessments of alternative harvesting strategies and related effects on component species and species groups; relevant information relating to changes in groundfish markets; and recommendations for TQ by species or species group.

(B) Socioeconomic considerations that are consistent with the goals and objectives of the Fishery Management Plan for the Gulf of Alaska area Groundfish Fishery.

(b) *Prohibited species catch limits.* (1) When the Secretary determines after consultation with the Council that the TQ for any species or species group will be fully harvested in the DAP fishery, the Secretary may specify for each calendar year the prohibited species catch (PSC) limit applicable to the JVP and TALFF fisheries for that species or species group. Any PSC limit specified under this paragraph will be provided as bycatch only, and may not exceed an amount determined to be that amount necessary to harvest target species. Species for which a PSC limit has been specified under this paragraph will be treated in the same manner as prohibited species under paragraph (e) of this section.

(2) The annual determinations of the PSC limit for each species or species group under paragraph (b)(1) of this section may be adjusted, based upon a review of the following:

(i) Assessments of the biological condition of each PSC species. Assessments will include where practicable updated estimates of maximum sustainable yield (MSY), and acceptable biological catch (ABC); estimates of groundfish species mortality from nongroundfish fisheries, subsistence fisheries, recreational fisheries, and the difference between groundfish mortality and catch. Assessments may include information on historical catch trends and current catch statistics; assessments of alternative harvesting strategies and related effects on component species and species groups; relevant information relating to changes in groundfish markets; and recommendations for PSC limits for species or species group fully utilized by the DAP fisheries.

(ii) Socioeconomic considerations that are consistent with the goals and objectives of the FMP.

(c) *Notices.* (1) Notices of harvest limits and PSC limits. As soon as practicable after October 1 of each year, the Secretary, after consultation with the Council, will publish a notice in the **Federal Register** specifying preliminary annual TQs, DAPs, JVPs, TALFF, reserves, and PSCs amounts for each target species, "other species" category, and species fully utilized by the DAP fisheries. The preliminary specifications of DAP and JVP will be the amounts harvested during the previous year plus any additional amounts the Secretary finds will be harvested by the U.S.

fishing industry. These additional amounts will reflect as accurately as possible the projected increases in U.S. processing and harvesting capacity and to the extent to which U.S. processing and harvesting will occur during the coming year. Public comment on these amounts will be accepted by the Secretary for a period of 30 days following publication. In light of comments received, the Secretary will, after consultation with the Council, specify the final PSC limits and annual TQ for each target species and apportionments thereof among DAP, JVP, TALFF, and reserves. These final amounts will be published as a notice in the **Federal Register** on or about January 1 of each year. These amounts will replace the corresponding amounts for the previous year.

(2) *Notices of closure.* (i) If the Regional Director determines that the TQ for any target species or of the "other species" category in any regulatory area or district in Table 1 has been or will be reached, the Secretary will publish a notice in the **Federal Register** prohibiting directed fishing for that species, as defined at § 672.2, in all or part of that area or district, and declaring such species in all or part of that area or district a prohibited species for purposes of paragraph (e) of this section. During the time that such notice is in effect, the operator of every vessel regulated by this Part or Part 611 must minimize the catch of that species in the area or district, or portion thereof, to which the notice applies.

(ii) If, in making a determination under paragraph (b)(1) of this section, the Regional Director also determines that directed fishing for other groundfish species in the area or district, or portion thereof, to which the notice applies may lead to overfishing of the species for which the TQ has been or will be achieved, the Secretary will, in the notice required by that paragraph, also prohibit or limit such directed fishing for other groundfish species in a manner that will prevent overfishing of the species for which the TQ has been or will be taken.

(iii) If the Regional Director determines that a PSC limit applicable to a directed fishery in any regulatory area or district in Table 1 has been or will be reached, the Secretary will publish a notice of closure in the **Federal Register** closing that directed fishery in all or part of the area or district concerned.

(d) *Apportionment of reserves, initial DAH, and adjustment of PSC limits.*

* * * * *

(4) Adjustment of PSC limits resulting from apportionments. If the Secretary makes inseason apportionments of target species, the Secretary may proportionately increase any PSC limit amount of species fully utilized by the DAP fishery if such increase will not result in overfishing of that species. Any adjusted PSC limit may not exceed an amount determined to be that amount necessary to harvest target species.

* * * * *

(v) * * *

(D) Any adjustments in PSC limit amounts made under this section;

(E) The reasons for any apportionments or adjustments and their distribution; and

(F) Responses to any comments received.

(e) *Prohibited species.*

* * * * *

(4) In any regulatory area where the TQ in Table 1 for any species is "0" (zero), any catch of that species by a vessel regulated by this part, in that fishing regulated by this part, in that fishing area, will be considered catch of a "prohibited species" and will be treated in accordance with this paragraph.

* * * * *

9. Section 672.22, is amended by removing the section heading "Time and area closures" and adding a new section heading to read "Inseason adjustments", and revising in their entirety paragraphs (a) and (b) to read as follows:

§ 672.22 Inseason adjustments.

(a) *General.* (1) Inseason adjustments issued by the Secretary under this paragraph include:

(i) The closure, extension, or opening of a season in all or part of a management area;

(ii) Modification of the allowable gear to be used in all or part of a management area; and

(iii) The adjustment of TQ and PSC limits.

(2) *Determinations.* (i) Any inseason adjustment under this paragraph must be based upon a determination that such adjustments are necessary to prevent:

(A) The overfishing of any species or stock of fish or shellfish; or

(B) The harvest of a TQ for any groundfish species, or the taking of a PSC limit for any prohibited species, which on the basis of the best available scientific information is found by the Secretary to be incorrectly specified.

(ii) The selection of the appropriate inseason management adjustments under paragraphs (a)(1)(i) and (a)(1)(ii) of this section must be from the following authorized management measures and must be based upon a determination by the Regional Director that the management adjustment selected is the least restrictive necessary to achieve the purpose of the adjustment:

(A) Any gear modification that would protect the species in need of conservation, but which would still allow other fisheries to continue;

(B) An inseason adjustment which would allow other fisheries to continue in noncritical areas and time periods; or

(C) Closure of a management area and season to all groundfish fishing.

(iii) The adjustment of a TQ or PSC limit for any species under paragraph (a)(1)(iii) of this section must be based upon a determination by the Regional Director that the adjustment is based upon the best available scientific information concerning the biological stock status of the species in question and that the currently specified TQ or PSC limit is incorrect. Any adjustment to a TQ or PSC limit must be reasonably related to the change in biological stock status.

(3) *Data.* All information relevant to one or more of the following factors may be considered in making the determinations required under paragraph (a)(2) of this section:

(i) The effect of overall fishing effort within a regulatory area; or

(ii) Catch per unit of effort and rate of harvest;

(iii) Relative abundance of stocks within the area;

(iv) The condition of the stock within all or part of a regulatory area; or

(v) Any other factor relevant to the conservation and management of groundfish species for which a TQ has been specified or incidentally caught species which are designated as prohibited species or for which a PSC limit has been specified.

(b) *Procedure.* (1) No inseason adjustment issued under this section will take effect until:

(i) The Secretary has filed the proposed adjustment for public inspection with the Office of the Federal Register, and

(ii) The Secretary has published the proposed adjustment in the **Federal Register** for public comment for a period of thirty (30) days before it is made final, unless the Secretary finds for good cause that such notice and public procedure is impracticable, unnecessary, or contrary to the public interest.

(2) If the Secretary decides, for good cause, that an adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the

adjustment will be received by the Regional Director for a period of fifteen (15) days after the effective date of the notice.

(3) During any such 15-day period, the Regional Director will make available for public inspection, during business hours, the aggregate data upon which an adjustment was based.

(4) If written comments are received during any such 15-day period which oppose or protest an inseason adjustment issued under this section, the Secretary will reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, will either:

(i) Publish in the **Federal Register** a notice of continued effectiveness of the adjustment, responding to comments received; or

(ii) Modify or rescind the adjustment.

(5) Notices of inseason adjustments issued by the Secretary under paragraph (a) of this section will include the following information:

(i) A description of the management adjustment;

(ii) The reasons for the adjustment and the determinations required under paragraph (a)(2) of this section; and

(iii) The effective date and any termination date of such adjustment. If no termination date is specified, the adjustment will terminate on the last day of the fishing year.

* * * * *

10. Section 672.24 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 672.24 Gear limitations.

* * * * *

(b) *Sablefish gear restrictions and allocations*—(1) *Eastern Area.* No person may use any gear other than hook and line and trawl gear when fishing for groundfish in the Eastern Area. No person may use any gear other than hook and line gear to engage in directed fishing for sablefish. When vessels using trawl gear have harvested 5 percent of the TQ for sablefish during any year in any district of the Eastern Area for which TQs are specified, the Regional Director will close that district to all fishing with trawl gear.

(2) *Central and Western Areas.* Hook and line gear may be used to take up to 80 percent and trawl gear may be used to take up to 20 percent of the TQ for sablefish in the Central Area. During 1987 and 1988 in the Western Area, hook and line gear may be used to take up to 55 percent of the TQ for sablefish; pot gear may be used to take up to 25 percent of that TQ; and trawl gear may be used to take up to 20 percent of that TQ. After the year specified above, hook and line gear may be used to take up to 80 percent of the sablefish TQ in the Western Area and trawl gear may be used to take up to 20 percent of that TQ. When the share of the sablefish TQ assigned to any type of gear for any year and any area or district under this paragraph has been taken, the Regional Director will close that regulatory area or district to all fishing for groundfish with that type of gear, subject to § 672.20(b) of this part. No person may use any gear other than hook and line gear, pot, or trawl gear in fishing for groundfish in these areas during the years specified above. After those years no person may use any gear other than hook and line or trawl gear in fishing for groundfish in the Gulf of Alaska.

(c) *Trawls other than pelagic trawls.*

(1) No person may fish in any of the following areas in the vicinity of Kodiak Island (see Figure 1, Area Type I) from a vessel having any trawl other than a pelagic trawl either attached or on board.

(i) *Alitak Flats and Towers Areas:* All waters of Alitak Flats and the Towers Areas enclosed by a line connecting the following seven points in the order listed:

	N. lat.	W. long.	
Point a.....	57°00.0′	154°31.0′	Low Cape.
Point b	57°00.0′	155°00.0′	
Point c.....	56°17.0′	155°00.0′	
Point d	56°17.0′	153°52.0′	
Point e.....	56°33.5′	153°52.0′	Cape Sitkinak.
Point f.....	56°54.5′	153°32.5′	East point of Two-headed Island.
Point g.....	56°56.0′	153°35.5′	Kodiak Island.
Point a.....	57°00.0′	154°31.0′	Low Cape.

(ii) *Marmot Flats Area:* All waters enclosed by a line connecting the following five points in the clockwise order listed:

	N. lat.	W. long.	
Point a.....	58°00.0′	152°27.0′	
Point b	58°00.0′	151°47.0′	
Point c.....	57°37.0′	151°47.0′	
Point d	57°38.0′	152°09.1′	Cape Chiniak Light to North Cape
Point e.....	57°58.0′	152°27.0′	
Point, a....	58°00.0′	152°27.5′	

(2) From February 15 to June 15, no person may fish in any of the following areas in the vicinity of Kodiak Island (see Figure 1, Area Type II) from a vessel having any trawl other than a pelagic trawl either attached or on board:

(i) *Chirikof Island Area:* All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counter clockwise order listed:

	N. lat.	W. long.
Point a.....	56°07.0′	55°13.0′
Point c.....	55°41.0′	156°00.0′
Point d	55°41.0′	155°13.0′
Point a.....	56°07.0′	156°00.0′

(ii) *Barnabas Area:* All waters enclosed by a line connecting the following five points in the counter clockwise order listed:

	N. lat.	W. long.	
Point a.....	56°58.5′	153°18.0′	Black Point.
Point b	56°56.0′	153°09.0′	
Point c.....	57°22.0′	152°18.5′	South Tip of Ugak Island.
Point d	57°23.5′	152°17.5′	North Tip of Ugak Island.
Point e.....	57°26.0′	152°19.0′	Narrow Cape to Black Point, incl. inshore waters.
Point a.....	56°58.5′	153°18.0′	

(3) Each person using a trawl to fish in any area limited to pelagic trawling under paragraphs (c)(1) and (c)(2) of this section must maintain in working order on that trawal a properly functioning recording net-sonde device, and must retain all net-sonde recordings aboard the fishing vessel during the fishing year.

(4) No person using a trawl to fish in any area limited to pelagic trawling under paragraphs (c)(1) and (c)(2) of this section may allow the footrope of that trawl to be in contact with the seabed for more than 10 percent of the period of any tow, as indicated by the net-sonde device.

BILLING CODE 3510-22-M

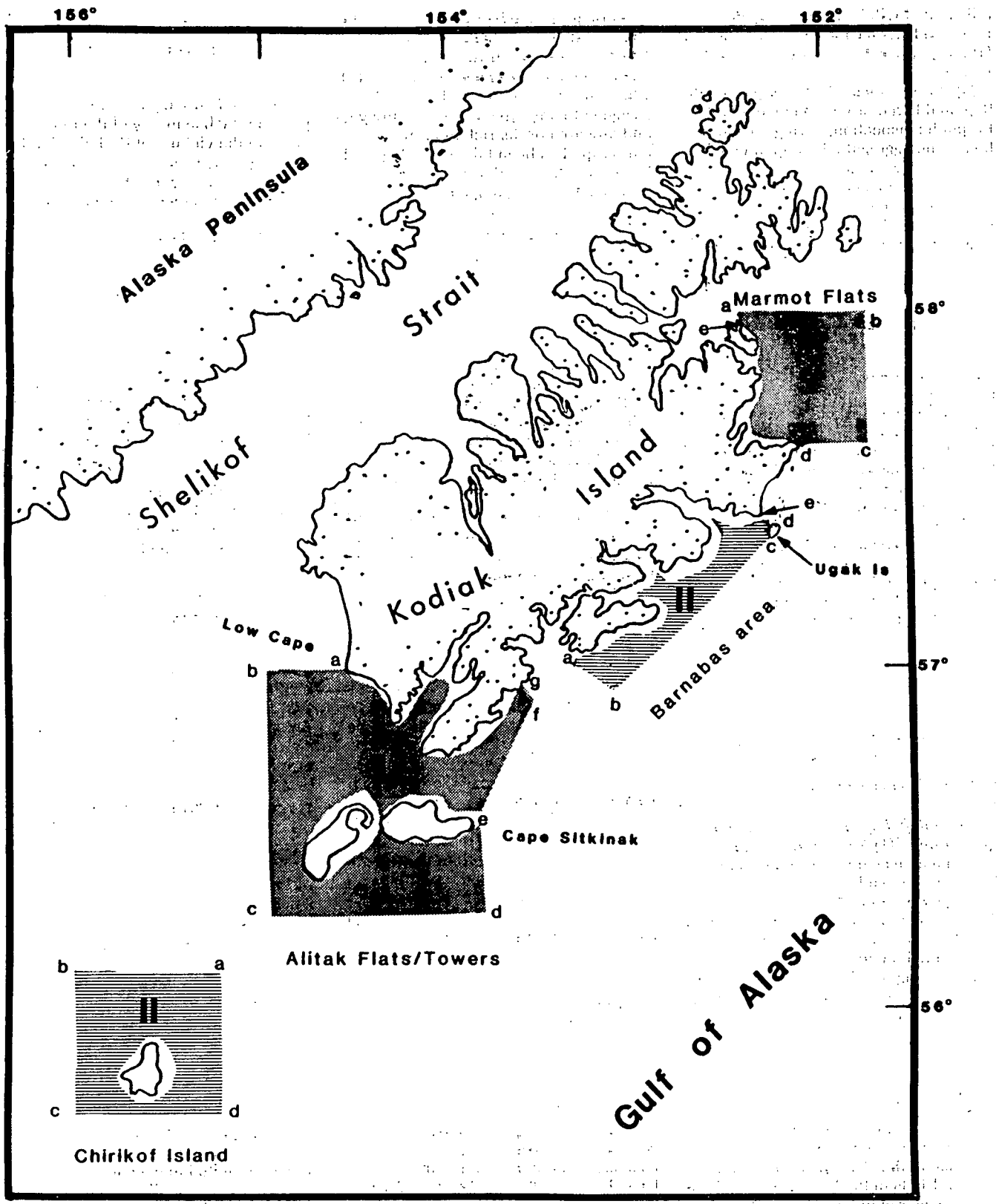

Figure 1. Areas around Kodiak Island closed to trawling except with pelagic trawls. TYPE I areas are closed year round. TYPE II areas are closed February 15 to June 15. See Section 672.24, Gear Limitations for coordinate descriptions.

[FR Doc. 86-27895 Filed 12-9-86; 2:40 pm]
BILLING CODE 3510-22-C

Notices

Federal Register
Vol. 51, No. 239
Friday, December 12, 1986

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

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Intent To Conduct Public Scoping Meetings and Prepare a Draft Environmental Impact Statement for a Proposed Compressed Air Energy Storage Project

AGENCY: Rural Electrification Administration.

ACTION: Notice of intent to conduct public scoping meetings and prepare a draft enviromental impact statement.

SUMMARY: The Rural Electrification Administration (REA) intends to conduct public scoping meetings to assess the environmental impacts of the potential construction of a 100 MW Compressed Air Energy Storage (CAES) generating facility in Washington County, Alabama, or Forest County, Mississippi, by Alabama Electric Cooperative Inc. (AEC), P.O. Box 550, Andalusia, Alabama 36420.

Meetings Schedule—REA will conduct public scoping meetings as below:

—Wednesday, January 14, 1987, at the Jackie Sherrill Community Center on Front Street in Hattiesburg, Mississippi, at 7:30 p.m.

—Thursday, January 15, 1987, at the Town Hall in McIntosh, Alabama, at 7:30 p.m.

ADDRESS: All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after scoping meetings, in order for the comments to be part of the formal record. Comments may be submitted to Mr. Frank W. Bennett, Director, Southeast Area—Electric, REA, U.S. Department of Agriculture, Washington, DC 20250, or delivered to the REA representative conducting the scoping meetings.

FOR FURTHER INFORMATION CONTACT: Mr. Alexander Sherman, Chief, Distribution and Transmission Engineering Branch, Southeast Area—Electric, U.S. Department of Agriculture, Washington, DC 20250 or Mr. Ray Clausen, Manager, Engineering & Operation Division, Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama 36420.

SUPPLEMENTARY INFORMATION: REA has scheduled these meetings, in order to meet its requirements under the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500) and REA Environmental Policies and Procedures (17 CFR Part 1794). Depending upon information received at these meetings, together with information obtained from public agencies and from special studies, REA will determine if an Environmental Impact Statement or an Environmental Assessment is required to complete its environmental responsibilities under 7 CFR Part 1794.

The sites are being considered for a proposed 100 MW CAES facility. The complete system components include combustion turbines, a motor-generator, an air compression system, an underground air storage cavern, transmission facilities and related auxiliary equipment. Alternatives to be considered include: (1) No action, (2) load management, (3) purchase power from other utilities, and (4) other type or generation facilities.

The public scoping meetings, to be conducted by a representative of REA, will be held to solicit public input and comments including any significant issues and environmental concerns. These concerns should relate to the impacts of the proposed project, its possible location and alternatives. Requests for additional information concerning the scoping meetings and the project may be directed to AEC at the above address.

Any REA action authorizing AEC to proceed with construction of the CAES facility will be subject to, and contingent upon, reaching satisfactory conclusions with respect to the environmental impacts and need for the project, and such action will be taken only after full compliance with REA's environmental policies and procedures.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the notice for the final rule related to 7 CFR Part 3015, Subpart V, this program is excluded from the scope of Executive Order 312372 which requires intergovernmental consultation with state and local officials.

Dated: December 9, 1986.

Richard A. Jones,

Acting Administrator.

[FR Doc. 86-27962 Filed 12-11-86; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No. 61099-6199]

Privacy Act of 1974; Addition of a New Location and Revision to an Existing System of Records

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the requirements of the Privacy Act, this notice announces the revision of an existing system of records entitled, COMMERCE/NOAA—5, Fisheries Law Enforcement Case Files. The revision reflects two new routine uses, and provides notification of an additional location of the records.

EFFECTIVE DATE: Commerce invites interested persons to submit comments on the proposed changes. Otherwise, the revisions will be adopted without further notice January 12, 1987, unless comments are received which would result in a contrary determination.

ADDRESS: Please address or deliver written comments to the: Information Management Division, Attention: Mrs. Geraldine P. LeBoo, Office of Information Resources Management, Department of Commerce, Room 6622, Herbert C. Hoover Building, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mrs. Geraldine LeBoo, Information Management Division, (202) 377-4217.

SUPPLEMENTARY INFORMATION: The National Oceanic and Atmospheric Administration (NOAA), a Commerce component, has determined that an additional location of the records in this system be added. NOAA performs enforcement and investigations of

violations within marine santuaries in the area of the new location, and the availability of the pertinent records there is for the convenience of the concerned public.

Two new routine uses are added: (1) Disclosure of information may be made to private collection contractors retained to collect delinquent civil penalties in accordance with the Debt Collection Act of 1982 (31 U.S.C. 3718); and (2) disclosure of information may be made to credit reporting agencies as authorized and defined in the Fair Credit Reporting Act (15 U.S.C. 168(a)(f), and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

All other changes being published are editorial in nature, and reflect updating changes and other administrative revisions which have occurred since the last publication of this system notice in the **Federal Register**, 46 FR 63538, December 31, 1981.

Dated: December 9, 1986.

Geraldine P. Leboo,

Information Management Division, Office of Information, Resources Management.

COMMERCE/NOAA—5

SYSTEM NAME:

Fisheries Law Enforcement Case Files—COMMERCE/NOAA—5.

SYSTEM LOCATION:

Enforcement Office, NMFS, 1825 Connecticut Avenue, NW., National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, DC 20235; and the Office of General Counsel, Southeast Regional Counsel, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., Suite 102, St. Petersburg, Fl. 33702.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Violators and alleged violators of the criminal and/or civil provisions of certain laws (listed in the Authority Section of this notice) and the regulations issued thereunder, within the responsibility of the Secretary of Commerce.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Information compiled for the purpose of identifying individual criminal and/or civil offenders and alleged offenders and consisting of identifying data and notations of arrests, the nature and disposition of criminal or civil charges, sentencing, confinement, release, parole and probation status, and fines and penalties assessed;

2. Information compiled for the purpose of a criminal or civil investigation, including reports of informants and investigators, and associated with an identifiable individual;

3. Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal and civil laws from arrest or indictment through release from supervision, and the imposition of civil sanctions through administrative and/or judicial process; and

4. Investigatory material compiled for law enforcement purposes other than the material covered above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Reorganization Plan No. 4 of 1970; 5 U.S.C. 301; 28 U.S.C. 533–535; 44 U.S.C. 3101; E.0.10450; certain sections of Titles 15, 16, 18, and 22 of the United States Code; and relevant treaty, international convention, and/or agreements of which there are approximately 20 (Example: International Convention for the Regulation of Whaling (TIAS 1849) cf. 16 U.S.C. 916).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES SUCH USES:

1. Information is given to the Marine Mammal Commission for its use in making recommendations on the issuance of permits and the award of grants under the Marine Mammal Protection Act of 1972.

2. Disclosure may also be made to commercial contractors (debt collection agencies) for the purpose of collecting delinquent penalties as authorized by the Debt Collection Act (31 U.S.C. 3718).

3. Other routine uses for this system are identified at paragraphs 1–5, 8–10, and 13 of the Prefatory Statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to the Privacy Act, 5 U.S.C. 552a(b)(12), disclosures may be made to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966 (3 U.S.C. 3701(a)(31)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Both manual and machine-readable, and computer output records in file folders.

RETRIEVABILITY:

Filed alphabetically by individual's name or by an identifying case number upon initiation of the case.

SAFEGUARDS:

Employees are informed of the Departmental rules of conduct regarding unauthorized disclosure of information contained in official records. All Special Agents receive a security clearance, granted by the Department of Commerce, after an investigation. The files of the Law Enforcement Division that relate to information concerning an identifiable individual are maintained in locked, metal file cabinets. The files of the Southeast Regional Counsel are maintained in metal locked file cabinets. Automated records are maintained on premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

All records of this Division are subject to the retention and disposal procedures set forth in NOAA Directives Manual 62–10, et seq.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Enforcement Office, National Marine Fisheries Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Washington, DC 20235.

Southeast Regional Counsel, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 9450 Koger Blvd., Suite 102, St. Petersburg, FL 33702.

NOTIFICATION PROCEDURE:

Information may be obtained from: Acting Director, Office of Administration, NOAA, Room H6863, Washington, DC 20230.

Requester should provide name, address, and case number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individual and those authorized by the individual to furnish information; NMFS investigators; Federal and state law enforcement personnel; foreign governments; special interest organizations, members of the general public, and all information

sources that are open to the public at large.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2), all information about an individual in the record which meets the criteria stated in 5 THE ACT: U.S.C. 552a(j)(2) are exempted from the notice, access and contest requirements of the agency regulations and from all parts of 5 U.S.C. 552a except subsections (b), (c) (1) and (2), (e)(4)(A) through (F), (e) (6), (7), (9), (10), and (11), and (i), and pursuant to 5 U.S.C. 552a(k)(2), on condition that if the 5 U.S.C. 552a(j)(2) exemption is held to be invalid, all investigatory material in the record which meet the criteria stated in 5 U.S.C. 552a(k)(2) are exempted from the notice access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. In addition, pursuant to 5 U.S.C. 552a(k)(1), all materials qualifying for this exemption are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f) in order to prevent disclosure of classified information as required by Executive Order 12065 in the interest of the national defense and foreign policy.

[FR Doc. 86-27937 Filed 12-11-86; 8:45 am]
BILLING CODE 3510-CW-M

International Trade Administration

Export Trade Certificates of Review

ACTION: Notice of initiation of process to revoke export trade certificates of review Nos. 84-00003 and 84-00013.

SUMMARY: The Department of Commerce had issued export trade certificates of review to Am-Tech Export Trading Company, Inc. (Am-Tech) and Equinomics, Inc. Because the certificate holders have failed to file annual reports as required by law, the Department is initiating proceedings to revoke both certificates. This notice summarizes the notification letters sent to Am-Tech and Equinomics.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290, codified at 15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR Part 325 (1986). Pursuant to this authority, certificates of review were issued on May 7, 1984 and June 24, 1984 to Am-Tech (application #84-00003) and Equinomics (application #84-00013), respectively.

A certificate holder is required by law (section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review. Sections 325.14 (a) and (b) of the Regulations. Failure to submit a complete annual report may be the basis for revocation. Sections 325.10(a) and 325.14(c) of the Regulations.

On April 24, 1986, the Department of Conmerce sent to Am-Tech a letter containing annual report questions with a reminder that its annual report was due on June 21, 1986. Additional reminders were sent on July 8, July 21, and August 8, 1986.

The Department has received no response from Am-Tech to any of these letters.

On June 13, 1986, the Department sent to Equinomics a letter containing annual report questions with a reminder that its annual report was due on August 9, 1986. Additional reminders were sent on September 2, September 15, and October 2, 1986. The Department has received no response from Equinomics to any of these letters.

On December 4, 1986, and in accordance with § 325.10 (c)(2) of the Regulations, letters were sent to notify Am-Tech and Equinomics that the Department was formally initiating the process to revoke their certificates. Each letter stated that this action is being taken for the certificate holder's failure to file an annual report.

In accordance with § 325.10(c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are true, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter. Section 325.10(c)(2) of the Regulations.

If its answer demonstrates that material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that is necessary to support its contentions. Section 325.10(c)(3) of the Regulations.

The Department shall publish a notice in the **Federal Register** of a revocation or modification or a decision not to revoke or modify. Section 325.10(c)(4) of the Regulations. If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register**. Sections 325.10(c)(4) and 325.11 of the Regulations.

Dated: December 8, 1986.

James V. Lacy,

Director, Office of Export Trading Company Affairs.

[FR Doc. 86-27915 Filed 12-11-86; 8:45 am]
BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Instruments; University of Chicago, et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington,

DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 87-045.

Applicant: The University of Chicago, 5801 South Ellis Avenue, Chicago, IL 60637.

Instrument: CD Spectropolarimeter, Model J-600A.

Manufacturer: Jasco, Japan.

Intended use: The instrument will be used to study the conformation of peptides and proteins, and the changes in those conformations that attend either the replacement of specific residues or the interactions of these substances with themselves or with other ligands. Experiments will involve the synthesis of oligopeptides, the determination of their spectra and concentration-dependence of those spectra and spectral changes that ensue from simple chemical manipulations. Application received by Commissioner of Customs: November 17, 1986.

Docket No. 87-047.

Applicant: National Bureau of Standards, Gaithersburg, MD 20899.

Instrument: High Temperature Microhardness Tester, Model QM.

Manufacturer: Nikon, Japan.

Intended use: The instrument is intended to be used to test state of the art ceramic materials for high temperature surface strength and wear resistance in a unique high-temperature ceramic tribological program.

Application received by Commissioner of Customs: November 17, 1986.

Docket No. 87-048.

Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, IL 61801.

Instrument: Cryostat System for Mössbauer Spectrometer.

Manufacturer: Technology Systems Ltd., United Kingdom.

Intended use: The instrument is intended to be used for studies of clay and soil minerals which contain iron in experiments that include variable temperature (1.5-300 K) Mössbauer measurements of solid and liquid samples in external applied magnetic fields from 0 to 6 Tesla. These experiments will be conducted to better understand the effects of oxidation and reduction of structural iron in clay crystals on their physical and chemical properties. In addition, the instrument will be used to teach a course in laboratory methods for clay mineral characterization and identification.

Application received by Commissioner of Customs: November 18, 1986.

Docket No. 87-049.

Applicant: St. Johns Regional Health Center, 1235 East Cherokee, Springfield, MO 65804.

Instrument: Lithotripter.

Manufacturer: Dornier Medizintechnik GmbH, West Germany.

Intended use: The instrument is intended to be used for the study of kidney stones, the kidney and surrounding muscle tissue. The experiments to be conducted will include research to determine the effects of exposure to shockwaves on the kidney and other tissue. Certain activities will involve patient treatment.

Application received by Commissioner of Customs: November 18, 1986.

Docket No. 87-050.

Applicant: State University of New York, State College of Optometry, 100 East 24th Street, New York, NY 10010.

Instrument: Joyce Display Monitor, Type DM2 WA Phosphor.

Manufacturer: Joyce Electronics Ltd., United Kingdom.

Intended use: The instrument is intended to be used for studies of contrast sensitivity, of low-vision patients and low-vision devices.

Application received by Commissioner of Customs: November 19, 1986.

Docket No. 87-051.

Applicant: Mayo Foundation, 200 1st St., SW., Rochester, MN 55905.

Instrument: Mass Spectrometer System, Model Bin-10K.

Manufacturer: Bio-Ion Nordic AB, Sweden.

Intended use: The instrument is intended to be used for studies of peptides, proteins, carbohydrates, glycopeptides and glycolilpids. The experiments to be conducted will involve analysis of the molecular weight and structure of these compounds. In addition, the instrument will be used for pre- and postdoctoral research training programs in pharmacology and biochemistry.

Application received by Commissioner of Customs: November 20, 1986.

Docket No. 87-052.

Applicant: University of Hawaii, Hawaii Institute of Marine Biology, P.O. Box 1346, Coconut Island, HI 96744.

Instrument: Ultrasonic Transmitter with Electromyogram Transduction Capabilities.

Manufacturer: VBMCO, Canada.

Intended use: The instrument will be used for studies of the energy used by tuna in swimming behavior by monitoring the number of tail-beats required for propulsion. Experiments will be conducted on captive tuna that have had EMB transmitters attached to their dorsal musculature. This energetics data will be used as a baseline for subsequent fieldwork.

Application received by Commissioner of Customs: November 21, 1986.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-27934 Filed 12-11-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-469-602]

Porcelain-on-Steel Cooking Ware From Spain; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that porcelain-on-steel cooking ware from Spain is being, or is likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of porcelain-on-steel cooking ware from Spain that are entered, or withdrawn from warehouse, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by February 23, 1987.

EFFECTIVE DATE: December 12, 1986.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-4136 or 377-5288.

Preliminary Determination

We have preliminarily determined that porcelain-on-steel cooking ware from Spain is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). We made fair value comparisons on sales of the class or kind of merchandise to the United States during the period of investigation.

February 1 through July 31, 1986. Comparisons were based on United States price and foreign market value, based on home market sales provided by respondents. The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On June 30, 1986, we received a petition filed in proper form from the Porcelain-on-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation, on behalf of the domestic manufacturers of porcelain-on-steel cooking ware. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of porcelain-on-steel cooking ware from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or threaten material injury to, a United States industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on July 21, 1986 (51 FR 26729, July 25, 1986). On August 14, 1986, the ITC determined that there is reasonable indication that imports of porcelain-on-steel cooking ware from Spain are materially injuring a U.S. industry (51 FR 29710, August 20, 1986).

On August 27, 1986, we presented anitdumping duty questionnaires to Esmaltaciones San Ignacio, S.A. (San Ignacio) and Vitres, S.A. Respondents were requested to answer the questionnaire in 30 days. On September 23, 1986, respondents requested an extension of the due date for the questionnaire responses. On September 23, 1986, we granted the respondents a two-week extension. We received responses on October 15, 1986. In a letter dated October 29, 1986, the Department requested supplemental information. Supplemental response were submitted by the respondents between October 22 and November 26, 1986.

Scope of Investigation

The products covered by this investigation are porcelain-on-steel cooking ware including tea kettles which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. These products are currently provided for in items 654.0815, 654.0824, and 654.0827 of the *Tariff Schedules of the United States Annotated* (TSUSA). Kitchen ware, currently reported under item 654.0828 of the TSUSA is not subject to this investigation. We investigated sales of porcelain-on-steel cooking ware during the period February 1 through July 31, 1986.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States purchase price to the foreign market value for the companies under investigation using data provided in the response.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent United States price since the merchandise was sold to unrelated U.S. purchasers prior to importation. We calculated purchase price based on the packed, F.O.B. prices, net of discounts, to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance and brokerage and handling charges in Spain. We made additions to purchase price for duty drawback, i.e., import duties which were rebated, or not collected, by reasons of the exportation of the merchandise to the United States, pursuant to section 772(b)(1)(B) of the Act.

San Ignacio claimed an upward adjustment to purchase price for expenses incurred by its U.S. customers in opening irrevocable letters of credit prior to shipment. This adjustment was denied because section 772(d)(1) of the Act does not provide for such an adjustment to purchase price.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we used home market prices of such or similar merchandise to determine foreign market value. We based our calculations of foreign market value on delivered, packed prices net of discounts and value-added tax to unrelated wholesalers in the home market. We used these sales because they were at the same commercial level of trade as sales to the United States and were made in sufficient quantities to form an adequate basis for determining foreign market value, in accordance with § 353.19 of our Regulations (19 CFR 353.19). We excluded home market sales to retailers because they were made at a different level of trade than sales to the United States.

We made deductions, where appropriate, from home market prices for rebates, inland freight and inland insurance. We made an adjustment for differences in circumstances of sale in accordance with § 353.15 of our regulations for differences in credit terms between the two markets. We did not adjust for differences between commissions given in the home market and indirect selling expenses incurred in U.S. market, in accordance with § 353.15 of our regulations, because respondents failed to provide satisfactory information on U.S. indirect selling expenses to be used as an offset against home market commissions. We will seek additional information on U.S. indirect selling expenses for our final determination.

Both respondents claimed an adjustment for differences in quantities, in accordance with § 353.14(b) of our regulations. We are disallowing this claim for a quantity adjustment for San Ignacio since the final amount of the discount is not known until the end of the year. We preliminarily determine that this adjustment to the price is more in the nature of an end-of-year rebate than a quantity discount. For Vitrex, we were unable to consider their quantity discount claim because the data provided did not allow us to match discounts granted on specific sales with the discount rate schedule. For the final determination we will seek further clarification regarding whether Vitrex's discount schedule qualifies as a quantity discount under § 353.14 of our regulations.

We deducted home market packing costs and added the packing costs incurred on sales to the United States.

Where there was no identical product in the home market with which to compare a product sold in the United States, we made an adjustment to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in costs of materials, labor and directly related factory overhead.

Pursuant to § 353.56 of Commerce's regulations, we made currency conversions at the rates certified by the Federal Reserve Bank.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of the companies under investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of porcelain-on-steel cooking ware from Spain that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percentage
Esmaltaciones San Ignacio, S.A	4.76
Vitrex, S.A	6.85
All Others	5.47

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. We will consider this issue in our final determination, after we make a final countervailing duty determination.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information either publicly or under administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry, before the later of 120 days after our preliminary affirmative determination or 45 days after our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 1:00 p.m., on January 20, 1987, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by January 13, 1987. Oral presentation will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 8, 1986.

[FR Doc. 86-27933 Filed 12-11-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-505]

Countervailing Duty Order; Porcelain-On-Steel Cooking Ware From Mexico

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation concerning porcelain-on-steel cooking ware from Mexico, the U.S. Department of Commerce (the Department) has determined that porcelain-on-steel cooking ware from Mexico is receiving benefits which constitute subsidies within the meaning of the countervailing duty law. In a separate investigation, the U.S. International Trade Commission (ITC) determined that an industry in the United States is materially injured by reason of subsidized imports of porcelain-on-steel cooking ware from Mexico. However, the ITC also determined that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry retarded, by reason of subsidized imports from Mexico of porcelain-on-steel teakettles.

Therefore, based on these findings, all unliquidated entries of porcelain-on-steel cooking ware (except teakettles) which are entered, or withdrawn from warehouse on or after March 7, 1986, the date on which the Department published its preliminary countervailing duty determination notice in the **Federal Register**, and before July 5, 1986, the date we instructed the U.S. Customs Service to discontinue the suspension of liquidation, will be liable for the possible assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties must be made on all entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this countervailing duty order in the **Federal Register**.

EFFECTIVE DATE: December 12, 1986.

FOR FURTHER INFORMATION CONTACT: Karen Busler, Office of Investigations, or Richard Moreland, Office of Compliance, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-4198 or 377-2786, respectively.

SUPPLEMENTARY INFORMATION: The products covered by this order are porcelain-on-steel cooking ware, except teakettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. These products are currently provided for in items 654.0824 and 654.0827 of the *Tariff Schedules of the United States Annotated* (TSUSA). Teakettles, currently reported under item 654.0815, and kitchen ware, currently reported under item 654.0828 of the TSUSA, are not subject to this order.

In accordance with section 703 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671b), on March 7, 1986, the Department published its preliminary determination that there was reason to believe or suspect that manufacturers, producers, or exporters of porcelain-on-steel cooking ware from Mexico received benefits which constitute subsidies within the meaning of the countervailing duty law (51 FR 7978, March 7, 1986). On October 10, 1986, the Department published its final determination that these imports are being subsidized (51 FR 36419, October 10, 1986).

In accordance with section 705(d) of the Act (19 U.S.C. 1671d(d)), the ITC notified the Department of its finding that subsidized imports of porcelain-on-steel cooking ware from Mexico materially injure a United States industry.

However, the ITC also determined that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry retarded by reason of subsidized imports from Mexico of porcelain-on-steel teakettles. In accordance with section 705(c)(3) of the Act (19 U.S.C. 1671d(c)(3)), we are excluding teakettles from the scope of this order. We have also reexamined the countervailable subsidies received by the companies under investigation, and have determined that the exclusion of teakettles does not affect the estimated net subsidy or cash deposit rate.

Therefore, in accordance with sections 706 and 751 of the Act (19 U.S.C. 1671e and 1675), the Department directs U.S. Customs officers to assess, upon further advice by the administering authority pursuant to sections 706(a)(1) and 751 of the Act (19 U.S.C. 1671e(a)(1) and 1675), countervailing duties equal to the amount of the estimated net subsidy on all entries of porcelain-on-steel cooking ware (except teakettles) from Mexico. These countervailing duties will be assessed on all unliquidated entries of porcelain-on-steel cooking ware from Mexico entered or withdrawn from warehouse, for consumption on or after March 7, 1986, the date on which the Department published its preliminary affirmative countervailing duty determination notice in the Federal Register (51 FR 7978, March 7, 1986) and before July 5, 1986 the date we instructed the U.S. Customs Service to discontinue the suspension of liquidation. We instructed Customs to discontinue the suspension of liquidation on July 5, 1986, because in keeping with paragraph 8 of the "Understanding Between Mexico and the United States Regarding Subsidies and Countervailing Duties" we could not impose a suspension of liquidation on the subject merchandise for more than 120 days without final determinations of subsidization and injury.

The Department is not directing the U.S. Customs Service to suspend liquidation or require a countervailing duty deposit with respect to teakettles. The U.S. Customs Service is directed to release any bond or other security, and refund any cash deposit required, in the amount of the estimated net subsidy.

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 1.90 percent *ad valorem* on all entries of porcelain-on-steel cooking ware (except teakettles) from Mexico.

This determination constitutes a countervailing duty order with respect to porcelain-on-steel cooking ware from Mexico pursuant to section 706 of the Act (19 U.S.C. 1671e(a)(1) § 335.36 of Commerce Regulations (19 CFR 335.36). We have deleted from the Commerce Regulations, Annex III of 19 CFR Part 355, which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675e(a)(1)), the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Mr. Richard Moreland at (202) 377-2787.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

Gibert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 5, 1986.

[FR Doc. 86-27932 Filed 12-11-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council and its Committees will convene separate public meetings at the Ramada Inn, 5303 West Kennedy Boulevard, Tampa, FL, as follows:

Council—will review the 1986 Texas shrimp closure and formulation of recommendations to the National Marine Fisheries Service (NMFS), for the 1987 Texas shrimp closure; discuss options on the amendment to the Secretarial Red Drum Fishery Management Plan (FMP); review and make recommendations to the National Oceanic and Atmospheric Administration (NOAA) on the levels of federal penalty schedules; take action on the proposed regulations for Mackerel and Spiny Lobster FMP amendments, and conduct a closed session (not open to the public) to discuss personnel matters. The Council's public meeting will convene on January 14 at 1:30 p.m.; the closed session will be conducted from 4:30 p.m to 5 p.m., and the Council will recess at 5 p.m. The public meeting will reconvene on January 15 at 8:30 a.m., recess at 5 p.m.; reconvene on January 16 at 8:30 a.m. and adjourn at 10 a.m.

Committees—will convene January 12, 1987, with the Council's Stone Crab Management Committee, followed by the Habitat and Regulatory Measures Committees; from 1 p.m. to 5:30 p.m.; on January 13, will convene with the Mackerel Management Committee, followed by the Spiny Lobster, Coral, and Shrimp Committees; from 8 a.m to 5:30 p.m.; a closed session (not open to the public) will be conducted by the Council's Personnel Committee from 11:30 a.m. to noon. On January 14 the Red Drum Committee will convene from 8 a.m. to noon.

For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL 33609; telephone: (813) 228-2815.

Dated: December 8, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-27896 Filed 12-11-86; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board Advisory Committee Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session on 8 and 9 January 1987 in the Pentagon, Washington, DC.

The mission of the Defense Policy Board is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning major matters of defense policy. At this meeting the Board will hold classified discussions on national security matters dealing with chemical weapons and space policy.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended [5 U.S.C. App. II, (1982)], it has been determined

that this Defense Policy Board meeting concerns matters listed in 5 U.S.C. section 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 86-27907 Filed 12-11-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.116A]

Inviting Preapplications and Applications for New Awards Under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education (FIPSE) for Fiscal Year 1987

Purpose: Provides grants to or enters into cooperative agreements with institutions of postsecondary education and other public and private institutions and agencies to improve postsecondary education and educational opportunities.

Deadline for transmittal of reapplications: February 10, 1987.

Deadline for transmittal of preapplications: May 5, 1987.

Applications Available: December 22, 1986.

Available funds: Approximately $5,025,000.

Estimated size of awards: $5,000 to $200,000.

Estimated number of awards: 75

Project period: 12–36 months.

Program priorities: The Secretary supports a broad range of programs that seek to improve postsecondary education. Under 34 CFR 75.105(c)(1), "Annual priorities," the Secretary invites applicants to submit proposals that address the issues listed below. However, the list is not meant to be exhaustive. Projects that do not fit any of these guidelines are also eligible for support if they address other significant problems in postsecondary education. Proposals are solicited which seek to:

(1) Ensure that undergraduate curricula provide the knowledge and skills that an educated citizen needs, including knowledge of our intellectual and cultural heritage;

(2) Ensure that recent increases in access to postsecondary education are made more meaningful by improving retention and completion rates without compromising program quality;

(3) Improve the quality of undergraduate education by raising academic standards for the bachelors and associate's degrees, strengthening the liberal arts component of undergraduate professional programs, developing means of assessing and comparing programs and institutions, and recognizing and rewarding outstanding undergraduate teaching through appointment, tenure, and promotion policies;

(4) Reform the education of school teachers by making it easier for able people who have earned degrees in fields other than education and who currently lack pedagogical training to qualify as teachers, increasing current and prospective teachers' mastery of the subjects they teach, ensuring that prospective teachers have a solid grounding in the liberal arts, and attracting more people of commitment and high intellectual ability to the teaching profession;

(5) Reform graduate education by improving the preparation for teaching of Ph.D. candidates bound for careers in college teaching, and broadening the social and ethical perspectives of students in graduate and professional programs generally;

(6) Strengthen postsecondary educational institutions and organizations by developing the abilities of their administrators, faculties, and staff;

(7) Provide education that is responsive to changes in the nation's economy by offering educational programs and services for workers, unemployed individuals, businesses, and the public sector; and

(8) Develop educational uses of technology, including computers, television, and other electronic media.

(Approved by OMB under control number 1840-0514)

Applicable regulations: (a) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78 with the exceptions noted in 34 CFR 630.4(b), and (b) the regulations in 34 CFR Part 630.

For applications or information contact: The Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, S.W. (Room 3100, ROB 3), Washington, DC 20202. Telephone (202) 245-8091/8100.

Program authority 20 U.S.C. 1135.

Dated: December 9, 1986.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 86-27927 Filed 12-11-86; 8:45 am]

BILLING CODE 4000-01-M

Office of Elementary and Secondary Education

Indian Education Programs; Indian-Controlled Schools (Enrichment)

AGENCY: Department of Education

ACTION: Notice of extension of closing date and amendment to notice for transmittal of new applications for Fiscal Year 1987 under the Indian Education Program

SUMMARY: This notice extends the closing date of November 10, 1986, to January 12, 1987, for the transmittal of applications for new projects under the Indian-Controlled Schools Program of Part A of the Indian Education Act (CFDA No. 84.072A). The fiscal year 1987 application notice for this program, published in the **Federal Register** on September 17, 1986 (51 FR 33005), provides detailed information concerning this program. This notice amends the September 17 notice to notify potential applicants that the statute authorizing this program has been amended specifically to include as an allowable activity the training of counselors at schools eligible for funding under this program in counseling techniques relevant to the treatment of alcohol and substance abuse.

SUPPLEMENTARY INFORMATION: Section 4133 of the Drug-Free Schools and Communities Act of 1986, (Subtitle B of Title IV of Pub. L. 99-570), enacted October 27, 1986, amended section 304 of the Indian Education Act by adding a new paragraph (3) which permits the use of funds for "the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse." A technical amendment to the program regulations incorporating the changes made by this legislation will be published in the **Federal Register** at a later date. This extension of the closing date is intended to permit fiscal year 1987 applicants the opportunity to address needs in this area.

FOR APPLICATIONS OR INFORMATION CONTACT: Mrs. Elsie Janifer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2166, Washington, DC 20202. Telephone (202) 732-1918.

Program Authority: 20 U.S.C. 241bb(b).

Dated: December 9, 1986.

Lawrence F. Davenport,

Assistant Secretary, Elementary and Secondary Education.

[FR Doc. 86-27928 Filed 12-11-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF85-14-001]

American REF-FUEL Co. of Texas; Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

December 8, 1986.

On November 19, 1986, American FEF-FUEL Company of Texas (Applicant), of P.O. Box 3151, Houston, Texas 77253 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility was originally certified as a qualifying 48.1 megawatts facility on December 28, 1984, (Docket No. QF85-14-000, 29 FERC ¶ 62,391 (1984)). The application for recertification requests the change in location of the facility and also addition of two natural gas fired auxiliary boilers each with a capacity of 100,000 lbs/hr of steam. The new location of the facility will be approximately 1.5 miles east of the northwest corner of the intersection of State Highway 225 and Beltway 8, in Pasadena, Texas. The gross electric power production capacity of the facility will increase from 48.1 megawatts to 51.9 megawatts (46.9 net megawatts). Natural gas will be used for start up, unanticipated outages or fuel disruption and to dampen the steam output swings. However, such uses will not exceed 25% of the total energy input to the facility during any calendar period. All other details and descriptions of the facility described in the original application remain the same.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action tobe taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27942 Filed 12-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-48-000, 001 and RP86-105-006]

ANR Pipeline Co.; Tariff Filing

December 8, 1986.

Take notice that on December 1, 1986, ANR Pipeline Company ("ANR") tendered for filing Eighth Revised Sheet No. 18 Superseding Seventh Revised Sheet No. 18 under Original Volume No. 1 of ANR's F.E.R.C. Gas Tariff to be effective January 1, 1987.

Eighth Revised Sheet No. 18 of ANR's F.E.R.C. Gas Tariff, Original Volume No. 1, reflects a net increase of .17¢ per dekatherm in one-part rates and the commodity components of the two-part rates. This increase is the result of an increase in the GRI Adjustment to 1.52¢ per dekatherm, as approved by the Commission in its Opinion No. 252, issued at Docket No. RP86-117-000 on September 29, 1986.

ANR is also filing the following tariff sheets under Original Volume 1-A of this F.E.R.C. Gas Tariff to be effective July 1, 1986:

Second Revised Sheet No. 15 Superseding First Revised Sheet No. 15.

Second Revised Sheet No. 37 Superseding First Revised Sheet No. 37.

Second Revised Sheet No. 56 Superseding First Revised Sheet No. 56.

These revised tariff sheets contain certain language changes regarding credits to Account No. 191 which were inadvertently omitted in ANR's filing of May 30, 1986, at Docket No. RP86-105-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before December 15, 1986. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27944 Filed 12-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF87-89-000]

Hospital of Saint Raphael; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 5, 1986.

On November 17, 1986, Hospital of Saint Raphael (Applicant), of 1450 Chapel Street, New Haven, Connecticut 06511, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in New Haven, Connecticut and will consist of two reciprocating engine generator units and a heat recovery steam generator. Thermal energy recovered from the facility will be used to supplement the existing steam supply which is presently used for space heating, sterilization, and for hot water supply. The gross electric power production capacity of the facility will be 5612 kW. The primary source of energy will be fuel oil. Construction of the facility is expected to begin early in 1987.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedures. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27943 Filed 12-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-16-000]

National Fuel Gas Supply Corp.; Proposed Tariff Change.

December 8, 1986.

Take notice that on December 1, 1986, National Fuel Gas Supply Corporation ("National") tendered for filing Fourth Substitute Sixth Revised Sheet No. 4 as part of its FERC Gas Tariff, First Revised Volume No. 1, to be effective on January 1, 1987.

National states that the only purpose of this revised tariff sheet is to reflect an adjustment in National's rates for recovery of the costs associated with the Gas Research Institute as authorized by the Commission.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedures. (18 CFR 285.214, 385.211). All such motions or protests should be filed on or before December 15, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27945 Filed 12-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-1-26-000, 001, and CP85-57-015]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

December 8, 1986.

Take notice that on November 26, 1986, Natural Gas Pipeline Company of America (Natural) tendered for filing revised tariff sheets to be a part of its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 1A. According to §381.103(b)(2) (iii) of the Commission's regulations (18 CFR 381.103 (b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until December 2, 1986.

Natural filed a tariff sheet to be effective December 1, 1986, which set out the threshold percentages and discount rates applicable to its Rate Schedule IQS for the month of December, 1986.

In addition, Natural also submitted tariff sheets to be effective January 1, 1987, which reflect an increase in the Gas Research Institute (GRI) surcharge from the current rate of 1.31¢ to 1.52¢ per Mcf. The revision was made in accordance with the Commission Opinion No. 252 issued September 29, 1986, at Docket No. RP86-117-000, which approved a GRI Funding Unit of 1.57 mills per Mcf effective January 1, 1987. Under Natural's billing basis of 14.65 psia at 1000 Btu, this rate converts to 1.52¢ per Mcf.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the revised tariff sheets to become effective on their indicated effective dates. In addition, Natural also requested waiver of § 26.3 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1, to the extent that the sheets which reflect the change in the GRI Surcharge were not submitted forty (40) days prior to the requested effective date.

A copy of this filing was mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before December 15, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27946 Filed 12-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-37-000, 001]

Northwest Pipeline Corp; Change in FERC Gas Tariff

December 8, 1986.

Take notice that on December 1, 1986, Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, First Revised Volume No. 1, Original Volume No. 2, and Original Volume No. 1-A, the following tariff sheets.

First Revised Volume No. 1

Thirty-First Revised Sheet No. 10.

Original Volume No. 2

Second Revised Sheet No. 2.3.

Original Volume No. 1-A

Seventh Revised Sheet No. 201.

On September 29, 1986, the Federal Energy Regulatory Commission issued Opinion No. 252 at Docket No. RP86-177-000 approving the Gas Research Institute's ("GRI") 1987 research and development program. This action increased GRI's funding unit from 1.35 cents per Mcf to 1.52 cents per Mcf effective January 1, 1987. Such funding unit equates to .150 cents per therm based on Northwest's system average Btu content of 1011 Btu per cubic foot of gas.

The tariff sheets listed above are filed for the purpose of changing the stated GRI charge. Northwest has requested an effective date of January 1, 1987 for all tendered Tariff sheets.

A copy of this filing has been mailed to all jurisdictional sales customers and affected state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 15, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27947 Filed 12-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-28-000, 001]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

December 8, 1986.

Take notice that on December 1, 1986 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following sheets to its FERC Gas Tariff,

Original Volume No. 1 and FERC Gas Tariff, Original Volume No. 2:

FERC Gas Tariff, Original Volume No. 1

Fifty-Seventh Revised Sheet No. 3–A.
Thirty-Fourth Revised Sheet No. 3–B.
Seventh Revised Sheet No. 3–C.
Sixth Revised Sheet No. 3–D.
First Revised Sheet No. 3–f.

FERC Gas Tariff, Original Volume No. 2

Fourth Revised Sheet No. 2731.
Third Revised Sheet No. 2827.
Third Revised Sheet No. 2850.
Third Revised Sheet No. 2873.
First Revised Sheet No. 2975.
First Revised Sheet No. 2976.
First Revised Sheet No. 2977.
First Revised Sheet No. 2978.
First Revised Sheet No. 2979.
First Revised Sheet No. 3010.
First Revised Sheet No. 3105.
First Revised Sheet No. 3123.
First Revised Sheet No. 3124.

Panhandle states that such filing reflects a rate adjustment pursuant to Opinion No. 252 issued September 29, 1986 in Docket No. RP86–117–000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of the Gas Research Institute (GRI), such as Panhandle, may file a general R&D cost adjustment to be effective January 1, 1987. This adjustment will permit the collection of 15.2 mills per Mcf (15.2 mills when adjusted to Panhandle's pressure base and dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Panhandle states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 15, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–27948 Filed 12–11–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA87–1–8–000, 001]

South Georgia Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 8, 1986.

Take notice that on December 1, 1986, South Georgia Natural Gas Company (South Georgia) tendered for filing Thirty-Ninth Revised Sheet No. 4 and Eighth Revised Sheet No. 30 to its FERC Gas Tariff, First Revised Volume No. 1. These tariff sheets and supporting information are being filed with a proposed effective date of January 1, 1987, pursuant to the Purchased Gas Cost Adjustment provisions set out in section 14 of South Georgia's tariff.

South Georgia states that its Thirty-Ninth Revised Sheet No. 4 reflects an increase of 64.93¢ per MMBtu in the Current Adjustment and an increase of 16.95¢ per MMBtu in the Surcharge Adjustment presently in effect.

South Georgia has mailed copies of this filing to all purchasers, state commissions, and interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 15, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–27949 Filed 12–11–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA87–1–17–000, 001]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 8, 1986.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 2, 1986 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, six copies of the following tariff sheet:

Revised Eighty-second Revised Sheet No. 14.

This tariff sheet is being filed pursuant to Section 25 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Fourth Revised Volume No. 1, to include in Texas Eastern's rates the GRI Funding Unit of 1.52 cents per Mcf approved by the Commission in Opinion No. 252 issued on September 29, 1986 in Docket No. RP86–117.

Schedule A herein shows the conversion of the GRI Funding Unit of 1.52 cents per Mcf to 1.47 cents per dry dekatherm (Texas Eastern's billing basis).

The proposed effective date of the above tariff sheet is January 1, 1987, the effective date specified in the Commission's Opinion No. 252.

The above tariff sheet also reflects unapproved Contract Adjustment—Demand rates applicable to Rate Schedules DCQ, GS, SGS and CTS at 1986 programs levels as contemplated in Docket No. CP84–429 *et al.* and unapproved rates applicable to Rate Schedule SS–II Phase IV in Docket No. CP85–805–001. In the event these rates are not approved by the Commission or are revised in any way, Texas Eastern will refile the above listed tariff sheet to reflect the final determination.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 15, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–27950 Filed 12–11–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA87–1–30–000, 001]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

December 8, 1986.

Take notice that on December 1, 1986,

Trunkline Gas Company (Trunkline) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1 and FERC Gas Tariff, Original Volume No. 2:

FERC Gas Tariff, Original Volume No. 1

Fifty-Third Revised Sheet No. 3–A.
Seventh Revised Sheet No. 3–A.1.
Eighth Revised Sheet No. 3–A.2.
Second Revised Sheet No. 3–A.3.
Second Revised Sheet No. 3–A.4.

FERC Gas Tariff, Original Volume No. 2

Fourth Revised Sheet No. 3725.
Third Revised Sheet No. 3747.
Third Revised Sheet No. 3881.
Third Revised Sheet No. 3920.
Third Revised Sheet No. 3989.
Second Revised Sheet No. 4166.

Trunkline states that such filing reflects a rate adjustment pursuant to Opinion No. 252 issued September 29, 1986 in Docket No. RP86–117–000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Trunkline, may file a general R&D cost adjustment to be effective January 1, 1987. This adjustment will permit the collection of 15.2 mills per Mcf (14.6 mills when adjusted to Trunkline's pressure base and dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Trunkline states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 15, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–27951 Filed 12–11–86; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3126–9]

Iron and Steel Manufacturing; Metal Finishing Industry; Intent to Transfer Confidential Information to a Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to transfer confidential information to a contractor.

SUMMARY: The Environmental Protection Agency (EPA) intends to provide an Agency contractor with access to confidential information for analysis in connection with the preparation of effluent limitations and standards regulating process pollutants in wastewater discharged by the hot dip metal coating industry. EPA's contractor needs to review and analyze the technical and economic data bases that support effluent limitations and standards and NPDES permits under the Clean Water Act for hot dip coating processes regulated as part of the Iron and Steel Manufacturing or the Metal Finishing Industries.

DATE: Comments on the notice of transfer are due December 22, 1986.

ADDRESS: Ann Watkins, Economic Analysis Branch, Analysis and Evaluation Division (WH–586), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ann Watkins, Economic Analysis Branch, Analysis and Evaluation Division, (202) 382–5387.

SUPPLEMENTARY INFORMATION: The Clean Water Act of 1977 requires the Environmental Protection Agency to develop, revise, and review effluent limitations and standards for industrial point sources. The Office of Water Regulations and Standards is responsible for regulating discharges from industrial point source categories. On May 27, 1982, EPA promulgated Effluent Limitations and Standards for the Iron and Steel Manufacturing Point Source Category (47 FR 23284). EPA promulgated Effluent Limitations and Standards for the Metal Finishing Point Source Category on July 15, 1983 (48 FR 32485). Hot dip coating of any metal on steel at any iron and steel facility is a subcategory of the Iron and Steel Manufacturing Point Source Category (§ 420.120). The Metal Finishing Regulation at § 433.10 (a) and (b) regulates hot dip coating operations at facilities that also perform any one of six metal finishing operations. However, stand-alone hot dip coating operations are not regulated by either Section 420 or Section 433. Information is being gathered to support consideration of a new regulation for the hot dip coating industry.

EPA has awarded a contract to META Systems, Inc., of Cambridge, Massachusetts (Contract No. 68–03–3366) to provide economic support to the Office of Water Regulations and Standards as the Office determines the need for, and analyzes the impact of, regulations on specific industries, including the hot dip coating industry.

In considering the development of a new regulation for the hot dip coating industry, EPA will use data collected from questionnaires sent to two industrial categories under Section 308 Authority of the Clean Water Act: the Iron and Steel Manufacturing and Metal Finishing Point Source Category. More specifically, these data are from industry survey questionnaires mailed since 1972, to firms, companies, and corporations that are in these two industrial categories as well as follow-up communications and submissions. Many of the responses to these questionnaires contain fundamental information about plant size and location, economic status of plants and firms, wastewater composition, wastewater treatment systems, wastewater volume, production processes and solid waste disposal practices. Certain of the information provided has been claimed as confidential by the responding firm. The data collected by EPA from questionnaires, including portions that have been claimed as confidential, will be accessed by the EPA contractor identified above.

The Iron and Steel Manufacturing Point Source Category is covered by Standard Industrial Classification (SIC) major group 33 (primary metal industries) including:

SIC 3312 Blast Furnaces, Steel Works and Rolling and Finishing Mills (except coil coatings);
SIC 3315 Steel Wire Drawing and Steel Nails and Spikes;
SIC 3316 Cold Rolled Steel Sheet, Strip, and Brass;
SIC 3317 Steel Pipe and Tubes.

The Metal Finishing Point Source Category is covered by SIC major groups 34 through 39 as follows:

34 Fabricated Metal Products, Except Machinery and Transportation Equipment;
35 Machinery, Except Electrical;
36 Electrical and Electronic Machinery, Equipment and Supplies;

37 Transportation Equipment;
38 Measuring, Analyzing and Controlling Instruments: Photographic, Medical and Optical Goods; Watches and Clocks;
39 Miscellaneous Manufacturing Industries, NEC.

The confidential files for both the Iron and Steel and the Metal Finishing Point Source Categories are currently located, and will continue to be held, at EPA Headquarters, 401 M Street SW., Washington DC, 20460. Meta Systems, Inc., Cambridge, Massachusetts, under Contract No. 68-03-3366, will have access to these files. EPA has determined that it is necessary to grant access and transfer information to Meta Systems, Inc., so they can perform work required by their contract. The contract and subcontracts contain all confidentiality regulations [40 CFR 2.302(h) (2-3)].

In accordance with those regulations, sampled facilities and questionnaire respondents who have submitted confidential information have ten (10) days from the date of this notice to comment on EPA's proposed transfer of information to this contractor for the purposes outlined above [40 CFR 2.302(h) (2-3)].

Dated: November 19, 1986.

Rebecca W. Hanmer,

Acting Assistant Administrator, Office of Water (WH-556).

[FR Doc. 86-27916 Filed 12-11-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3126-7]

Environmental Impact Statements; Filed December 1, through December 5, 1986; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed December 01, 1986 Through December 05, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860497, Final, AFS, AK, 1986-90 Alaska Pulp Long-Term Sale Area, Operating Plan and Designation, Tongass National Forest, Chatham and Stikine Areas, Due: January 12, 1987, Contact: K. W. Roberts (907) 747-6671.

EIS No. 860498, FSuppl, USN, CA, Treasure Island Naval Station, Hunters Point Naval Shipyard, San Francisco Bay Region Ship Homeporting, Basing Additional Ships and Constructing Support Facilities, San Francisco County, Due: January 12, 1987, Contact: Dana Sakamoto (415) 877-7590.

EIS No. 860499, Final, NOA, MXG, Red Drum Fishery of the Gulf of Mexico, Fishery Management Plan, Due: December 22, 1986, Contact: Jack Brawner (813) 893-3144.

EIS No. 860500, Draft, FHW, WV, East Huntington Bridge Extension to US 60, Connection, Cabell County, Due: January 26, 1987, Contact: Billy Higginbotham (304) 348-3093.

Amended Notices

EIS No. 860470, Final, AFS, NM, Gila National Forest, Land and Resource Management Plan, Due: December 29, 1986, Published FR 11-21-86—Review period reestablished.

Note.—Draft EIS's that were received during the week of November 24 through November 28, 1986, and published in the December 5, 1986 **Federal Register** will have a closing comment period date of January 20, 1987 due to the January 19, 1987 Holiday.

Dated: December 9, 1986.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 86-27963 Filed 12-11-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3126-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments Prepared November 24, Through 28, 1986

Availability of EPA comments prepared November 24, 1986 through November 28, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act (CAA) and section 102(2)(c) of the National Environmental Policy (NEPA) as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D-AFS-K65076-AZ, Rating EC2, Kaibab Nat'l Forest, Land and Resource Mgmt. Plan, Wilderness Study Area, AZ. **SUMMARY:** EPA is concerned that the proposed action may result in degradation of water quality, riparian areas/watersheds, and protected uses. EPA requested that the final EIS more fully discuss how forest activities may be shaped to protect forest resources, particularly water quality.

ERP No. D-BLM-L70006-ID, Rating EO2, Cascade Resource Area, Resource Mgmt. Plan (RMP), ID. **SUMMARY:** EPA recommended redesignation of Alternative C as preferred. Alternative C was the only identified alternative which would not further increase already significant erosion and sedimentation problems in the Resource Area. EPA also recommended that monitoring plans developed from the RMP should be capable of detecting negative impacts to beneficial uses prior to their becoming significant.

ERP No. D-COE-F07018-OH, Rating EO2, Wm. H. Zimmer Conversion Project, Nuclear Power Plant Into Coal-Fired Electrical Generating Plant, Issuance of Permit, section 10 and 404 Permits, OH. **SUMMARY:** EPA's review resulted in objections to the preferred alternative as currently proposed. The draft EIS did not contain an adequate discussion of alternatives that could reduce impacts to mussel beds in the Ohio River. The air quality analysis was deficient because of problems with the best available control technology evaluation and problems with monitoring and modelling. Other concerns included: Loss of wetlands and woodlands, flyash disposal, protection of groundwater from leachate from the wastewater ponds, outfall modifications, and the thermal impacts of the service water discharge.

ERP No. D-FHW-E40572-AL, Rating EC2, Corridor X Highway Construction, Walker/Jefferson County Line to US 31, 404 Permit Possible, Right-of-Way Acquisition, AL. **SUMMARY:** EPA's concern with the proposed project is its location in a non-attainment area for ozone and that mitigation is not proposed for noise impacts. EPA requested that the final EIS include a Hydrocarbon Burden Analysis, reconsider noise abatement, and include greater discussion on the aquatic environment.

ERP No. RD-NOA-L91006-00, Rating EC2, Japanese Salmon Fishery, 1987 through 1991 Incidental Take of Dall's Porpoise, Permit Issuance, Within Exclusive Economic Zone of US, Bering Sea and Pacific Ocean. **SUMMARY:** EPA expressed concerns about: (1) Whether the calculated incidental take rate of Dall's Porpoise for the squid fishery allows for future growth in this fishery over the five-year permit term; and (2) whether an incidental take of northern fur seals could be authorized since a

portion of the entire population is below the optimum sustainable population.

ERP No. D-SFW-K99021-00, Rating LO, Southern Sea Otter Translocation Plan, Recovery Research, San Nicholas Island, CA and OR. **SUMMARY:** EPA expressed no objections to the proposed sea otter translocation.

ERP No. D-USN-K60016-CA, Rating LO, Target Ranges R-2510 (W. Mesa) and R-2512 (E. Mesa), Range Safety Zones, Land Acquisition and Mgmt. on Non-Federal Land, Naval Air Facility, CA. **SUMMARY:** EPA expressed a lack of objections to the proposed action.

Final EISs

ERP No. F-BLM-J020100-C, Federal Prototype Oil Shale Tract C-A, Offtract Leasing, Oil Shale Operations and Waste Material Disposal, CO. **SUMMARY:** EPA remains concerned that the proposed action has potential for ground water degradation, inadequate control of leachates, and lack of need for the offtract lease. Available alternative sites are situated away from potable ground water and are more amenable to control of leachates. EPA suggests that BLM delay offering an offtract least until commencement of the open pit mine. EPA will help prepare water quality protection lease stipulations to mitigate potential water quality problems.

ERP No. F-CDB-K36089-CA, Anaverde Retention Basin, Construction, Flood Control Project, CDBG, CA. EPA requested that Los Angeles County contact the Army Corps of Engineers to determine whether Clean Water Act (CWA) section 404 dredge and fill permits would be needed for the flood control work. EPA also noted the focusing points of its evaluation of any 404 permit applications.

ERP No. F-IBR-K31011-CA, Kesterson Reservoir and San Luis Drain Cleanup, Disposition and Wetland Mitigation Program, 404 Permit Possible, CA. **SUMMARY:** EPA expressed concerns regarding: (1) The need to better define the decisionmaking process for timing successive cleanup actions; (2) the potential for selenium remobilization under the Flexible Response and Immobilization Plans; (3) a lack of longterm mitigation to offset wetland habitat losses and, therefore, non-compliance with the CWA 404(b)(1) Guidelines; (4) the transport of contaminants (other than selenium) via groundwater; and (5) land subsidence due to groundwater extraction.

Dated: December 12, 1986.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 86-27964 Filed 12-11-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-006200-028.

Title: U.S. Atlantic & Gulf/Australia-New Zealand Conference.

Parties:

Columbus Line

Pacific American Container Express

Synopsis: The proposed amendment would modify the independent action provisions of the agreement by adding the following language to Article 13 of the basic agreement: 13.5 If the Conference tariff does not provide for payment of freight forwarder compensation to freight forwarders which are also licensed as customs brokers by the U.S. Department of the Treasury of at least 1¼% of all charges on which compensation is required to be paid under section 641 of the Tariff Act of 1930, as amended, any Member may, under the terms and conditions set forth in this Article 13, take independent action with respect to freight forwarder compensation to freight forwarders which are also licensed as customs brokers by the U.S. Department of the Treasury.

By Order of the Federal Maritime Commission.

Dated: December 9, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-27903 Filed 12-11-86; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 86-28; Agreement No. 003-010965]

Island Ocean Terminal Agreement; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Special Studies has detemined that Docket No. 86-28 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. section 4321 *et seq.*, and the preparation of an environmental impact statement is not required.

Docket 86-28 is a proceeding instituted to investigate Agreement No. 003-010965 between Puerto Rico Maritime Shipping Authority, Trailer Marine Transport Corporation and Sea-Land Service, Inc. The Agreement pertains only to the carriers' terminal operations and related services, and not to linehaul ocean freight rates or intermodal through rates. The investigation will consider, among other things, whether the carriers will be conducting activities as "common carrier(s) by water in interstate commerce" or other persons subject to the Shipping Act, 1916; and, whether the Agreement encroaches on antitrust policies more than is necessary to achieve the Agreement's purposes.

This Finding of No Significant Impact (FONSI) will become final within 10 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 504.6 (b).

The FONSI and related environmental assessment are available for inspection upon request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, DC 20573, telephone (202) 523-5725.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-27931 Filed 12-11-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Belfast Holding Co., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under § 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to

acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 2, 1987.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Belfast Holding Company,* Belfast, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Belfast, Belfast, Tennessee.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Jacobsen Financial Corporation,* Minneapolis, Minnesota; to become a bank holding company by acquiring 92.75 percent of the voting shares of Security State Bank of Ellendale, Ellendale, Minnesota.

Board of Governors of the Federal Reserve System, December 8, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27885 Filed 12-11-86; 8:45 am]

BILLING CODE 6210-01-M

O'Neill Properties, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 2, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *O'Neill Properties, Inc.,* Minneapolis, Minnesota; to acquire Meierhenry Agency, Inc., O'Neill, Minnesota, and thereby engage in the sale of general insurance in towns with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. This activity will be conducted in O'Neill, Nebraska.

Board of Governors of the Federal Reserve System, December 8, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27886 Filed 12-11-86; 8:45 am]

BILLING CODE 6210-01-M

Jack Rich; Change in Bank Control; Acquisition of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 26, 1986.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Jack Rich,* El Paso, Texas; to acquire 15.9 percent of the voting shares of Western Bancshares of Farmington, Inc., Farmington, New Mexico, and thereby indirectly acquire Western Bank, Farmington, New Mexico.

Board of Governors of the Federal Reserve System, December 8, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27887 Filed 12-11-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on December 5, 1986.

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of packages)

National Institutes of Health

Subject: The NHLBI Growth and Health Study—New

Respondents: Individuals or households

Subject: The Effects of Exposure to Mercury Vapor on the Fertility of Female Dental Assistants—New

Respondents: Individuals or households

Health Resources and Services Administration

Subject: Uncompensated Services Assurance Report—Extension—(0915–0077)
Respondents: Non-profit institutions
Subject: Debt Management Report—Revision—(0915–0046)
Respondents: Non-profit institutions

Centers for Disease Control

Subject: National Nosocomial Infections Surveillance System—Revision—(0920–0012)
Respondents: Businesses or other for-profit

Food and Drug Administration

Subject: Product License Application for the Manufacture of Reagent Red Blood Cells—Extention—(0910–0062)
Respondents: Businesses or other for-profit; Small businesses or organizations

Office of the Assistant Secretary for Health

Subject: 1987 National Medical Expenditure Survey—Revision—(0937–0163)
Respondents: Individuals or households; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
OMB Desk Officer: Bruce Artim

Health Care Financing Administration

(Call Reports Clearance Officer on 301–594–8650 for copies of package)
Subject: State Agency Sheets for Verifying Exclusions from the Prospective Payment System—Extension—(0938–0358)—HCFA–437
Respondents: State or local governments; Non-profit institutions; Small businesses or organizations
Subject: Preclearance for: Expanded Medicare Consumer Choice Demonstration—New
Respondents: Individuals or households
Subject: Medicaid—Intermediate Care Facility for the Mentally Retarded or Persons with Related Conditions Survey Report Form—Extension—(0938–0062)—HCFA–3070B
Respondents: State or local governments
Subject: Medicaid Eligibility Quality Control Disposition List—Revision—(0938–0173) HCFA–321
Respondents: State or local governments
Subject: Plan of Treatment and Home Health Certification Form—Extension—(0938–0357) HCFA–485, 486, 487, 488
Respondents: State or local governments; Businesses or other for-profit
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

(Call Reports Clearance Officer on 301–594–5706 for copies of package)
Subject: Statement Regarding Marriage—Extension—(0960–0017)
Respondents: Individuals or households
Subject: Report to United States Social Security Administration by Persons Receiving Benefits for a Child or for an Adult Unable to Handle Funds—Revision—(0960–0049)
Respondents: Individuals or households
Subject: Request for Statement of Earnings—Test and Evaluation—New
Respondents: Individuals or households
OMB Desk Officer: Judy Egan

Office of Human Development Services

(Call Reports Clearance Officer on 202–472–4415 for copies of package)
Subject: Survey of the Transition of Head Start Children into Public Schools—New
Respondents: Individuals or households; Non-profit institutions; Small businesses or organizations
Subject: Administration on Development Disabilities Protection and Advocacy Program Annual Program Performance Report—Extension—(0980–0160)
Respondents: State or local governments
OMB Desk Officer: Judy Egan

Office of the Secretary

(Call Reports Clearance Officer on 202–245–0509 for copies of package)
Subject: 45 CFR 95.600 State Requests for HHS Approval of Federal Financial Participation in the Cost of the ADP Systems, Equipment and Services—Revision—(0990–0058)
Respondents: State or local governments
OMB Desk Officer: Judy Egan

Family Support Administration

(Call Reports Clearance Officer on 202–245–1704 for copies of package)
Subject: Provision of Services in Interstate IV–D Cases—New
Respondents: State or local governments; Federal agencies or employees
Subject: January 1987 Grantee Survey of Low Income Home Energy Assistance Program—Reinstatement—(0960–0330)
Respondents: State or local governments
OMB Desk Officer: Judy Egan

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503. Attn: (name of OMB Desk Officer).

Dated: December 8, 1986.

Barbara S. Wamsley,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86–28025 Filed 12–11–86; 8:45 am]

BILLING CODE 4150–04–M

Public Health Service

Office of the Assistant Secretary for Health Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 51 FR 31983, September 9, 1986) is amended to: (1) Retitle the Office of Public Affairs to the Office of Communications and revise the functional statement to reflect more accurately the major responsibilities of the Office and (2) establish two substructure components within the Office of Communications to carry out more effectively the responsibilities associated with communication strategies and news media relations. The purpose of this reorganization is to strengthen PHS communications with public and private organizations and the news media.

Office of the Assistant Secretary for Health

Under Part H, Chapter HA, Office of the Assistant Secretary for Health, Section HA–10, Organization, change item 2 from Office of Public Affairs (HAB) to Office of Communications (HAB).

Under Section HA–20, Functions, delete the title and statement for the Office of Public Affairs (HAB) and substitute the following:

Office of Communications (HAB)

The Office is under the direction of the Deputy Assistant Secretary for Health (Communications) who advises the Assistant Secretary for Health (ASH) on a PHS-wide strategic communications program. The Office: (1) Provides leadership and guidance on PHS management, direction and evaluation of communication policies and programs; (2) in concert with PHS components, develops and recommends

communication policies to the ASH; (3) oversees implementation of communication policies; (4) provides direction and guidance to PHS agencies and offices on communications affecting multiple functional areas; (5) assures PHS communications meet the priorities and objectives of the ASH; (6) maintains close liaison with public and private organizations concerning the state of health affairs; (7) ensures public statements prepared for the ASH reflect his policy and program objectives; (8) participates with ASH in the determination of PHS-wide goals, objectives and priorities; (9) oversees PHS clearinghouse activities; (10) serves as the focal point for the public on Freedom of Information Act compliance; and (11) publishes Public Health Reports.

Communications Strategies and Services Division (HAB-2)

The Division: (1) Develops policies for PHS communications with the public and private sectors; (2) provides strategic communication management oversight to the PHS agencies maintaining a balanced program of internal and external communications supporting the DHHS and PHS program objectives; (3) coordinates development of PHS communications planning and evaluation cycle; (4) conducts reviews of communication plans, budget, staffing and activities; (5) serves as PHS lead for public and private sector organizations in developing new national public information campaigns; (6) develops reporting systems relating to the functional management of public health communication policies and procedures; (7) reviews all PHS information/education materials to assure compliance with PHS communication strategies; (8) oversees management of OASH clearinghouse activities; and (9) serves as PHS focus for interpretation of the health sciences assuring effective communication with public audiences.

News Division (HAB-3)

(1) Provides overall leadership to PHS regarding news and media procedures and guidelines; (2) oversees the issuance of public information from PHS to the news media including major networks and daily news publications; (3) alerts the DASH(C) about events impacting on the PHS; (4) prepares news releases and other media material for DASH(C) and reviews all news releases and other news media materials prepared by PHS components; (5) coordinates and makes arrangements for news conferences, briefings, interviews, and appearances involving the ASH, DASH(C), and other key PHS officials; (6) advises DASH(C) on the use of information materials and techniques that can assist PHS in achieving its goals and objectives; (7) oversees and guides all production, clearance, and other public information procedures; (8) serves as liaison with the Office of the Assistant Secretary for Public Affairs regarding news media material policies and guidelines; and (9) develops and maintains liaison with private and public press and media organizations to insure effective exchange of information.

Section HA-30, Delegations of Authority. All delegations and redelegations of authority made to the Director, Office of Public Affairs which were in effect prior to the effective date of this reorganization shall continue in effect in the Office of Communications pending further redelegations.

Effective date: December 1, 1986.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 86-27892 Filed 12-11-86; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-010-07-4410-08]

Modification of the Proposed Jarbridge Resource Management Plan

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Modification of the Proposed Jarbidge Resource Management Plan.

SUMMARY: The Draft Jarbidge Resource Management Plan (RMP) was distributed by the Bureau of Land Management (BLM) for public review and comment in September 1984. As a result of public comment received on the draft plan, the level of land treatment (brush control and seeding), water development, and fencing were increased in the Proposed RMP/Final EIS which was released in September 1985. The level of livestock use associated with these projects also increased.

During the protest period on the plan, several protestants expressed concern that the new levels of development had not been addressed in the draft plan and that they had not had the opportunity to review and comment on the proposed changes. In order to respond to these concerns, the BLM is now proposing to reduce the level of land treatment, water development, and fencing to the maximum level that was addressed in the draft RMP/EIS. The level of proposed livestock use has also been reduced to ensure that the combined use of livestock grazing, wild horses, and wildlife does not exceed the estimated carrying capacity.

The revised levels of land treatment, pipeline development, and fencing correspond to the level of treatment that was addressed in Alternative B of the draft plan. We are also clarifying our management of threatened, endangered, and sensitive plant species to ensure their continued protection and enhancement. The proposed changes are described in the supplemental information section. This section also describes the appropriate sections or pages in the Proposed RMP/Final EIS published in September 1985, that are modified by these proposed adjustments.

SUPPLEMENTARY INFORMATION: This section describes the changes to the Proposed RMP/Final EIS that are being proposed as a result of plan protests. Changes in land treatment, project development, and livestock use levels are shown below:

	Proposed plan/Final EIS	Revised proposal [1]
Brush control	[2] 142,085	[2] 36,880
Brush control and seeding	[2] 121,749	[2] 15,600
Seeding only	[2] 40,156	[2] 80,140
Total Land Treatment	[2] 303,990	[2] 132,620
Fences	[3] 195	[3] 163
Pipelines	[3] 194	[3] 130
Proposed Livestock Use	[4] 178,319	[4] 176,976
20-year Livestock Use	[4] 285,150	[4] 275,966

[1] The revised levels of land treatment, pipeline development, and fencing correspond to the level of treatment that was addressed in Alternative B of the draft plan.
[2] Acres.
[3] Miles.
[4] AUMs.

A summary of the revised proposal by Multiple Use Area (MUA) is shown below. A breakdown of the proposed and 20 year livestock use levels by allotment are available upon request from the Boise District BLM Office.

MUA	Brush Control (acres)	Brush Control and Seeding (acres)	Seeding (acres)	Total Land Treatment (acres)	Fences (miles)	Pipelines (miles)	Proposed Livestock Use (AUMs) [1]	20-Year Livestock Use (AUMs)
1	0	0	0	0	0	0	406	406
2	640	0	640	1,280	5	0	3,785	4,983
3	4,640	0	6,600	11,240	8	0	6,689	8,152
4	0	0	0	0	0	0	378	378
5	0	0	2,000	2,000	0	0	4,482	5,631
6	0	0	0	0	35	30	12,136	47,772
7	0	0	0	0	100	100	37,097	70,113
8	0	0	0	0	0	0	0	0
9	0	0	0	0	0	0	139	137
10	0	0	0	0	1	0	6,238	7,021
11	5,000	9,600	6,400	21,000	5	0	20,078	33,423
12	4,100	2,000	38,500	44,600	9	0	33,650	44,854
13	0	4,000	9,600	13,600	0	0	18,748	20,169
14	0	0	0	0	0	0	0	0
15	7,500	0	6,400	13,900	0	0	25,098	26,466
16	15,000	0	10,000	25,000	0	0	8,052	10,996
Total	36,880	15,600	80,140	132,620	163	130	176,976	280,501

[1] The proposed level of livestock use is the estimated level of use that would occur following a monitoring and adjustment period. This level is based on the estimated carrying capacity of the range, wildlife and wild horse needs and other resource restrictions. During the monitoring period, the initial stocking level will be the permittees 5-year average use or their active grazing preference, whichever is greater.

In addition to the above land treatments, pipelines, and fences, the following development would be allowed in the Bruneau-Sheep Creek WSA and the Jarbidge River WSA (Multiple Use Area #10) if Congress does not designate these areas as wilderness: 14,600 acres of prescribed burning and drill seeding or interseeding specifically for wildlife; 1,500 acres of brush control and seeding; 4.3 miles of pasture fence; 1 spring development; 2 reservoir developments and 1.4 miles of pipeline.

In the King Hill WSA, the following development would be allowed if Congress does not establish this area as wilderness: 2,200 acres of brush control, 1,010 acres of seeding and 2 spring developments. A decision on the management of these Wilderness Study Areas is being deferred until after Congress decides to designate them as wilderness or releases them for other multiple use management. The above level of project development will also be addressed in the final Jarbidge Wilderness EIS which is scheduled to be released to the public in late 1987.

The revised proposal adopts the priorities for allocating additional forage from land treatments that were used in the draft RMP. First, additional forage resulting from land treatments would be allocated to satisfying plant maintenance requirements; the identified wildlife and wild horse population goals and thereafter would be available for use by livestock. The level of livestock use projected in 20 years does not exceed the estimated carrying capacity of the range and it is limited to the maximum level, by multiple use area, that was projected in the proposed plan (Alternative C).

The proposed plan is also being modified by removing the use of spraying as a technique for sagebrush control. The acres proposed to be treated through spraying in the Proposed Plan/Final EIS may be treated through prescribed burning or other brush control methods.

Information pertaining to rare, sensitive, uncommon, and/or federally listed category 2 plants was inadvertently left out of the Draft RMP. In response to comments, information regarding these species was added to the Proposed RMP/Final EIS. Since there was still concern expressed for the location and management of these species during the protest period, we are including information to clarify their location, management, and protection.

Seven threatened, endangered, and sensitive plant species have been identified within the Jarbidge planning area. They are listed on page 3–7 of the Jarbidge Final EIS. Two of these plant species are found within the boundary of the proposed Bruneau/Jarbidge ACEC. These are *Astragalus atratus* var. *inseptus* and *Leptotactylon glabrum*. Both of these species are located in the river canyon where livestock grazing is absent or very light. ACEC designation would give protecting these species priority over livestock grazing and recreation use, and would require a plan of operations for mining that would provide protection or mitigation of adverse effects on threatened, endangered, and sensitive plant species.

In addition to the two threatened, endangered, and sensitive plant species, two uncommon plant species occur in the proposed Bruneau/Jarbidge ACEC. (See page 77 of the proposed Jarbidge RMP.) Lady fern (*Athryium felix—famina* (L.) Roth) and Bailey's ivy (*Ivesia baleyii*), although uncommon in the local region, are not rare elsewhere and are not threatened, endangered, or sensitive. (Bailey's ivy was on the Idaho state list of sensitive species but has now been dropped from that list.)

No site-specific management actions are proposed in the RMP for the protection of the five threatened, endangered, and sensitive species outside the proposed Bruneau/Jarbidge ACEC because no specific management actions are proposed that would put these species at further risk.

To emphasize the protection of threatened, endangered and sensitive plant species, the resource management guideline for the protection of these species would be rewritten as follows: Projects proposed in areas with known threatened, endangered, or sensitive plants will give full consideration to protecting these species, including fencing if necessary. Adjustments to livestock use levels, grazing seasons, season-of-use or other management techniques will be used to protect plants. If a proposed action is identified, through the environmental assessment, to have an adverse effect on threatened, endangered, or sensitive plants, the action will be foregone or redesigned to eliminate such adverse effects.

The changes described in the proceeding material modify the

following sections of the Proposed RMP/Final EIS distributed in September 1985.

—The objectives for each MUA (pages 21–69) relating to livestock use in 20 years are modified to reflect the revised livestock use figures.
—Action element A for each MUA (pages 21–69) are modified to reflect the new proposed livestock use and 20 year livestock use levels.
—Action element H for each MUA (pages 21–69) are modified to reflect the revised levels of vegetative manipulation, fencing, and water development.
—Action element J for each MUA (pages 21–69) are modified by removing the references to treating additional acreages of poor condition rangeland. Treatments would be limited to those described in action element H (as modified).
—The Resource Management Guideline (pages 88 and 90) that limits livestock use to 25% of the available forage obtained from annually treating 2% of the poor condition range is removed. Vegetative treatments would still be designed to benefit wildlife, watershed, and other multiple uses and would include appropriate mixtures of grasses, forbs, and shrubs.
—The Resource Management Guideline for Threatened, Endangered, and Sensitive Plants (page 89) is modified as previously indicated.
—Appendix Table B–4 (Alternative C) is modified to reflect the revised proposed livestock use and the 20 year livestock use levels.
—Appendix Table B–5 (Alternative C) is modified to reflect the revised proposals for land treatments, fences, and water development for livestock.
—The section referring to the use of chemicals (including spraying) for sagebrush control is deleted (Appendix page F–4).
—Appendix table F–4 (Allotment Summary) for Alternative C is modified to reflect the revised proposed and 20 year livestock use levels.

Deadline for Comments and Supplementary Information

In accordance with 43 CFR 1610.2(f)(5), we are providing 30 days for comment on this modified proposal for the range management program. Comments should be submitted to J. David Brunner, BLM District Manager, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705 within 30 days from the publication date of this notice. If you have any questions concerning the proposed modifications or you need additional information, please contact Gary Carson at the above address or telephone (208) 334–1582.

J. David Brunner,

District Manager.

December 8, 1986.

[FR Doc. 86–27914 Filed 12–11–86; 8:45 am]

BILLING CODE 4310–GG–M

[A–13138]

Public Land Exchange; Mohave; County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Exchange, Public Land in Mohave County, Arizona.

SUMMARY: The following described lands and interests therein have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian

T. 20 N., R. 14 W.,
Sec. 30, lot 5, NE¼SW¼.
T. 20 N., R. 15 W.,
Sec. 25, W½.
T. 20 N., R. 21 W.,
Sec. 4, lots 1–4, S½;
Sec. 8, all;
Sec. 10, all;
Sec. 16, all;
Sec. 18, lot 1, NE¼NW¼, N½SE¼;
Sec. 20, NE¼, NW¼SW¼NE¼NW¼, S½S½NE¼NW¼, NW¼NE¼NW¼NW¼, S½NE¼NW¼NW¼, NW¼NW¼NW¼, N½SW¼NW¼NW¼, SE¼NW¼NW¼, E½NE¼SW¼NW¼, S½SW¼NW¼, SE¼NW¼;
Sec. 22, all;
Sec. 28, SW¼NE¼, NW¼NW¼, S½NW¼, N½S½;
Sec. 32, N½S½.

Containing 4,349.11 acres, more or less.

In exchange for these lands, the United States will acquire the following described lands from Donald J. Laughlin of Laughlin, Nevada:

Gila and Salt River Meridian

T. 19 N., R. 14 W.,
Sec. 1, lots 1–4, S½N½, S½;
Sec. 3, lots 1–4, S½N½, S½;
Sec. 5, lots 1–4, S½N½, S½;
Sec. 7, lots 1–4, E½, E½W½;
Sec. 9, all;
Sec. 11, all;
Sec. 13, all;
Sec. 15, all;
Sec. 17, all;
Sec. 19, lots 1–4, E½W½;
Sec. 20, SW¼NE¼.
T. 19 N., R. 15 W.,
Sec. 1, lots 3 & 4, S½NW¼, N½SW¼, SW¼SW¼, SW¼SE¼;
Sec. 3, lots 1–4, S½N½, S½;
Sec. 7, N½SE¼, SE¼SE¼;
Sec. 9, all;
Sec. 11, NW¼NE¼, S½NE¼, N½NW¼, SW¼NW¼, SE¼;
Sec. 13, NW¼NE¼, S½NE¼, NW¼, N½SW¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 15, N½NE¼, SW¼NE¼, W½, SE¼;
Sec. 17, all;
Sec. 19, lots 1–4, E½, E½W½;
Sec. 21, all;
Sec. 23, NE¼NE¼, NE¼NW¼, S½N½, S½;
Sec. 25, all;
Sec. 27, all;
Sec. 29, all;
Sec. 31, lots 1–4, E½, E½W½;
Sec. 33, all;
Sec. 35, W½E½, W½, SE¼SE¼.
T. 20 N., R. 14 W.,
Sec. 5, lots 1–4, S½N½, S½;
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, NE¼, E½NW¼;
Sec. 19, NE¼NE¼, SE¼SW¼, NW¼SE¼, S½SE¼;
Sec. 21, all;
Sec. 23, N½, SW¼;
Sec. 25, NE¼, E½NW¼, S½;
Sec. 27, all;
Sec. 29, NW¼, S½;
Sec. 31, lot 4, E½, E½W½;
Sec. 33, all;
Sec. 35, all.
T. 20 N., R. 15 W.,
Sec. 1, lot 1, E½SE¼NE¼, E½NE¼SE¼;
Sec. 3, lots 1–3, S½NE¼, SE½NW¼, E½SW¼ SE¼;
Sec. 11, N½NW¼, SE¼SW¼;
Sec. 13, N½;
Sec. 15, W½NE¼, W½, NW¼SE¼;
Sec. 23, W½W½, SE¼SW¼;
Sec. 27, W½NE¼, S½NW¼, E½SW¼, SE¼;
Sec. 35, all.
T. 21 N., R. 15 W.,
Sec. 25, all;
Sec. 35, W½SW¼.

Containing 25,127.07 acres, more or less.

The public land to be transferred will be subject to the following terms and conditions:

1. Reservations to the United States: (a) Right-of-way for ditches and canals pursuant to the Act of August 30, 1890; (b) right-of-way for a patrol road pursuant to the Act of December 5, 1924 (AR–01868); (c) rights-of-way for two electric transmission lines pursuant to the Act of December 5, 1924 (PHX–085193, A–8891); and (d) all the oil and gas and with it the right to prospect for, mine, and remove same; and (e) right-of-way for public road pursuant to the Act of October 21, 1976.

Subject to: (a) Right-of-way to Mohave Electric Cooperative Inc., for an electric distribution line (AR–02061); (b) right-of-way to the Arizona Electric Power Cooperative for an electric transmission line (A–14908); (c) right-of-way to American Telephone and Telegraph Company for a buried

telephone cable (AR–033555); (d) right-of-way to Southwest Gas Corporation for a buried gas pipeline (a–4453); (e) right-of-way to Citizens Utilities Company for a water storage tank (A–18636); (f) rights-of-way to Mohave County Board of Supervisors for roads (A–10781 and A–20912); (g) right-of-way to Bullhead City for a road (undefined); (h) restrictions that may be imposed by Mohave County Board of Supervisors in accordance with county floodplain regulations established under Resolution No. 84–10 adopted on December 3, 1984; and (i) restrictions that may be imposed by Bullhead City in accordance with Chapter 15 of the Bullhead City Code entitled, "Flood Regulations," effective July 1, 1985.

Private lands to be acquired by the United States will be subject to the following reservations:

1. All minerals to the Santa Fe Pacific Railroad Company, excepting 1,236 acres.

2. The right of the Santa Fe Pacific Railroad Company to appropriate rights-of-way incident to the operation of railroads.

3. License agreement for range fences.

4. Easement to Mohave County Board of Supervisors for mine access road.

5. Easement to State of Arizona for public roadway.

Publication of this Notice will segregate the subject lands from all appropriations under the public land laws, including the mining laws, but not mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of publication of this Notice in the **Federal Register** or upon publication of a Notice of Termination.

Detailed information concerning this exchange can be obtained from the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: December 5, 1986.

Marlyn V. Jones.

District Manager.

[FR Doc. 86–27913 Filed 12–11–86; 8:45 am]

BILLING CODE 4310–32–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–248]

Certain Plastic Fasteners and Processes for the Manufacture Thereof; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Texamerican, Inc. ("Texamerican"), Acme Thread & Supply, Inc. ("Acme"), and Lemar Textile Co. ("LeMar"); DARA, Inc. ("DARA"), and B&N Industries ("B&N").

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on December 8, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: December 8, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–27888 Filed 12–11–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–281; Preliminary

Stainless Steel Pipes and Tubes from Sweden

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that industries in the United States are materially injured by reason of imports from Sweden of stainless steel pipes, tubes, hollow bars, and blanks therefor, all the foregoing of circular cross-section, whether welded or seamless, provided for in items 610.37, 610.51, and 610.52 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Sweden.

Background

On September 4, 1986, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce on behalf of the Specialty Tubing Group,[2] alleging that subsidized imports of stainless steel pipes and tubes from Sweden are being sold in the United States and that an industry in the United States is materially injured and threatened with material injury by reason of such imports. Accordingly, effective September 4, 1986, the Commission instituted countervailing duty investigation No. 701–TA–281 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by

[1] The record is defined in § 207.2(i) of the Commission's rules of practice and procedure (19 CFR 207.2(i)).

[2] The Speciality Tubing Group consists of the following firms: AL Tech Speciality Steel Corp., Allegheny Ludlum Steel Corp., ARMCO-Specialty Steel Division, Carpenter Technology Corp., Damascus Tubular Products, and Trent Tube Division, Crucible Materials Corp.

posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of September 16, 1986 (51 FR 32855). The conference was held in Washington, DC, on September 25, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 20, 1986. The views of the Commission are contained in USITC Publication 1903 (October 1986), entitled "Stainless Steel Pipes and Tubes from Sweden: Determination of the Commission in Investigation No. 701-TA-281 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: October 20, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-27930 Filed 12-11-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-246]

Xenon Lamp Dissolver Slide Projectors and Components; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: D.O. Industries, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on November 26, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: December 9, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-27980 Filed 12-11-86; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of Justice Programs

The President's Child Safety Partnership Awards Program

AGENCY: The President's Child Safety Partnership

ACTION: Notice of Awards Program.

SUMMARY: To recognize and encourage outstanding efforts to prevent and respond to the victimization of children, the President's Child Safety Partnership has developed an awards program. The Partnership will make awards to individuals, groups, organizations, agencies and businesses to honor contributions to the safety of children as well as to increase public awareness. Application forms must be submitted for review and approval.

FOR FURTHER INFORMATION CONTACT: Willian Modzeleski, Chief, National Victims Initiatives, Office for Victims of Crime, Office of Justice Programs, Washington, DC 20531. (Tel.: 202-272-6500)

SUPPLEMENTARY INFORMATION: The President's Child Safety Partnership consists of twenty-four individuals, appointed by the President. It was created in response to the growing national problem of child victimization (including child abuse and neglect, sexual molestation and abuse, parental and stranger abduction, runaway youth, sexual exploitation, theft, assault, and drug abuse). Its priorities are to: (1) Increase public awareness of the child victimization problem, and collect and distribute accurate information on child safety; (2) encourage private sector involvement in child safety programs; and (3) issue awards for outstanding child safety programs and activities. The Partnership's Charter expires on April 29, 1987, at which time the Partnership will present is final report and recommendations to the President.

Information Packet and Application Forms

Application forms, including additional information, may be obtained by calling or writing to: The President's Child Safety Partnership, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, Washington, DC 20531. (Tel.: 202-272-6500).

Richard B. Abell,

Acting Assistant Attorney General, Office of Justice Programs.

Charles A. Lauer,

General Counsel.

[FR Doc. 86-27894 Filed 12-11-86; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping and Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since

the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503 (telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Employment Standards Administration
Permissible Hours of Employment for bat boys and bat girls
Other (As required)
Individuals or households;
Businesses or other for-profit;
Federal agencies or employees
552 responses;
711 hours

Data will be used to determine the impact (positive and negative) on 14-15 year old old bat-boys and bat-girls in organized baseball in terms of academic performance, future work performance, community activities, and so on. Baseball teams, bat boys/girls, family members, school officials, police departments, etc., will be contacted in the data generation process.

Reinstatement

Bureau of Labor Statistics
Work Injury Report
1220-0047; BLS 980
Non-recurring
Selected injured workers
750 responses;
125 hours;
1 form

The Work Injury Report program examines selected types of work injuries/illnesses to develop information based on the data needs of the Occupational Safety and Health Administration. The current survey will focus on inhalation of toxic substances and assist in the development of safety standards, compliance and training programs.

Signed at Washington, DC, this ninth day of December, 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86-27958 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-24-M

Business Research Advisory Council; Renewal

In accordance with the provision of the Federal Advisory Committee Act, and after consultation with GSA, I have determined that the establishment of the Business Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics on technical economic and statistical matters, in the analysis of the Bureau's statistics, and on the broader aspects of its program from an informed business point of view; and provide a realistic and timely two-way communications structure between business users and providers of basic economic statistics and a major governmental statistics-producing unit.

Council membership is selected to assure a technically competent group of economists, statisticians and industrial relations experts who represent a cross section of American business and industry. The members serve in their individual capacities, not as representatives of their companies or their organizations.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act by January 5, 1987.

Interested persons are invited to submit comments regarding renewal of the Business Research Advisory Council. Such comments should be addressed to: Janice D. Murphey, Liaison for BRAC, Bureau of Labor Statistics, Department of Labor, Room 2021, GAO Building, Fourth and G Streets NW., Washington, DC 20212, phone: 202-523-1347.

Signed at Washington, DC, this 9th day of December 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86-27956 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-24-M

Labor Research Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with General Services Administration (GSA), I have determined that renewal of the Labor Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics regarding the statistical and analytical work of the Bureau of Labor Statistics, providing perspectives on these programs in relation to the needs of the labor unions and their members.

Council membership and participation in the Council and its committees are broadly representative of the union organizations of all sizes of membership, with national coverage which reflects the geographical, industrial, and occupational sectors of the economy.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed on January 5, 1987 with GSA and the appropriate congressional committees.

Further information may be obtained from: Henry Lowenstern, Bureau of Labor Statistics, Department of Labor, GAO Building, Fourth and G Streets NW., Washington, DC 20212, phone: 202-523-1327.

Signed at Washington, DC this 9th day of December 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86-27957 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-24-M

Senior Executive Service; Appointment of Member to the Performance Review Board

This Notice amends Department of Labor Notice published on December 9, 1983 (48 FR 55199), listing Department of Labor members of the Performance Review Board of the Senior Executive Service.

The following executive is hereby appointed to a three-year term effective November 18, 1986: Monica Gallagher.

FOR FURTHER INFORMATION CONTACT: Mr. Larry K. Goodwin, Director of Personnel Management, Room C5526, Department of Labor, Frances Perkins Building, Washington, DC 20210, Telephone Number 523-6551. Signed at Washington, DC this 4th day of December, 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86-27961 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-23-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis- Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Kentucky:
- KY86-25 (Jan. 3, 1986) ..... pp. 328, 331.
- KY86-26 (Jan. 3, 1986) ..... pp. 333-334, p.336.

Volume II

Wisconsin:
- WI86-1 (Jan. 3, 1986) ..... p. 948.
- WI86-2 (Jan. 3, 1986) ..... p. 950.
- WI86-3 (Jan. 3, 1986) ..... pp. 952-954.
- WI86-4 (Jan. 3, 1986) ..... pp. 956-957.
- WI86-5 (Jan. 3, 1986) ..... pp. 959-961.
- WI86-6 (Jan. 3, 1986) ..... pp. 962-964, pp. 964a-964b.
- WI86-7 (Jan. 3, 1986) ..... pp. 966-967.
- WI86-8 (Jan. 3, 1986) ..... pp. 970-981.

Volume III

North Dakota:
- ND86-2 (Jan. 3, 1986) ..... p. 209.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 5th day of December 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-27771 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Reda Pump Division et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period November 24, 1986–November 28, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–17,638; Reda Pump Division TRW Energy Products Group, Marshall, TX

TA–W–17,807; Moldcast Lighting Co., Pine Brook, NJ

TA–W–17,589; Gilson Brothers Co., Lexington, TN

TA–W–17,629; Foster Wheeler Energy Corp., Dansville, NY

TA–W–17,940; Goodyear Tire & Rubber Co., Akron Metal Products Div., Akron, OH

TA–W–17,640; Pavia Metal Products, Newark, NJ

TA–W–17,778; A & E Data Technology Corp., Opelika, AL

TA–W–18,194; Manitowoc Engineering Co., Manitowoc, WI

TA–W–17,703; Standard Brake shoe & Foundry Co., Marshall, TX

TA–W–17,780; MRC Bearings Formerly TRW Bearings Divison, Plainville, Ct

TA–W–17,681; GTE Products Corp., Titusville, PA

TA–W–17,988; Branson Corp, Newton, NJ

TA–W–17,871; Bethlehem Steel Corp. Beaumont Yard, Beaumont, TX

TA–W–17,931; Subraban Power Piping Corp., Cleveland, OH

In the following cases the invistigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–18,571 Bell Rubber, Athens, TX

Aggregate U.S. imports of oilfield equipment are negligible.

TA–W–17,794; Premier Resources Limited, Denver, CO

Aggregate U.S. imports of natural gas did not increase as required for certification.

TA–W–17,853; Honeymead Products Co., Fridley, MN

Aggregate U.S. imports of animal and vegetable oil mill products did not increase as required for certification.

TA–W–17,736; Permian Tank and Manufacturing, Inc., Odessa, TX

Aggregate U.S. imports of oil storage tanks are negligible.

TA–W–18,468; CMC Energy Co., Alice, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,959; Allentown Cement Co., Blandon, PA

Sales or production did not decline during the relevant period as required for certification except for normal seasonal declines in the winter months.

TA–W–17,965; Paper Calmenson & Co., St Paul, MN

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,904; Resource Drilling, Inc., Houston, TX

The worker's firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,705; Plymouth Rubber Co., INc., Canton MA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–17,652; Webbing Industries, Davisville, RI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,441; Ekco Housewares, Inc., Massillon, OH

Separations at the subject firm were due to the loss of the subject firm's principal market.

TA–W–17,441A; Ekco Housewares, Inc., Canton, OH

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,702; Engelhard Corp., Newark, NJ

Separations from the subject firm were due to the transfer of functions to another domestic facility.

TA–W–17,678; Chaparrel Machine & Manufacturing, Inc., Odessa, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,756; Canteen Corp., Miami, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,963; Colgate Palmolive, Jersey City, NJ

The worker separations at the subject firm are attributable to a transfer of production to other domestic facilities.

TA–W–17,658; Fairwood Wells, Inc., Miami, FL

Separations at the subject firm were due to a domestic transfer of operations.

TA–W–18,203; Armco, Inc., National Supply Division, Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,746; SCM Metal Products, Hammond, IN

Aggregate U.S. imports of non-ferrous powdered metals are negligible.

TA–W–17,986; PFP, INc., North Huntingdon, PA

The worker separations at the subject firm were attributable to the sale of the company.

TA–W–17,770; Diamond Shamrock Exploration Co., Amarillo, TX

The worker separations at the subject firm were attributable to a corporate reorganization.

TA–W–18,386; Diamond Shamrock Exploration Co., Denver, CO

The worker separations at the subject firm were attributable to a corporate reorganization.

TA–W–18,547; Halliburton Services, Carrizo Springs, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,552; Bailey Trucking, Inc., Pleasantville, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,562; The Dia-Log Co., Beaumont, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,570; Precision Lease Service, Inc., Carrizo Springs, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,585; Geophysical Service, Inc., Dallas, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,590; Sledge Drilling Co., Flora, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,592; FWA Drilling Co., Inc., Witchita Falls, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,594; E.D. Capps Construction & Welding, Inc., Carthage, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,598; Sheehan Exploration, Casper, WY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,599; L & L Shothole Services, Sidney, MT

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,858; Amber Refining, Inc., Fort Worth, TX

Aggregate U.S. imports of gasoline and diesel fuel did not increase as required for certification.

TA-W-18,483; Regal Trucking Co., Laredo, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,484; BJ Titan Service, Hays, KS

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,486; Franklin Supply Co., Denver, CO, Brighton, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,493; Saw Drilling, Victoria, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,494; Lucky's Well Service St. Elmo, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,495; Ram Drilling Co., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,496; PRC Drilling Co., Corpus Christi, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,497; Schlumberger Well Service, Gillette, WY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,498; Patterson Rental Tools & Patterson Inspection Services, Inc., Victoria, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,499; Fryco, Mt Carmel, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,502; MND Drilling Corp., Southern Division, Magnolia, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,504; Johnie Hunter Oil Field Service, Inc., Laredo, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,505; Dowell Schlumberger, Mission, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,509; Mid Coast Drilling, Victoria, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,511; Lugo Welding Service, Laredo, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,518; Dowell Schlumberger Oil Field Services, Bryan, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,520; Saipen Drilling Co., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,521; McAllister Trucking Co., Wichita Falls, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,524; Rio Grande Drilling, San Antonio, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,526; S & M Fishing & Rental, Inc., Odessa, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,534; Exploration Surveys, Inc., Plano, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,535; Gard Drilling, Inc., Gallipolis, OH

The workers' firm does not produce an article as required for certification

under section 222 of the Trade Act of 1974.

TA-W-18,545; Western Oceanic, Inc., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-17,694; Harnischfefer Corp., Cedar Rapids, IA

A certification was issued covering all workers of the firm separated on or after June 20, 1985.

TA-W-18,216; Kingwood Division of Kenney Shoe Corp., Kingwood, WV

A certification was issued covering all workers of the firm separated on or after September 15, 1985.

TA-W-17,690; Boss Manufacturing Co., Greenville, AL

A certification was issued covering all workers of the firm separated on or after June 25, 1985.

TA-W-17,943; Domenico, Inc., Lynn, MA

A certification was issued covering all workers of the firm separated on or after July 29, 1985.

TA-W-18,004; General Electric Co., Nashville Motor Plant, Hendersonville, TN

A certification was issued covering all workers of the firm separated on or after August 12, 1985.

TA-W-17,614; Inmed Corp., Sullivan, IN

A certification was issued covering all workers of the firm separated on or after June 24, 1985.

TA-W-17,970; Donmoor, Inc., New York, NY

A certification was issued covering all workers of the firm separated on or after September 2, 1985.

TA-W-17,996; Big River Mfg Co., Kittanning, PA

A certification was issued covering all workers of the firm separated on or after August 22, 1985.

TA-W-17,997; Greenway Manufacturing Co., Waynesburg, PA

A certification was issued covering all workers of the firm separated on or after August 22, 1985.

TA-W-18,030; Sanchez-O'Brien Oil and Gas Corp., Laredo, TX

A certification was issued covering all workers of the firm separated on or after August 26, 1986.

TA-W-17,958; Intel Corp., Intel Caribbean, Inc., Las Piedras, PR

A certification was issued covering all workers of the firm separated on or after August 28, 1985.

TA-W-17,993; N.A.E. Co., Lynn, MA

A certification was issued covering all workers of the firm separated on or after August 29, 1985.

TA-W-18,320; E.I. DuPont De Nemours & Co., Inc., Chambers Works/ Repauno Complex, Gibbstown, NJ

A certification was issued covering all workers of the firm separated on or after September 25, 1985.

TA-W-17,937; Custom Cable, Inc., St Joseph, MO

A certification was issued covering all workers of the firm separated on or after August 14, 1985.

TA-W-17,961; Union Frondenberg, USA, Olney, IL

A certification was issued covering all workers of the firm separated on or after August 11, 1985.

TA-W-17,934; Texasgulf, Inc., Moab, UT

A certification was issued covering all workers of the firm separated on or after August 12, 1985.

TA-W-17,843; The Oilgear Co., Longview, TX

A certification was issued covering all workers of the firm separated on or after August 15, 1985.

TA-W-17,945; Modern Jacket Co., St. Louis, MO

A certification was issued covering all workers of the firm separated on or after August 20, 1985 and before April 1, 1986.

TA-W-17,720; Fenton Shoe Corp., Cambridge, MA

A certification was issued covering all workers of the firm separated on or after July 1, 1985 and before November 1, 1986.

TA-W-17,947; Wolverine World Wide, Inc., Ithaca, MI

A certification was issued covering all workers of the firm separated on or after August 11, 1985 and before November 15, 1986.

TA-W-17,526; AP Parts Co., Toledo, OH

A certification was issued covering all workers of the firm separated on or after May 28, 1985.

TA-W-17,874; Lilliston Corp., Albany, GA

A certification was issued covering all workers of the firm separated on or after August 6, 1985.

TA-W-17,548; Seneca Falls Machine Co., Seneca Falls, NY

A certification was issued covering all workers of the firm separated on or after May 30, 1985.

TA-W-18,005; Honeywell Information Systems, Inc., Large Computer Products Div., Phoenix, AZ

A certification was issued covering all workers of the firm separated on or after August 12, 1985.

TA-W-18,183; Empire Steel Castings, Inc., Reading, PA

A certification was issued covering all workers of the firm separated on or after September 11, 1985.

TA-W-17,573; Brown Shoe Co., Potosi, MO

A certification was issued covering all workers of the firm separated on or after October 15, 1985 and before July 9, 1986.

TA-W-17,586; D'Gala, Inc., Miami, FL

A certification was issued covering all workers of the firm separated on or after June 13, 1985 and before August 31, 1986.

TA-W-17,474; Crane Co., Chattanooga, TN

A certification was issued covering all workers of the firm separated on or after May 19, 1985.

TA-W-17,567; Samuels Shoe Co., St. Louis, MO

A certification was issued covering all workers of the firm separated on or after September 15, 1985 and before November 1, 1986.

TA-W-17,709; Sportiva Ltd, New York, NY

A certification was issued covering all workers of the firm separated on or after June 23, 1985 and before July 14, 1986.

TA-W-17,676; Wallace International Silversmith, Inc., Holloware Div., Wallingford, CT

A certification was issued covering all workers of the firm separated on or after April 7, 1985.

TA-W-17,955; Penn Allen, Inc., Hazelton, PA

A certification was issued covering all workers of the firm separated on or after July 15, 1985.

TA-W-17,954; Eddie Bauer, Inc., Puyallup, WA

A certification was issued covering all workers of the firm separated on or after August 12, 1985.

TA-W-17,954A; Eddie Bauer, Inc., Kent, WA

A certification was issued covering all workers of the firm separated on or after August 12, 1985 and before December 1, 1985.

TA-W-18,208; International Playtex, Lagrange, GA

A certification was issued covering all workers of the firm separated on or after December 1, 1985.

TA-W-17,633; Watling Ladder Co., Valley Park, MO

A certification was issued covering all workers of the firm separated on or after June 16, 1985.

TA-W-17,601; DeSoto-Penaljo Shoe Co., St. Louis, MO

A certification was issued covering all workers of the firm separated on or after June 3, 1985.

TA-W-17,377; M & M Manufacturing Co., Martinsburg, WV

A certification was issued covering all workers of the firm separated on or after April 16, 1985 and before May 7, 1986.

TA-W-17,383; Woodstock Manufacturing, Woodstock, VA

A certification was issued covering all workers of the firm separated on or after April 11, 1985 and before December 15, 1985.

I hereby certify that the aforementioned determinations were issued during the period November 24, 1986—November 28, 1986. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: December 2, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-27959 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Freeman Shoe Co. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 22, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 22, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 1st day of December 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Petitioner (union/workers/firm) of—	Location	Date received	Date of petition	Petition No.	Articles produced
Freeman Shoe Co. (workers)	Emmitsburg, MD	11/21/86	10/31/86	TA-W-18,685	Shoes—young men's casual footwear.
Peppi Spina Spts., Inc. (ILGW)	West New York, NY	11/21/86	11/13/86	TA-W-18,686	Sportswear—ladies coats and shoes.
Charming Miss Coat (ILGW)	Hoboken, NJ	11/21/86	10/24/86	TA-W-18,687	Ladies coats and suits.
Pam Manufacturing Corp. (ILGW)	Bayonne, NJ	11/21/86	10/28/86	TA-W-18,688	Women's dresses.
Evenflo Juvenile Furn. (workers)	Piqua, OH	11/21/86	10/29/86	TA-W-18,689	Babies furniture.
Furniture Craftmen, Inc. (workers)	Gardner, MA	11/21/86	10/18/86	TA-W-18,690	Dining seats.
Medalist Steel Products (MSMWU)	Milwaukee, WI	11/21/86	11/13/86	TA-W-18,691	Exercise equipment.
Bolt Prep. Plant (workers)	Wyoming Co, WO	11/21/86	11/14/86	TA-W-18,692	Coal.
Southwire Co. (workers)	Carrollton, GA	11/21/86	11/11/86	TA-W-18,693	Aluminum wire and cable.
Sparta Mosaics (workers)	E. Sparta, OH	11/21/86	11/12/86	TA-W-18,694	Clay floor tiles and wall.
Standex Electronics (workers)	Cincinnati, OH	11/21/86	11/13/86	TA-W-18,695	Micro cords.
Structural Stoneware, Inc. (ABG)	Minerva, OH	11/21/86	11/4/86	TA-W-18,696	Ceramic floor and wall tiles.
U.S. Steel Supply Div. (workers)	Seattle, WA	11/21/86	11/4/86	TA-W-18,697	Steel bars and plates.
Pressed Steel Tank Co. (USWA)	Milwaukee, WI	11/21/86	11/13/86	TA-W-18,698	Steel compressed gas tanks.
Cann & Saul Steel Co. (IBB)	Royersford, PA	11/24/86	11/17/86	TA-W-18,699	Steel forgings.
Pioneer Ltd. (AKA Elkay, Ind.) (workers)	Sumter, SC	11/24/86	11/12/86	TA-W-18,700	Children's apparel.
Metal Specialties, Inc. (workers)	Odessa, TX	11/24/86	11/18/86	TA-W-18,701	Metal fabrications.
Halliburton Services (workers)	Hays, KS	11/24/86	11/14/86	TA-W-18,702	Oil well service.
Bohn Aluminum & Brass (MESA)	Adrian, MI	11/24/86	11/18/86	TA-W-18,703	Tubings and forgings.
ABEX Corp. (IBB)	Superior, WI	11/24/86	11/17/86	TA-W-18,704	Heavy steel forgings.
Rafferty Brown Steel Co. (USWA)	E. Longmeadow, MA	11/24/86	11/17/86	TA-W-18,705	Steel coils and springs.
Okla Petroleum Mgt. Corp. (workers)	Okemah, OK	11/24/86	11/14/86	TA-W-18,706	Oil and gas.
Fausett International (workers)	Osburn, ID	11/24/86	11/17/86	TA-W-18,707	Mine exploration.
Exeter Drilling Co. (Workers)	Denver, CO	11/24/86	11/10/86	TA-W-18,708	Drilling oil wells.
Italian Fashions (ILGWU)	Hoboken, NJ	11/21/86	10/24/86	TA-W-18,709	Ladies' coats.
J&A (ILGWU)	North Bergen, NJ	11/21/86	10/24/86	TA-W-18,710	Women's undergarment.

[FR Doc. 86-27960 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[86-86]

NASA Advisory Council, Aeronautics Advisory Committee (AAC); 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, Ad Hoc Review Team on Computational Fluid Dynamics (CFD).

DATES: Date and time: January 8, 1987, 8:30 a.m. to 5 p.m.; January 9, 1987, 8:30 a.m. to 12:30 p.m.

ADDRESS: Ames Research Center, Building 200, Director's Committee Room, Moffett Field, CA 94035.

FURTHER INFORMATION CONTACT: Dr. R.A. Graves, Code RF, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2828.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee Ad Hoc Task Team on CFD Validation was established to access CFD validation activities in the Office of Aeronautics and Space Technology (OAST). This team, chaired by Dr. Richard Bradley, is comprised of 10 members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the team members and other participants).

Type of Meeting: Open.

AGENDA:

January 8, 1987

8:30 a.m.—Introduction.

8:40 a.m.—Overview of Validation and Code Development Activities.

10 a.m.—Review of Individual Validation Experiments.

5 p.m.—Adjourn.

January 9, 1987

8:30 a.m.—Committee Discussion of Presentations.

12:30 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer National Aeronautics and Space Administration

December 8, 1986.

[FR Doc. 86-27918 Filed 12-11-86; 8:45 am]

BILLING CODE 7510-01-M

[86-87]

NASA Advisory Council, Space Systems and Technology Advisory Committee (SSTAC); 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 Systems and Technology Advisory Committee and the Aerospace Research and Technology Subcommittee.

DATE AND TIME: January 21, 1987, 8:30 a.m. to 5 p.m.; January 22, 1987, 8 a.m. to 5 p.m.; and January 23, 1987, 8 a.m. to 12:30 p.m.

ADDRESS: Building 1222, H.J.E. Reid Auditorium, Langley Research Center, Hampton, VA 23665.

FOR FURTHER INFORMATION CONTACT: Ms. Joanne Teague, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-1887.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee was established to provide overall guidance and direction to the space systems research and technology activities in the Office of Aeronautics and Space Technology (OAST). The Aerospace Research and Technology Informal Subcommittee was formed to provide technical support for the SSTAC and to conduct ad hoc interdisciplinary studies and assessments. The Committee, chaired by Mr. Norman R. Augustine, is comprised of 18 members. The Subcommittee is comprised of 30 members. The meeting will be open to the public up to the seating capacity of the room (approximately 200 persons including the Subcommittee members and other participants).

TYPE OF MEETING: Open.

AGENDA

January 21, 1987

8:30 a.m.—Opening Remarks.

9:15 a.m.—Agency Strategic Overview.

9:45 a.m.—Space Technology Overview.

10:30 a.m.—Parallel Discipline Reviews.

5 p.m.—Adjourn.

January 22, 1987

8 a.m.—Continuation of Parallel Discipline Reviews.

3 p.m.—Presentation of Reports from Discipline Reviews.

5 p.m.—Adjourn.

January 23, 1987

8 a.m.—Comments by Chairperson.

8:30 a.m.—Status Reports by Ad Hoc Team Chairpersons.

9 a.m.—Discussion of Ad Hoc Team Reports, Discipline Review Reports and Requirements for Additional Ad Hoc Reviews.

12:30 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

December 8, 1986.

[FR Doc. 86-27919 Filed 12-11-86; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Public Meeting

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given of a public meeting of the National Commission for Employment Policy at the Royal Sonesta Hotel, 300 Bourbon Street, New Orleans, Louisiana.

DATE: Thursday, January 8, 1987, 3:00 p.m. to 5:00 p.m.

STATUS: The meeting is open to the public.

MATTERS TO BE DISCUSSED: Commission members will discuss the status of the research agenda and workplan for PY 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Mahaffey, Public Affairs Officer, National Commission for Employment Policy, 1522 K St. NW., Suite 300, Washington, DC 20005, 202-724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy is authorized by the Job Training Partnership Act (Pub. L. 97-300). The Act gives the Commission the broad responsibility of advising the President and the Congress. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made. Copies of the minutes and materials prepared for the meeting will be available for public inspection at the Commission's offices, 1522 K St. NW., Suite 300, Washington, DC 20005.

Signed this 8th day of December 1986.

Scott W. Gordon,

Director.

[FR Doc. 86-27954 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-30-M

Public Hearings

AGENCY: National Commission for Employment Policy.

ACTION: Notice of hearing.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given of a public hearing of the National Commission for Employment Policy at the Royal Sonesta Hotel, 300 Bourbon Street, New Orleans, Louisiana.

DATE: Friday, January 9, 1987, 9:00 a.m. to 12:00 p.m.

STATUS: This hearing is open to the public.

MATTERS TO BE DISCUSSED: Commission members will hear testimony from various witnesses representing the public and private sector on the themes of trade, tourism, training, and economic development.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Mahaffey, Public Affairs Officer, National Commission for Employment Policy, 1522 K St. NW., Suite 300, Washington, DC 20005, 202-724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy is authorized by the Job Training Partnership Act (Pub. L. 97-300). The Act gives the Commission the broad responsibility of advising the President and the Congress. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made. No public testimony will be authorized except by those asked to do so prior to the hearing date. However, written testimony for the record will be accepted at the Commission offices through January 23, 1987. Copies of the testimony and materials prepared for the hearing will be available for public inspection at the Commission's offices, 1522 K St. NW., Suite 300, Washington, DC 20005.

Signed this 8th day of December 1986.

Scott W. Gordon,

Director.

[FR Doc. 86-27955 Filed 12-11-86; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Byproduct Material License No. 34-19089-01; Docket No. 30-16055-SP; ASLBP No. 87-545-01-SP]

Advanced Medical Systems, Inc.; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, a presiding officer is designated in the following proceeding:

Advanced Medical Systems, Inc.
Byproduct Material License No. 34-19089-01

The presiding officer is being designated pursuant to the provisions of a Notice of Hearing issued by the Commission on November 26, 1986 concerning a request for a hearing regarding an Order dated October 10, 1986 by the Director, Office of Inspection and Enforcement which suspended the Byproduct Material License held by Advanced Medical Systems, Inc.

The presiding officer in this proceeding is The Honorable Ivan W. Smith, Administrative Law Judge.

All correspondence, documents and other materials shall be filed with Judge Smith in accordance with 10 CFR 2.701. His address is: Administrative Law Judge Ivan W. Smith, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 2nd day of December 1986.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86-27941 Filed 12-11-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of Information Collections Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S. Code, Chapter 35), this notice announces a proposed extension of three information collections from the public that were submitted to OMB for clearance. Executive Order 10450 requires that investigations be conducted on all persons entering the Federal service. OF 49 is a voucher form sent to references and former employer/supervisors. The OF 50 is a voucher form sent to educational institutions; and the OF 51 is a voucher form sent to local law enforcement agencies in conducting National Agency Checks and Inquiries (NACI) in nonsensitive and noncritical-sensitive positions as prescribed in section 3(a) of Executive Order 10450. These checks are a part of the investigation conducted for determining suitability for Federal employment/security clearance. For copies of this proposal call Jospeh P. Reid, Acting Agency Clearance Officer, on (202) 632-7720.

DATE: Comments on this proposal should be received on or before December 22, 1986.

ADDRESSES: Send or deliver comments to—

Joseph P. Reid, Acting Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415,

and

Timothy J. Sprehe, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joseph P. Reid, (202) 632-7720.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 86-27966 Filed 12-11-86; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-15463; 812-6491]

Application for Exemption Under the Investment Company Act; Central Jersey Investment Co.

December 5, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: Central Jersey Investment Company ("Applicant").

Relevant 1940 Act sections: Exemption from all provisions of the 1940 Act pursuant to section 6(c).

Summary of application: This is a notice of an application pursuant to section 6(c) of the 1940 Act for an exemption from all provisions of the 1940 Act by a wholly-owned subsidiary of a bank organized under New Jersey law and a member of the Federal Deposit Insurance Corporation, which is to utilize Applicant for the sole purpose of consolidating its holdings of certain market securities under a separate corporate entity for ease of administration, accounting, recordkeeping and local tax considerations.

Filing date: The application was filed on October 2, 1986.

Hearing or notification of hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 29, 1986. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by addidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, Washington, DC 20549. Applicant, 1100 North Market Street, Suite 780, Wilmington, Delaware 19801.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Carson Frailey (202) 212-3037 or Special Counsel, Karen L. Skidmore, (202) 272-3023, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a Delaware corporation organized as a wholly-owned subsidiary of The Central Jersey Bank and Trust Company ("Central Jersey"), a banking institution formed under the laws of the State of New Jersey, and engaged in the commercial banking and trust business.

2. Central Jersey is itself a wholly-owned subsidiary of Central Jersey Bancorp, a New Jersey corporation ("CJB"), which is a registered bank holding company under the Bank Holding Company Act of 1956, as amended (the "BHC Act"). Neither Central Jersey nor CJB is an investment company as defined in Section 3 of the Act.

3. Applicant was organized to consolidate Central Jersey's holdings of certain government and municipal bonds and other readily marketable securities for investment purposes under a separate corporate entity for ease of administration, accounting, record-keeping and local tax considerations. Central Jersey holds all securities issued by Applicant and no public offering of debt or equity securities issued by Applicant has been, or will be made. Accordingly, Applicant's only assets will be cash, investment securities that Central Jersey would be permitted to hold under applicable law and regulation, and obligations running between Applicant and Central Jersey. It is not anticipated that Applicant will engage in any other business. Therefore, Applicant may be deemed to be an "investment company" within the meaning of section 3(a)(3) of the Act.

4. Under present circumstances, Applicant is currently excluded from investment company status for most purposes of the 1940 Act by section 3(c)(1), except for the provisions of section 12(d)(1) of the 1940 Act. However, the exclusion afforded by section 3(c)(1) may cease to be available to Applicant because the value of Applicant's securities may in the future exceed 10% of Central Jersey's assets or CJB's total assets. Also, Central Jersey may invest or cause Applicant to invest in securities of money market funds, other investment companies, or in other investments which may be forbidden if section 12(d)(1) of the 1940 Act were to continue to apply to Applicant. Such investments might be desirable as a means, for instance, of facilitating the immediate investment of dividend income, proceeds from sales of securities and other available funds. In such event, no other exemption from investment company status would appear to be available to Applicant.

5. Rule 3a-3 under the 1940 Act provides an exclusion from investment company status for certain companies owned by companies which are not investment companies. If Central Jersey's financial statements are consolidated with the financial statements of the Applicant, it is not possible to determine with certainty whether Central Jersey does or does not meet the 45% asset and income limitations specified under the rule. A substantial portion of Central Jersey's consolidated assets consists of commercial, real estate and consumer loans, typically represented by notes, bonds and other evidence of indebtedness. The legal standards and factual information necessary to determine the status (and proportion) of such loans as securities under the rule are unclear. Therefore, there is no assurance that Central Jersey now meets, or will in the future meet, the conditions of the rule.

6. The requested exemption is appropriate in the public interest and consistent with the protection of investors, and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicant is not the type of company intended to be regulated under the 1940 Act and no investor except Central Jersey will invest in Applicant. Applicant will only invest in securities which could be held by Central Jersey under applicable banking laws and regulations. As Central Jersey is engaged in the business of banking, Central Jersey is excluded from the definition of investment company by section 3(c)(3) of the 1940 Act, and it could, therefore, hold the securities now held, or to be held by Applicant directly without raising questions under the 1940 Act, and without regard to the limitations found in section 12(d)(1) of the 1940 Act.

7. As a bank holding company engaged in the business of banking through Central Jersey, a wholly-owned subsidiary, CJB is excluded from the definition of investment company by section 3(c)(6) of the 1940 Act. Thus, the fact that securities are held by a wholly-owned subsidiary should not bring CJB, Central Jersey, or Applicant within the policies of the 1940 Act. Applicants, Central Jersey, and CJB are subject to regulation, examination and supervision by various Federal and state banking authorities. CJB is subject to regulation, examination and supervision by the Board of Governors of the Federal Reserve System under the BHC Act, in addition to being registered as a broker-dealer under the Securities Exchange Act of 1934.

Applicant's Conditions

If the requested order is granted, Applicant agrees to the following conditions:

(1) CJB remains a bank holding company subject to the BHC Act.

(2) All capital stock of Applicant is held by Central Jersey (or certain successors thereto), and Central Jersey (or certain successors thereto) continues to be a "bank" within the meaning of section 2(a)(5) of the 1940 Act.

(3) Applicant will take such steps as are reasonably necessary to assure that the book value of its assets, together with the assets of any other subsidiaries of Central Jersey, or CJB respectively, that either are investment companies (as that term is defined in section 3(a) of the 1940 Act), or are not investment companies by reason of the applicability of section 3(b), or section 3(c)(1), of the 1940 Act, or are exempted from the 1940 Act pursuant to section 6(c) thereof, does not exceed one third of the book value of Central Jersey's consolidated assets, or CJB's consolidated assets, respectively. For this purpose, Applicant will rely on the regularly prepared financial statements of CJB and Central Jersey. If it should come to the attention of Applicant's board of directors that the book value of such assets exceeds the foregoing limitations, Applicant will use its best efforts to bring itself into compliance with such limitation within a reasonable time thereafter.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27904 Filed 12-11-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15464; 812-6486]

Application for Exemption Under the Investment Company Act; Pilgrim Government Securities Fund et al.

December 5, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicants: Pilgrim Government Securities Fund ("PGSF"), Pilgrim High Income Fund ("PHIF"), Pilgrim International Bond Fund ("PIBF") (collectively, "Applicants" or the "Partnerships").

Relevant 1940 Act sections: Exempt requested *under* section 6(c) *from* section 2(a)(19).

Summary of application: Applicants seek an order exempting Applicants' Managing General Partners to the extent that they are deemed interested persons solely because they are general partners in the Partnerships.

Filing date: The application was filed on September 25, 1986 and amended on December 4, 1986.

Hearing or notification of hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 29, 1986. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 10100 Santa Monica Boulevard, Los Angeles, CA 90067.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney (202) 272-3015 or Special Counsel Karen L. Skidmore (202) 272-3023, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Each fund is a diversified, open-end management investment company registered under the 1940 Act. Each fund is organized as a limited partnership in the State of California and has been designed as a specialized investment vehicle for foreign investors; shares of each fund are being offered exclusively to such foreign investors with the objective of earning income that is not subject to U.S. federal income tax (and U.S. tax withholding requirements).

2. Each Partnership will offer a single class of shares registered under the Securities Act of 1933 and the 1940 Act and purchasers will be required to become limited partners of that Partnership. Each Partnership's shareholders will have the voting, approval and other rights required under the 1940 Act but, consistent with the California Revised Limited Partnership Act, will not have the right to participate in the control of a Partnership's business.

3. Each Partnership intends to include in its contracts a provision limiting the claims of creditors to the Partnership's assests. Each Partnership agreement provides for indemnification out of the Partnership's property for any limited partner held personally liable, and provides for the Partnership to assume the defense of any claim made against any limited partner, for any act or obligation of the Partnership, and satisfaction of any judgment. Each Partnership may carry insurance in such amounts as the Managing General Partners consider reasonable to cover potential liabilities of the Partnership and the Managing General Partners will periodically review the question of the appropriateness of obtaining errors and omissions insurance for each Partnership.

4. The general partners of each Partnership consist of one corporate general partner (the "Non-Managing General Partner"), which will not take any role in management (except temporarily, in extraordinary circumstances) and a number of individual general partners (the "Managing General Partners"), who establish the investment politices and supervise and review its operations. The primary obligation of the corporate Non-Managing General Partner is to maintain a minimum one percent (1%) investment in each Partnership to assure that each Partnership will be treated as a partnership under the Internal Revenue Code of 1954, as amended.

5. The Managing General Partners (who must be individuals) will perform the same functions as directors of a corporation, act only by majority vote, and will assume all the responsibilities and obligations imposed by the 1940 Act on directors of an investment company. Each new general partner must be approved by at least a majority of the outstanding shares of each Partnership, and upon such approval will serve for an indefinite period. However, shareholders representing 10% or more of the outstanding shares of each Partnership may also call a meeting to remove any or all of the general partners. Applicants intend to elect three independent Managing General Partners of each Partnership (functionally equivalent to non-interested directors) prior to the effective date of each Partnership's registration statement.

6. Pilgrim Group, Inc. ("PGI"), a Delaware corporation, is the corporate Non-Managing General Partner of each Applicant. PGI owns 100% of the stock of Pilgrim Management Corporation, the investment manager for each Partnership, and Pilgrim Distributors Corp., the distributor and principal underwriter for the shares of each Partnership.

7. All of PGI's outstanding stock is owned by First Capital Holdings Corp. ("FCHC"), a publicly-held holding company, the principal shareholders of which are Robert I. Weingarten (16.8%), William S. Hack (11.9%), and Atlantic Capital Corporation (6.5%). Palomba Weingarten, the wife of Robert I. Weingarten, owns approximately 2.6% of FCHC, with options to purchase additional shares amounting to less than 5% of its outstanding shares. Mrs. Weingarten is also Chairman of the Board, Director, and Chief Executive Officer of PGI, Pilgram Management Corporation and Pilgrim Distributors Corp.

8. The Managing General Partners are "interested persons" of the Partnership and its investment manager and principal underwriter, as defined in section 2(a)(19) of the Act, by virtue of being partners of the Partnership and co-partners of PGI, which makes them "affiliated persons" of the Partnership. Mrs. Weingarten, currently the sole Managing General Partner of each Partnership, would still be an "interested person" of each Partnership and its investment adviser and principal underwriter, notwithstanding the requested exemption, because of her positions as an officer and director and because of her stock ownership, as set forth in Paragraph 7.

9. Applicants request that the Managing General Partners of each Applicant Partnership be exempted from the provisions of section 2(a)(19) to the extent that they are deemed to be "interested persons" of each Partnership and its investment adviser and principal underwriter solely because of their status as partners and co-partners of each Partnership and PGI, the Non-Managing General Partner. Section 2(a)(19) contains a proviso that excludes those individuals who would be interested persons of an investment company solely because they are

directors of an investment company. Applicants state that the Partnerships have been structured so that the Managing General Partners are the functional equivalents of the non-interested directors of an incorporated investment company. Therefore, Applicants believe granting the requested exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27905 Filed 12-11-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15457; 812-6537]

Application for Exemption Under the Investment Company Act; Jefferson Standard Life Insurance Co., et al.

December 4, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant(s): Jefferson Standard Life Insurance Company ("Jefferson Standard"), Jefferson Standard Separate Account A ("Jefferson Separate Account"), Pilot Life Insurance Company ("Pilot Life") and Pilot Separate Account A ("Pilot Separate Account") (collectively "Applicants").

Relevant 1940 Act Sections: Exemption requested under sections 6(c) and 17(b) from section 17(a).

Summary of Application: Applicants seek an order exempting to the extent necessary the proposed merger of Jefferson Separate Account into Pilot Separate Account.

Filing Date: The application was filed on November 19, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on December 26, 1986. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 101 North Elm Street, Greensboro, North Carolina 27401.

FOR FURTHER INFORMATION CONTACT: Staff Attorney David S. Goldstein (202) 272-2622.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations and Statements

1. Jefferson Standard and Pilot Life are stock life insurance companies organized under the laws of North Carolina. They are wholly owned subsidiaries of the Jefferson-Pilot Corporation, which also owns J.P. Investment Management Company and Jefferson-Pilot Investor Services, Inc.

2. The Jefferson Separate Account and the Pilot Separate Account were both registered under the 1940 Act as unit investment trusts on May 3, 1971, to offer variable annuity contracts (the "Contracts") issued by Jefferson Standard and Pilot Life, respectively.

3. Jefferson Separate Account and Pilot Separate Account each consist of three divisions; one division of each invests its assets solely in the shares of Jefferson-Pilot Growth Fund, Inc., Jefferson-Pilot Income Fund, Inc., and Jefferson-Pilot Money Market Fund, Inc., open management investment companies registered as such with the SEC under the 1940 Act. J.P. Investment Management Company serves as investment manager to these funds.

4. Each of the three corresponding divisions of the Jefferson Separate Account and the Pilot Separate Account have identical unit values such that a contract-owner making a purchase payment to a particular Account division on any given date will be credited with the same number of accumulation units regardless of whether the contract is with Jefferson Standard or Pilot Life.

5. The Contracts offered by the two Separate Accounts are identical, providing the same rights, privileges and benefits to contractowners and imposing the same fees and charges. The sole difference is in the identity of the depositor-insurer.

6. Disclosure documents used in connection with the sale of the Contracts, including prospectuses, are identical except for disclosures relating to the depositor. The Contracts are all distributed through Jefferson-Pilot Investor Services, Inc., and its registered sales representatives are often insurance sales representatives of both Jefferson Standard and Pilot Life.

7. The Boards of Directors of Jefferson Standard, Pilot Life and Jefferson-Pilot Corporation have adopted a Plan of Merger under which Jefferson Standard will, subject to necessary regulatory approval, be merged with and into Pilot Life at the close of business on December 31, 1986. Pilot Life, the surviving corporation will change its name to Jefferson-Pilot Life Insurance Company ("J.P. Life").

8. Applicants propose, in connection with the merger, to merge Jefferson Separate Account into Pilot Separate Account, renaming it Jefferson-Pilot Separate Account and having as its depositor J.P. Life.

9. The Contracts will require a change to the name of the insurer by attaching a Certificate of Assumption to the outstanding Jefferson Standard Contracts and noting the name change on the Pilot Life Contracts.

10. The Pilot Separate Account will, after the proposed merger, continue its operations with no changes except that its depositor will change and its assets will increase substantially. The mortality and expense charges of Pilot Separate Account Contractowners will be insured or guaranteed by J.P. Life, which will be financially substantially larger than Pilot Life.

11. The terms of the proposed merger are reasonable and fair to Pilot Separate Account and its Contractowners and do not involve overreaching on the part of any person concerned.

12. With respect to insurance guarantees under the Jefferson Separate Account Contracts, the North Carolina Insurance Commissioner conducted a public hearing in which it was determined, among other things, that the Contractowners will be fully protected by the proposed merger.

13. The terms of the proposed merger are reasonable and fair to the Jefferson Separate Account and its Contractowners and do not involve overreaching on the part of any person concerned.

14. The proposed merger is consistent with the policy of the separate accounts and the general purposes of the 1940 Act. Further, the requested exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27906 Filed 12-11-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15461; File No. 812-6510]

Application for Exemption Under the Investment Company Act; Ohio National Life Assurance Corp. et al.

December 5, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant(s): Ohio National Life Assurance Corporation (the "Company"), Ohio National Variable Account R (the "Account"), O.N. Equity Sales Company ("ONESOO").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 2(a)(32), 22(c), 27(c)(1), and 27(d) and Rules 6e-3(T)(b)(12), (b)(13), (c)(2), (c)(4), and 22c-1 thereunder.

Summary of Application: Applicants seek an order to permit them to issue flexible premium variable life insurance contracts (the "Contracts"), as defined in paragraph (c)(1) of Rule 6e-3(T), which provide for the waiver of future premiums upon disability of the insured and for a contingent deferred administrative charge.

Filing Date: The application was filed on October 23, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 30, 1986. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: SEC, 450 5th Street NW, Washington, DC 20549. The Company, the Account and ONESOO, 237 William Howard Taft Road, Cincinnati, Ohio 45219.

FOR FURTHER INFORMATION CONTACT: Staff Attorney David S. Goldstein (202) 272-2622 (Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300.)

Applicants' Representations and Statements of Facts

1. The Company, a wholly owned stock subsidiary of The Ohio National Life Insurance Company, is organized under the laws of Ohio and is the depositor of the Variable Account. The Variable Account was established under Ohio law as a "separate account" of the Company, and satisfies the requirements of Rule 6e-3(T)(a). The Variable Account is registered as a unit investment trust under the Act, and has four subaccounts, each of which invests exclusively in shares of a corresponding investment portfolio of Ohio National Fund, Inc. (the "Fund"), which is registered under the Act as a open-end, diversified management investment company, ONESOO is the principal underwriter of the Contracts.

2. Two death benefit options are provided under the Contract: (1) A death benefit equal to the stated amount and (2) a death benefit equal to the stated amount plus the cash value. Under both options the Company may be required to increase the death benefit to satisfy the corridor percentage test of section 7702 of the Internal Revenue Code. Subject to certain limitations, contract-owners may increase or decrease the stated amount of insurance coverage during the life of the contract. Cash value under the Contracts will reflect the amount and frequency of payments, the investment experience of the Variable Account, loans, and any changes and deductions. Generally investment performance is reflected in increased cash value under the first option and in increased insurance coverage under the second. The Contracts also require the payment of a substantial initial premium and allow the payment is additional premiums to the extent permitted by the Internal Revenue Code.

Contingent Deferred Insurance Underwriting Charge

3. The contingent deferred insurance underwriting charge is imposed upon complete surrender or lapse of the Contract within seven years after the issue date of a Contract or the date of any increase in stated amount, and a portion of such charge will be deducted upon all decreases in stated amount during such seven year periods.

4. The contingent deferred insurance underwriting charge is an administration charge designed to compensate the Company for insurance underwriting costs, including the selection and classification of risks and processing medical evidence of insurability. The charge varies from $3 to $6 per $1,000 of stated amount depending on the insured's age at issue or increase, and only applies to the first $500,000 of stated amount. While the Company may impose the full charge for the seven years following issue or increase, it currently intends to grade-off such charge over such seven year periods.

5. The charge is no more than would be imposed if such administrative expenses were recovered from the initial premium payment and is not expected to produce a profit.

6. In determining the amount of the charge Applicants have not taken into account the time value of money or the likelihood that not all contract-owners will ever incur the charge or incur the charge at the same time.

7. Proceeds from the charge will not be used directly or indirectly to finance distribution expenses.

8. The imposition of the insurance underwiting charge on a contingent deferred basis is more favorable to contractowners in several respects than a charge deducted from the initial premium payments. First, the amount of a contractowner's investment in the Variable Account is greater than it would be if the charge were deducted from the initial premium. Second, the cost of insurance component of the monthly deduction will be lower due to an increased cash value and a consequent lower net amount at risk when this charge is deferred. Third, the total amount charged to any contractowner when the charge is deferred is no greater than if this charge were taken from the initial premium. The amount charged may be less for contractowners who surrender or lapse after the second contract year due to the Company's current intention to grade-off such charge as described above. Additionally, the charge will not be imposed at all on contractowners who keep their contracts in force more than seven years from the date of issue or the date of an increase. Finally, deferring this charge means that it is never deducted from the death benefit.

Disability Waiver of Monthly Deduction Rider

9. The charge imposed for the disability "waiver of monthly deduction" rider (the "Rider") should

not be treated as sales load pursuant to Rule 6e-3(T)(c)(4).

10. The rider provides that if the insured becomes disabled for more than six months, the monthly deduction will thereafter be waived by the Company. The amount of the monthly deductions so waived may vary with the investment experience of the Variable Account, inasmuch as the cost of insurance component thereof varies with net amount at risk.

11. The Rider should properly be viewed as primarily a fixed and incidental benefit. It is fixed, in the sense that upon disability the contractowner pays no further monthly deductions, irespective of the amount thereof. Thus the Rider is a fixed benefit from the contractowner's perspective.

12. There is no cash value asociated with the Rider that is distinguishable from the cash value of the Contract as a whole. The Rider therefore is the type of incidental benefit described in rule 6e-3(T)(c)(2).

13. The requested relief is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, is well precedented, and involves technical matters unforeseen when Rule 6e-3(T) was adopted.

Conditions

If and to the extent that Rule 6e-3(T) is amended to provide exemptive relief from any provision of the Act or the Rules promulgated thereunder on terms and conditions different from any exempted from such provisions granted to them by order, then Applicants shall, within any transition period provided in such amendments, take such steps as may be necessary to comply with Rule 6e-3(T), as amended, with respect to any Contract issued after the expiration of such transaction period to the extent Rule 6e-3(T) is then applicable.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27907 Filed 12-11-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 987]

Extension of the Restrictions on the Use of United States Passport for Travel To, In, or Through Libya

On December 11, 1981, pursuant to the authority of Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.72(a)(3), the use of the United States passport for travel to, in, or through Libya was restricted. These restrictions have subsequently been extended on November 29, 1982 (47 FR 54888), November 29, 1983 (48 FR 55529), November 29, 1984 (49 FR 47585), and November 25, 1985 (50 FR 49809). These actions were required by the unsettled relations between the United States and the Government of Libya and the threats of hostile acts against Americans in Libya.

The Government of Libya still maintains a decidedly anti-American stance and continues to emphasize its willingness to direct hostile acts against the United States and its nationals. The American Embassy in Tripoli remains closed, thus preventing the United States from providing routine diplomatic protection or consular assistance to Americans who may travel to libya.

In light of these events and circumstances, I have determined that Libya continues to be an area ". . . where there is imminent danger to the public health or physical safety of United States travelers."

Accordingly, United States passports shall remain invalid for use in travel to, in, or through Libya unless specifically validated for such travel under the authority of the Secretary of State.

This Public Notice shall be effective upon publication in the **Federal Register** and shall expire at the end of one year unless extended sooner or revoked by Public Notice.

Dated: December 9, 1986.

George P. Shultz,

Secretary of State.

[FR Doc. 86-28073 Filed 12-11-86; 9:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements. Filed During the Week Ending December 5, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44526

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Within Africa-Adjustment Factors.
Proposed Effective Date: December 5, 1986.

Docket No. 4527

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Adjustment Factors—Lebanon.
Proposed Effective Date: December 1, 1986.

Docket No. 4528

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Co-Rate Japan-Mexico.
Proposed Effective Date. December 15, 1987

Docket No. 44529 R-1 & R-2

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Excursion Fares—Australia to Europe.
Proposed Effective Date: December 1, 1986.

Docket No. 44530

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: GCR's from HKG to KTM.
Proposed Effective Date: December 15, 1986.

Docket No. 44531

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Rio-LAX Specific Commodity Rates.
Proposed Effective Date: November 14, 1986

Docket No. 44532

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Canada-Yugoslavia Fares.
Proposed Effective Date: April 1, 1987.

Docket No. 44533 R-1—R-3

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986
Subject: Europe-Africa Fares
Proposed Effective Date: December 15, 1986; January 1, 1987

Docket No. 44534

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Adjustment Factors ex-Canada fares to Indonesia.
Proposed Effective Date: December 15, 1986; January 1, 1987.

Docket No. 44535

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Cargo Rates—Europe to Southeast Asia.
Proposed Effective Date: November 29, 1986.

Docket No. 44536

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Canada-Europe Fares.
Proposed Effective Date: January 1, 1987.

Docket No. 44537 R-1—R-3

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: TC2 Fares.
Proposed Effective Date: December 1, 1986.

Docket No. 44538

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: N/C Pacific Fares.
Proposed Effective Date: April 1, 1987.

Docket No. 44539 R-1—R-14

Parties: Members of International Air Transport Association.
Date Filed: December 2, 1986.
Subject: Mid East Africa Fares.
Proposed Effective Date: April 1, 1987.

Docket No. 44543 R-1—R-19

Parties: Members of International Air Transport Association.
Date Filed: December 4, 1986
Subject: TC2 Fares
Proposed Effective Date: April 1, 1987.

Docket No. 44544

Parties: Members of International Air Transport Association.
Date Filed: December 4, 1986.
Subject: Cargo Agency Conference.
Proposed Effective Date: January 15, 1987.

Docket No. 44545

Parties: Members of International Air Transport Association.
Date Filed: December 4, 1986
Subject: TC1 CO-Rates.
Proposed Effective Date: January 1, 1987

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-27908 Filed 12-11-86; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending December 5, 1986.

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44525

Date Filed: December 2, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 30, 1986.
Description: Application of MGM Grand Air, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Regulations, requests authority to engage in interstate and oversea scheduled air transportation of persons, property and mail:

Between any point in any state in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any state of the United States or the District of Columbia, or any territory or possession of the United States.

Docket No. 44541

Date Filed: December 3, 1986.
Due Date for Answers, Conforming Application, or Motions to Modify Scope: December 31, 1986
Description: Application of Aero Transportes Panamenos, S.A., pursuant to section 402 of the Act and Subpart Q of the Regulations, applies for a foreign air carrier permit authorizing it to engage in nonscheduled, including charter, foreign air transportation of property and mail between Miami, Florida and Panama City, Republic of Panama, via certain optional intermediate areas, with all flights to the U.S. originating or terminating in Panama.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-27909 Filed 12-11-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Railroad Administration

Petitions for Exemption or Waiver; Alabama and Florida Railroad (A&F), et al.

In accordance with 49 CFR 211.9 and 211.4, notice is hereby given that 11 railroads have petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with the provisions of the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64 a(e)).

The Hours of Service Act currently makes it unlawful for a railroad to require specified employees to remain on duty for a period in excess of 12 hours. However, the Hours of Service Act contains a provision that permits a railroad which employs not more than 15 employees who are subject to the statute to seek an exemption from the 12-hour limitation.

Alabama and Florida Railroad (A&F)

[FRA Waiver Petition Docket No. HS-86-19]

The A&F seeks this exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The A&F provides service over 108 miles of track divided into two line segments. The first segment is from Georgianna, Alabama, to Geneva, Alabama, a distance of 78 miles. The second segment is from Crestview, Florida, to Lockhart, Alabama, a distance of 30 miles.

The A&F states that it is not their intention to employ a train crew over 12 hours per day under normal operating conditions, but that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Mississippi Delta Railroad (MDR)

[FRA Waiver Petition Docket No. HS-86-20]

The MDR seek this exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24 hour period. The MDR provides service over 60 miles of track extending from Swan Lake, Mississippi, to Jonestown, Mississippi.

The MDR states that it is not their intention to employ a train crew over 12 hours per day under normal operating conditions, but that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Vermont Railway (VR)

[FRA Waiver Petition Docket No. HS-86-21]

The VR seeks a continuation of a previously issued exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The VR states that if it becomes necessary to hire an additional crew, the railroad would operate at a substantial loss.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Clarendon and Pittsford Railroad Co. (C&P)

[FRA Waiver Petition Docket No. HS-86-22]

The C&P seeks a continuation of a previously issued exemption so that it

can permit certain employees to remain on duty not more than 16 hours in any 24 hour period. The C&P states that unless granted an exemption, the railroad will be required to either operate at a substantial loss, impose a self-defeating surcharge, or cease operations.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

East Cooper and Berkeley Railroad Co. (EC&B)

[FRA Waiver Petition Docket No. HS–86–23]

The EC&B seeks a continuation of a previously issued exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The EC&B provides service over 15 miles of track extending from East Cooper, South Carolina, to Cordesville, South Carolina. The EC&B states that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Port Utilities Commission of Charleston, SC (PUCC)

[FRA Waiver Petition Docket No. HS–86–24]

The PUCC seeks a continuation of a previously issued exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PUCC provides switching service over 1½ miles of track in Charleston, South Carolina.

The PUCC states that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Port Terminal Railroad of South Carolina (PTR)

[FRA Waiver Petition Docket No. HS–86–25]

The PTR seeks a continuation of a previously issued exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PTR provides switching service on 1 mile of track at North Charleston, South Carolina.

The PTR states that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Port Royal Railroad (PRYL)

[FRA Waiver Petition Docket No. HS–86–26]

The PRYL seeks this exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The PRYL provides service over 25 miles of track extending from Port Royal, South Carolina, to Yemasse, South Carolina.

The PRYL states that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Wilmington Terminal Railroad, Inc. (WTR)

[FRA Waiver Petition Docket No. HS–86–27]

The WTR seeks this exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The WTR provides service to the North Carolina Port Authority and other industries in Wilmington, North Carolina.

The WTR states that it is not their intention to employ a train crew over 12 hours per day under normal operating conditions, but that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Montana Western Railway Company, Inc. (MW)

[FRA Waiver Petition Docket No. HS–86–28]

The MW seeks this exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24 hour period. The MW provides service between Butte, Montana, and Garrison, Montana, a distance of 50 miles.

The MW states that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Prescott and Northwestern Railroad Company (P&NW)

[FRA Waiver Petition Docket No. HS–86–29]

The P&NW seeks this exemption so that it can permit certain employees to remain on duty not more than 16 hours in any 24-hour period.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in these proceedings submitting written views and comments. FRA has not scheduled a hearing or other opportunity for oral comment since the facts do not appear to warrant it. Communications received before January 26, 1987 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC, on December 8, 1986.

J. W. Walsh

Associate Administrator for Safety

[FR Doc. 86–27920 Filed 12–11–86; 8:45 am]

BILLING CODE 4910–06–M

Petitions for Exemption or Waiver; Union Pacific Railroad Co. et al.

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that three railroads have petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with certain requirements of the regulations entitled Hours of Service of Railroad Employees (49 CFR Part 228).

Union Pacific Railroad Co.

(Waiver Petition Docket Number HS–86–15)

The Union Pacific Railroad Company (UPRR) seeks a permanent waiver of compliance with 49 CFR 228.9(a)(1) which requires that records maintained under Part 228 be signed by the employee whose time on duty is being recorded or, in the case of train and engine crews, signed by the ranking crewmember. The UPRR states that it seeks this waiver of the records signature requirement of the Hours of Service of Railroad Employees in order to modernize recordkeeping and create new efficiencies.

Missouri Pacific Railroad Co.

(Waiver Petition Docket Number HS–86–16)

The Missouri Pacific Railroad Company (MoPac) seeks a permanent waiver of compliance with 49 CFR 228.9(a)(1) which requires that records maintained under Part 228 be signed by the employee whose time on duty is being recorded or, in the case of train and engine crews, signed by the ranking crewmember. The MoPac states that it seeks this waiver of the records signature requirements of the Hours of Service of Railroad Employees in order to modernize record keeping and create new efficiencies.

Western Pacific Railroad Co.

(Waiver Petition Docket Number HS–86–17)

The Western Pacific Railroad Company (WP) seeks a permanent waiver of compliance with 49 CFR 228.9(a)(1) which requires that records maintained under Part 228 be signed by the employee whose time on duty is being recorded or, in the case of train and engine crews, signed by the ranking crewmember. The WP states that it seeks this waiver of the records signature requirement of the Hours of Service of Railroad Employees in order to modernize record keeping and create new efficiencies.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications concerning these proceedings should identify the appropriate docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C 20590. Communications received before January 26, 1987 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.), in Room 8201, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on December 5, 1986.

J.W. Walsh,

Associate Administrator for Safety

[FR Doc. 86–27921 Filed 12–11–86; 8:45 am]

BILLING CODE 4910–06–M

Petition for Exemption or Waiver of Compliance; Union Railroad Co.

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for an exemption from or waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should identify the appropriate docket number (Waiver Petition Docket Number RSOR–86–3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C 20590. Communications received before January 26, 1987 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.—5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The petition for exemption from a requirement of Title 49, Code of Federal Regulations Part 218—Railroad Operating Practices is as follows:

Petitioner's name	Waiver petition docket No.
Union Railroad Co.	RSOR–86–3

The above named railroad seeks an exemption from Section 218.37 as it requires the use of fusees and torpedoes by train crews in providing flag protection.

The petitioner indicates an adequacy of carrier rules and procedures that precludes the need for such a requirement. Hence, petitioner feels the request is not contrary to the public interest or safety.

Issued in Washington, D.C. on December 5, 1986.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86–27922 Filed 12–11–86; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 8, 1986.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510–0033.

Form Number: POD 1672.

Type of Review: Extension.

Title: Application of Undertaker for Payment of Funeral Expenses From Funds to the Credit of a Deceased Depositor.

Clearance Officer: Douglas C. Lewis, Financial Management Service, Room 100, 3700 East West Highway, Hyattsville, MD 20782.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Office of the Secretary

OMB Number: 1505–0080.
Form Number: None.
Type of Review: Extension.
Title: Post-Contract Award Information.

OMB Number: 1505–0081.
Form Number: None.
Type of Review: Extension.
Title: Solicitation of Proposal Information for Award of Public Contracts.

Clearance Officer: Douglas J. Colley, (202) 566–6671, Office of the Secretary, Room 7313, ICC Building, 1201 Constitution Avenue, NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Douglas J. Colley,

Department Reports Management Office.

[FR Doc. 86–27952 Filed 12–11–86; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 239
Friday, December 12, 1986

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).

CONSUMER PRODUCT SAFETY COMMISSION

Agenda

Time and Date: Commission Meeting, Thrusday, December 18, 1986, 10:30 a.m.

Location: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, MD

Status: Open to the Public.

Matters to be Considered: ATVs: Options.

The Commission will consider regulatory and non-regulatory options for all-terrain vehicles.

For a recorded message containing the latest agenda information, call: 301–492–5709.

Contact Person for additional information: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

December 10, 1986.

[FR Doc. 86–28051 Filed 12–10–86 3:37 pm]

BILLING CODE 6355–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:30 p.m. on Friday, December 5, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A) Consider matters relating to Cordell National Bank, Cordell, Oklahoma, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Friday, Decemer 5, 1986;

(B) Consider matters relating to the possible failure of an insured bank;

(C) Consider a personnel matter.

The meeting was recessed at 6:10 p.m. and at 7:25 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors adopted a resolution: (1) Making funds available for the payment of insured deposits made in Cordell National Bank, Cordell, Oklahoma, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Friday, December 5, 1986; (2) accepting the bid of City National Bank, Weatherford, Oklahoma, for the transfer of the insured and fully secured or preferred deposits of the closed bank; and (3) designating City National Bank, Weatherford, Oklahoma, as the agent for the Corporation for the payment of insured and fully secured or preferred deposits of the closed bank.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 9, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–28014 Filed 12–10–86; 11:56 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, December 16, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Liberty Bank & Trust, an operating noninsured institution located at 213 East Tugalo Street, Tocca, Georgia.

Dial Bank, a proposed new bank to be located at 1200 North West Avenue, Sioux Falls, South Dakota.

Application for Federal deposit insurance and for consent to exercise full trust powers:

Broad Street Bank and Trust Company, a proposed new bank to be located at Exchange Place, 35 State Street, Boston, Massachusetts.

Applications for Federal deposit insurance for state licensed branches of a foreign bank and request for an exemption to § 346.3 of the Corporation's rules and regulations:

Standard Chartered Bank, London, England, for Federal deposit insurance of deposits received at and recorded for the accounts of its branches located at 160 Water Street and 299 Park Avenue, both within New York City (Manhattan), New York, and for an exemption to a deposit taking limitation to be imposed on a noninsured branch located in the same state.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,787—L
The First National Bank of Midland, Midland, Texas
Case No. 46,796—L
National Bank of Odessa, Odessa, Texas and The First National Bank of Midland, Midland, Texas
Case No. 46,798—SR
Tri-State Bank, Markham, Illinois
Case No. 46,808—NR
Penn Square Bank, National Association, Oklahoma City, Oklahoma
Case No. 46,809—SR
Swope Parkway National Bank, Kansas City, Missouri

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Notice of withdrawal of a proposed Statement of Policy on Special Purpose Finance Subsidiaries which would have addressed the safety and soundness considerations associated with finance subsidiaries established by insured State nonmember banks and insured savings banks.

Memorandum and resolution regarding postponement of the effective date of the FDIC's Statement of Policy Regarding Disclosure by the FDIC of Statutory Enforcement Actions.

Memorandum regarding extension of time to comply with certain provisions of the Corporation's regulations governing securities activities of subsidiaries and affiliates of insured nonmember banks (12 CFR 337.4).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: December 9, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–28015 Filed 12–10–86; 11:56 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, December 16, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These mattrers will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of these matters will occur at the meeting.

Recommendation regarding the Corporation's assistance agreement with an insured bank.

Discussion Agenda:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,790–L

The Dill State Bank, Dill City, Oklahoma

Request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

Recommendation regarding the Corporation's corporate activities.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2), and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3913.

Dated: December 9, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–28016 Filed 12–10–86; 11:56 am]

BILLING CODE 6714–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Monday, December 15, 1986.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in R.J. Reynolds Tobacco Company Inc., Docket No. 9206.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in R.J. Reynolds Tobacco Company Inc., Docket No. 9206.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326–2179; Recorded Message: (202) 326–2711.

Emily H. Rock,

Secretary.

[FR Doc. 86–27999 Filed 12–10–86; 11:25 am]

BILLING CODE 6750–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Time and Date: 9:30 a.m., Wednesday, December 17, 1986.

Place: 1776 G Street NW., Washington, DC 20456, 7th Floor, Filene Board Room.

Status: Open.

Matters To Be Considered:

1. Approval of Minutes of Previous Open Meeting.
2. Economic Commentary.
3. Review of Central Liquidity Facility Lending Rate.
4. Insurance Fund Report.
5. Proposed Amendments to § 701.21 and Part 741, NCUA Rules and Regulations, Member Business Loans By Federally-Insured Credit Unions.

Recess: 10:30 a.m.

Time and Date: 10:45 a.m., Wednesday, December 17, 1986.

Place: 1776 G Street, NW., Washington, DC 20456, 7th Floor, Filene Board Room.

Status: Closed.

Matters To Be Considered:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under section 120(b) of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B).
3. Board Briefings. Closed pursuant to exemptions (2), (5), (7) and (8).
4. Personnel Actions. Closed pursuant to exemptions (2) and (6).

For More Information Contact: Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

Becky Baker,

Executive Assistant.

[FR Doc. 86–28059 Filed 12–10–86; 3:57 pm]

BILLING CODE 7535–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the

Sunshine Act, Pub. L. 94–409, that the Securities and Exchange commission will hold the following meetings during the week of December 15, 1986:

An open meeting will be held on Thursday, December 18, 1986, at 10:00 a.m., in Room 1C30, followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b (c)(4), (8), (9)(A), and (10) and 17 CFR 200.402 (a)(4), (8), (9)(i), and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, December 18, 1986, at 10:00 a.m., will be:

1. Consideration of whether to grant the application of Intergrated ARROs Fund I, Integrated ARROs Fund II, (the "Funds") for an order, pursuant to sections 6(c) and 17(b) of the Act exempting Applicants from the provisions of sections 10(h)(1), 10(h)(2), 14(a), 16(a), 17(a), 17(d) and 32(a) of the Act to permit the Funds to acquire and hold specified real estate lease-related contract rights which represent amounts payable to their sponsor from its privately offered real estate limited partnerships. For further information, please contact Curtis R. Hilliard at (202) 272–3026.

2. Consideration of whether to grant an order on an application seeking (1) approval of a proposal by the Wisconsin Electric Power Company and its wholly-owned subsidiary, the Wisconsin Natural Gas Company, whereby they would become wholly-owned subsidiaries of a newly-formed holding company, Wisconsin Energy Corporation ("WEC") and (2) an order exempting WEC and its subsidiaries from all provisions of the Public Utility Holding Company Act of 1935 except section 9(a)(2). For further information, please contact Lewis Reich at (202) 272–7699.

3. Consideration of whether to issue a release containing proposals to reduce or eliminate under certain circumstances the 40 or 90 days delivery period during which dealers must deliver a prospectus in aftermarket transactions in registered securities following a public offering. For further information, please contact Larisa Dobriansky at (202) 272–2589.

4. Consideration of whether to publish for comment proposed revisions to Regulation S–K and Form 20–F to eliminate mandatory supplemental disclosure regarding inflation and changes in prices. For further information, please contact James R. Bradow at (202) 272–2130.

5. Consideration of a release approving proposed rule changes by the American and New York Stock Exchanges that would permit the exchanges to waive or modify certain of their listing standards for foreign companies. For further information, please contact Robert J. Sevigny at (202) 272–2409.

The subject matter of the closed meeting scheduled for Thursday, December 18, 1986, following the 10:00 a.m. open meeting, will be:

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

Institution of injunctive actions.

Litigation matters.

Opinions.

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: Gerald Laporte at (202) 272–3085.

Jonathan G. Katz,

Secretary.

December 9, 1986.

[FR Doc. 86–28058 Filed 12–10–86; 3:15 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 51, No. 239
Friday, December 12, 1986

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 16

[Docket No. 86N-0358]

Regulatory Hearing Before the Food and Drug Administration

Correction

In proposed rule document 86-26862 beginning on page 43217 in the issue of Monday, December 1, 1986, make the following correction on the same page:

In the third column, under the heading **II. Proposed Amendment to Part 16**, the third line, should read "alternatives upon an objection to a regulation or order and a request for a formal evidentiary".

BILLING CODE 1505-01-D

Federal Register

Friday
December 12, 1986

Part II

Commodity Futures Trading Commission

17 CFR Part 1

Activities of Self-Regulatory Organization Employees Who Possess Material, Nonpublic Information; Final and Proposed Rules

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Activities of Self-Regulatory Organization Employees Who Possess Material, Nonpublic Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted, as final, regulation 1.59 which would make it unlawful for employees of self-regulatory organizations to disclose material, non-public information obtained as a result of their employment at the self-regulatory organization. Regulation 1.59, which initially was proposed in June 1985 and was revised in response to public comment, also would require self-regulatory organizations to adopt rules, subject to the standards contained in the regulation, that prohibit their employees from trading: (1) Directly or indirectly in any commodity interest traded on or cleared by the employing contract market or clearing organization, (2) in any related commodity interest, and (3) in any commodity interest traded on or cleared by contract markets or clearing organizations other than the employing self-regulatory organization where the employee has access to material non-public information concerning such commodity interest.

EFFECTIVE DATE: New regulation 1.59 becomes effective June 12, 1987.

FOR FURTHER INFORMATION CONTACT: De'Ana Hamilton-Brown, Attorney/Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 11, 1985, the Commission published proposed regulation 1.59, which would have placed certain restrictions on the activities of self-regulatory organization employees and governing members who possess material, non-public information. 50 FR 24533 (June 11, 1985). Specifically, as proposed, the regulation would have prohibited employees of designated self-regulatory organizations from disclosing to any other person material, non-public information obtained as a result of their employment at the self-regulatory organization, and would have required self-regulatory organizations to adopt rules of similar effect. Proposed regulation 1.59 would have required further that self-regulatory organizations adopt rules that prohibit their employees and the spouses and dependent children of such employees from trading, directly or indirectly, in any commodity interest. Self-regulatory organizations would have been permitted, however, subject to Commission review, to provide exemptions under certain circumstances specified therein. Finally, the proposed regulation would have prohibited members of contract market or clearing organization boards or committees from trading pror to the announcement of certain regulatory decisions of such entities, and from disclosing information relating to those regulatory decisions.

The Commission received 14 comment letters in response to the proposed regulation [1] and based on these comments has revised regulation 1.59 as proposed. Specifically, the Commission amended the provision which prohibited employee trading to permit more flexibility to address unique situations. Additionally, the Commission determined to delete the provisions in proposed regulation 1.59 regarding governing members of self-regulatory organizations for the time being. It is expected that regulations regarding these individuals will be reproposed in modified form at a later date.

II. Activities of Employees of Self-Regulatory Organizations Who Possess Material Non-Public Information

As proposed, § 1.59 would have required self-regulatory organizations (*i.e.*, the exchanges, their clearing organizations, and NFA) to adopt rules that generally prohibit their employees (*i.e.*, persons employed on a salaried or contract basis) and the spouses and dependent children of such employees from trading futures or option contracts and from disclosing material, non-public information obtained as a result of their employment at the self-regulatory organization. Self-regulatory organizations would have been permitted, however, to adopt rules, subject to Commission review, which provided exemptions, whereby employees and their spouses and dependent children could trade commodity interests under certain circumstances. Exemptions granted pursuant to this authorization would have been administered on a case-by-case basis.[2] Additionally, § 1.59 would have prohibited an employee from disclosing material, non-public information obtained by reason of his employment at a self-regulatory organization where that employee should have a reasonable expectation that such information may assist another in trading any commodity interest.[3]

The comments received by the Commission generally supported the concept of precluding misuse of information by employees but questioned whether it was necessary to accomplish this by rulemaking. The Commission believes that the perceived integrity of self-regulatory organizations is of the utmost importance to the effective operation of a system based on self-regulation. Therefore, the Commission prefers, rather than ad hoc approaches, that each self-regulatory organization have in place specific rules "to assure continued adherence to basic standards related to [employee] trading." [4] Regulation 1.59 would accomplish this objective by requiring the adoption of minimum standards which would render uniform and make express the current self-regulatory organization policies restricting the trading activities of employees and, further, would help to confirm the commitment of self-regulatory organizations to effective self-regulation in this area. These standards also would be responsive to Commission findings in its Insider Trading Study.[5]

Although commenters indicated that the proposed employee trading prohibition was appropriate to avoid any appearance of impropriety by exhange employees and should improve public confidence in the contract markets, a number of suggestions were made for refining that proposal. Commenters contended that in the event

[1] Letters were received from (1) Aluminum Company of America, (2) Cargill, Incorporated, (3) Chicago Board of Trade, (4) Chicago Board of Trade Clearing Corporation, (5) Chicago Mercantile Exchange, (6) Coffee, Sugar & Cocoa Exchange, Inc., (7) Comex Clearing Association, Inc., (8) Commodity Exchange, Inc., (9) Goldman, Sachs & Co., (10) MidAmerica Commodity Exchange, (11) National Futures Association ("NFA"), (12) National Grain & Feed Association, (13) New York Stock Exchange, and (14) Clifford A. Van Vliet, Sr.

[2] For clarification in response to several comments concerning the grant of exemptions on a "case-by-case" basis, the regulation would require that the self-regulatory organization rules which set forth the circumstances under which an exemption may be granted be submitted for Commission review. However, the actual operation of rules with respect to individual applications for exemptions, *i.e.*, the grant of exemptions on a case-by-case basis, would not require prior approval by the Commission but would be subject to Commission oversight.

[3] The provisions concerning prohibition of disclosure were not amended substantively.

[4] Commodity Futures Trading Commission, "A Study of the Nature, Extent and Effects of Futures Trading by Persons Possessing Material, Nonpublic Information" ("Insider Trading Study"), at p. 9 (September 1984).

[5] *Id.* at pp. 94-97.

that employees release material, nonpublic information or trade on the basis of such information, the rule should make clear that the exchange may examine the facts on a case-by-case basis and take appropriate action against employees; the employee trading ban was too broad and should not include automatically members of the employee's immediate household; and the provision need not bar employees from trading on other contract markets in commodity interests unrelated to the employing exchange's products merely because the employee was in a position to receive information that is material to activity on the employing contract market.

The Commission also notes a suggestion from one commenter that member FCMs be prohibited from accepting the trades of employees as another means of achieving compliance with the employee trading ban. The Commission leaves to each contract market how best to design rules to assure the enforcement of regulation 1.59.

The Commission has considered the comments received pertaining to trading by employees of self-regulatory organizations and has made the following changes as a result. First, § 1.59(b)(2)(i)(A), which as proposed required self-regulatory organizations to adopt rules which prohibit all trading activity by their employees, instead would require self-regulatory organizations to adopt rules which prohibit their employees [6] from trading: (1) Directly or indirectly in any commodity interest traded on or cleared by the employing contract market or clearing organization, (2) in any related commodity interest,[7] and (3) in any commodity interest traded on or cleared by contract markets or clearing organizations other than the employing self-regulatory organization where the employee has access to material non-public information concerning such commodity interest. The Commission believes these revisions fine tune the employee trading prohibition and provide more flexibility to deal with unique situations. As such, they are responsive to those commenters who expressed the view that the trading ban was too broad without sacrificing the basic purpose of the proposal which was to assure that contract market employees do not misuse their employment for personal gain.[8] In particular, although remaining subject to the strict ban on trading on the employing exchange, if the exchange permits, an employee now would be able to trade an unrelated commodity interest on another exchange where he did not have access to material non-public information concerning such commodity interest. The Commission emphasizes that the two limiting factors with respect to trading by an employee on another exchange are: (1) That the commodity interest by unrelated to any commodity interest traded on the employing exchange, and (2) that the employee not have access to material, non-public information concerning the commodity interest or a related commodity interest.

Secondly, the total trading prohibition against the employee's spouse and dependent children has been deleted, thus permitting the exchange to exercise discretion in dealing with relatives or dependents of the employee and focusing the rule on those persons directly within the jurisdiction of the self-regulatory organization. Although the trading activities of an employee's spouse and dependent children will not be prohibited per se, a strong presumption will remain that, unless specifically demonstrated and documented otherwise, the trading of such persons is in fact trading "directly or indirectly" by the employee.

With respect to the exemptions to the employee trading ban, the commenters expressed the following views: (1) The exceptions to the prohibition on trading by employees are inconsistent and do not include certain common instances where an exemption is necessary, in particular, an employee's participation in pension plans, mutual funds, and publicly offered pools which trade commodity interests; (2) the self-regulatory organizations should be allowed some discretion in their review of requests for exemptions; (3) exemptions should be available to an employee who does not have access to material, non-public information concerning the contract which he intends to trade, as long as the contract is not subject to the bylaws and rules of the employing self-regulatory organization; and (4) an exemption also should be available to a dependent child of an employee whose trading is required in the course of employment.

The revised regulation substitutes for the exemptions enumerated in the proposed rule one specific circumstance under which an exemption could be granted and permits the self-regulatory organization to submit rules containing other general exemptions.[9] Specifically, exemptions could be granted for: (1) Participation in a "pooled investment vehicle" under circumstances where the employee has no direct or indirect control with respect to transactions executed by the vehicle,[10] and for (2) trading by an employee under circumstances enumerated by the self-regulatory organization in rules submitted to the Commission which the self-regulatory organization determines, subject to Commission review, are not contrary to the purposes of regulation 1.59, the Act, the public interest, or just and equitable principles of trade.[11] As noted previously in its request for comment on the proposed regulation 1.59, "[t]he Commission contemplates that if an SRO proposes exemptions from the general trading prohibition the SRO would be required to set forth in its proposed rule the procedures to be followed in granting such an exemption, including the documentation to be submitted to the SRO and the officer of Committee which would be authorized to grant the exemption and oversee the enforcement of those rules." 50 FR at 24535.

[6] It should be noted that consultants and independent contractors employed by the self-regulatory organization would be included within the definition of "employee" under regulation 1.59 and, therefore, would be subject to the same restrictions applicable to all other exchange employees.

[7] "Related commodity interest" is defined in subsection (a)(7) of the final rule. *See* 50 FR 24533, 24536, n. 13 (June 11, 1985) for additional discussion of the Commission's definition of related commodity interest. In the final rule, the definition of "related commodity interest" is supplemented to include a commodity interest traded on or subject to the rules of a self-regulatory organization other than the employing self-regulatory organization which is "related" to another commodity interest as to which the employee has access to material, non-public information.

[8] Technically, the proposal incorporates certain exceptions to the employee trading ban previously listed nonexclusively in subsection (b)(2)(ii) (A)–(B) of proposed regulation 1.59, the exemption provision, into subsection (b)(2)(i)(A), the general prohibition provision.

[9] The Commission expects that most exemptions, as well as the rules required by § 1.59, would be placed into effect pursuant to Commission regulation 1.41(c), 17 CFR 1.41(c) (1986).

[10] "Pooled investment vehicle" is defined in this regulation to mean a trading vehicle organized and operated as a commodity pool within regulation 4.10(d), and whose units of participation have been registered under the Securities Act of 1933, or a trading vehicle for which regulation 4.5 makes available relief from regulation as a commodity pool operator, *i.e.*, registered investment companies, insurance company separate accounts, bank trust funds, and certain pension plans.

[11] As provided in the rule, the Commission does not intend that an exemption granted pursuant to this provision permit employee trading on the employing exchange under any circumstances. Furthermore, the Commission intends that "employing exchange" include all affiliated exchanges which have integrated staffs such as is the case in the affiliation between the Chicago Board of Trade and the MidAmerica Commodity Exchange.

Subsection 1.59(b)(2)(ii)(A), which would permit employee participation in pooled investment accounts over which he exercises no direct or indirect control, is responsive to several comments that an exemption is necessary for an employee's participation in pension or mutual funds which trade commodity interests. Subsection 1.59(b)(2)(ii)(B), which generally provides for the adoption of exemptions under circumstances not contrary to the purposes of regulation 1.59, is retained from the previously proposed regulation and, as before, is intended to provide self-regulatory organizations with flexibility and discretion in the exemption process, as requested by several commenters.

The Commission expects that certain exemptions to the trading prohibition would be granted under subsection 1.59(b)(2)(ii)(B), with respect to the spouse and dependent children of the employee. For example, exemptions could be granted under the following circumstances: (a) Trading by an employee's spouse and dependent children in commodity interests not traded on, cleared by, or related to commodity interests traded on or cleared by the employing self-regulatory organization provided such trading is not controlled by the employee; and (b) trading by an employee's spouse or dependent children which is required by employment where such trading is not controlled by the employee.

III. Activities of Governing Members of Self-Regulatory Organizations Who Possess Material, Nonpublic Information

As summarized above, § 1.59, as previously proposed, would have prohibited members of governing boards and committees of contract markets and clearing organizations having knowledge of a final decision which would alter rules affecting trading in a futures or option contract, or a reasonable expectation that such a final decision is imminent, from trading the affected or a related contract on any exchange prior to publication of that decision. Governing members similarly would have been prohibited from disclosing information concerning the impending rule change to any person except to the staff of the contract market, clearing organization or linked exchange; court of competent jurisdiction; or representative of the Federal or a State government prior to publication of that decision. The Commission intended that this provision prevent abuse of information concerning changes in the futures trading environment effected pursuant to contract market emergency authority, including decisions by governing members to revise substantially margin levels, limit trading to liquidation only, shorten delivery periods, force liquidation of a major market participant, or make any other rule change which could be implemented immediately and which could affect the prices of particular futures or option contracts.

Although the Commission believes that there continues to be a need for such regulation of the activities of governing members, considerable opposition to the proposal in its present form has been expressed. The most significant concern raised by commenters was that the types of decisions affected by the proposed rule were delineated insufficiently. As a result they asserted that the rule could impair the ability of knowledgeable members who were also active traders to serve on a self-regulatory organization's board of directors or major policy and disciplinary committees. The Commission did not intend this result and initially had attempted to design the rule so as to confirm existing policies and to provide uniform standards that clearly identify those special instances when board members should not trade.

Other comments received concerning the governing members proposal were as follows: (1) The regulation prohibits far more trading than is necessary to preserve the integrity of contract markets; (2) the proposal could place a cloud on any trading done by persons or firms associated with a governing member pending final decisions that affect the market; (3) governing members should be given the opportunity to excuse themselves from participating in discussions and decisions that may have market impact; (4) the proposal provides no guidance in situations where a governing member already has a position in a contract which is or may be affected by a committee decision and raises questions as to whether the prohibition applies to trading for the proprietary accounts of a firm where the governing member is a partner of principal, or to brokerage for customers in an affected commodity and all related commodities; (5) trading prohibitions reaching those who learn of decisions through happenstance rather than as participants in the decisionmaking process would be impossible to enforce; and (6) the provision is unworkable with respect to the extension of the prohibition to circumstances in which a governing member has a reasonable expection that a final decision is imminent.

The Commission has considered the above comments and has determined that the proposal restricting the activities of governing members merits further deliberation and possible amendment. Accordingly, this section of proposed § 1.59 is being deleted at this time and will be reproposed at a later date. In this regard, the Commission invites further comments on how best to revise the governing members provision so as to address the issues raised by the commenters. Comments must be received on or before February 10, 1987.[12]

IV. Implementation Time of Regulation 1.59

Commission Regulation 1.59 will not become effective until six months after the date of publication of the final regulation. The delayed effective date should provide ample time for self-regulatory organizations to adopt and submit to the Commission, pursuant to section 5a(12) of the Commodity Exchange Act, rules consistent with the requirements of regulation 1.59 and to comply therewith. The Commission expects the self-regulatory organizations to act expeditiously in submitting appropriate rules.

Regulatory Flexibility Act

The Commission previously has determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act (5 U.S.C. 605) and that the requirements of the Act do not, therefore, apply to contract markets. 47 FR 18618 (April 30, 1982). Furthermore, the Chairman of the Commission previously has certified on behalf of the Commission that comparable rule proposals, if adopted, would not have a significant economic impact on a substantial number of small entities. *See, e.g.*, 48 FR 32835, 32836 (July 19, 1983).

For the reasons set forth above, and pursuant to section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman hereby certifies, on behalf of the Commission, that the following § 1.59 will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act ("PRA") of 1980, 44 U.S.C. *et seq.*, imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information

[12] See the Request for Comments document following this rule.

as defined by the PRA. Regulation 1.59 does not impose any additional paperwork on the public, but exchanges may be required, if necessary, to submit new or altered rules to the Commission pursuant to regulation 1.41. The paperwork burden under regulation 1.41 was last reviewed and approved by the Office of Management and Budget on May 19, 1986.

List of Subjects in 17 CFR Part 1

Self-regulatory organizations, Contract markets, Clearing organizations, Registered futures associations, Contract market members, Exchange employees, Directors of contract markets and clearing organizations.

In consideration of the foregoing, and based on the authority contained in the Commodity Exchange Act and, in particular, sections 3, 4b, 5, 5a, 6, 6b, 8, 8a, 9, 17, and 23(b) thereof, 7 U.S.C. 5, 6b, 7, 7a, 8, 13a, 12, 12a, 13, 21, and 26(b) the Commission is amending Title 17, Chapter I, Part 1 of the Code of Federal Regulations by adopting new § 1.59 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21, 23, and 24 unless otherwise noted.

2. Section 1.59 is added, to read as follows:

§ 1.59 Activities of self-regulatory organization employees who possess material, nonpublic information.

(a) *Definitions.* For purposes of this section:

(1) "Self-regulatory organization" means "self-regulatory organization," as defined in Commission regulation 1.3(ee), and includes the term "clearing organization," as defined in Commission regulation 1.3(d).

(2) "Employee" means any person hired or otherwise employed on a salaried or contract basis by a self-regulatory organization.

(3) "Material information" means information which, if such information were publicly known, would be considered important by a reasonable person in deciding whether to trade a particular commodity interest on a contract market. As used in this section, "material information" includes, but is not limited to, information relating to present or anticipated cash, futures, or option positions, trading strategies, the financial condition of members of self-regulatory organizations or their customers or option customers, or the regulatory actions or proposed regulatory actions of a self-regulatory organization.

(4) "Non-public information" means information which has not been disseminated in a manner which makes it generally available to the trading public through recognized channels of distribution.

(5) "Linked exchange" means any board of trade, exchange or market outside the United States, its territories or possessions, which has an agreement with a contract market in the United States that permits positions in a commodity interest which have been established on one of the two markets to be liquidated on the other market.

(6) "Commodity interest" means any commodity futures or commodity option contract traded on or subject to the rules of a contract market or linked exchange or cash commodities traded on or subject to the rules of a board of trade which has been designated as a contract market.

(7) "Related commodity interest" means any commodity interest which is traded on or subject ot the rules of a contract market, linked exchange, or other board of trade, exchange or market, other than the self-regulatory organization by which a person is employed, and with respect to which:

(i) Such employing self-regulatory organization has recognized or established intermarket spread margins or other special margin treatment between that other commodity interest and a commodity interest which is traded on or subject to the rules of the employing self-regulatory organization; or

(ii) Such other self-regulatory organization has recognized or established intermarket spread margins or other special margin treatment with another commodity interest as to which the person has access to material, non-public information.

(8) "Pooled investment vehicle" means a trading vehicle organized and operated as a commodity pool within regulation 4.10(d), and whose units of participation have been registered under the Securities Act of 1933, or a trading vehicle for which regulation 4.5 makes available relief from regulation as a commodity pool operator, *i.e.*, registered investment companies, insurance company separate accounts, bank trust funds, and certain pension plans.

(b) *Employees of self-regulatory organizations.* (1) No employee of a self-regulatory organization may disclose to any other person any material, nonpublic information which such employee obtains as a result of his or her employment at the self-regulatory organization where such employee has or should have a reasonable expectation that the information disclosed may assist another person in trading any commodity interest; *Provided, however,* that this provision shall not prohibit disclosures made in the course of an employee's duties, or disclosures made to another self-regulatory organization, linked exchange, court of competent jurisdiction or a representative of any agency or department of the federal or state government acting in his or her official capacity.

(2) (i) Each self-regulatory organization must maintain in effect rules which have been submitted to the Commission pursuant to section 5a(12) of the Act and Commission regulation 1.41 (or, pursuant to section 17(j) of the Act in the case of a registered futures association) that, at a minimum, prohibit:

(A) Employees of the self-regulatory organization from trading, directly or indirectly, in any commodity interest traded on or cleared by the employing contract market or clearing organization, in any related commodity interest, and in any commodity interest traded on or cleared by contract markets or clearing organizations other than the employing self-regulatory organization where the employee has access to material nonpublic information concerning such commodity interest; and

(B) Employees of the self-regulatory organization from engaging in the conduct described in paragraph (b)(1) of this section.

(ii) Each self-regulatory organization may adopt rules, which must be submitted to the Commission pursuant to section 5a(12) of the Act and Commission regulation 1.41 (or, pursuant to section 17(j) of the Act in the case of a registered futures association), which set forth circumstances under which exemptions from the trading prohibition contained in paragraph (b)(2)(i)(A) of

this section may be granted; such exemptions are to be administered by the self-regulatory organization on a case-by-case basis. Specifically, such circumstances may include:

(A) Participation by an employee in pooled investment vehicles where the employee has no direct or indirect control with respect to transactions executed by such vehicles; and

(B) Trading by an employee under circumstances enumerated by the self-regulatory organization in rules which the self-regulatory organization determines are not contrary to the purposes of this regulation, the Commodity Exchange Act, the public interest, or just and equitable principles of trade.

Issued in Washington, DC, on December 8, 1986 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-27899 Filed 12-11-86; 8:45 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Activities of Self-Regulatory Organization Governing Members Who Possess Material, Nonpublic Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for comments.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is today publishing elsewhere in this issue, as final, regulation 1.59 relating to the activities of self-regulatory organization employees who possess material non-public information. As proposed, regulation 1.59 also contained a section relating to the activities of governing members of self-regulatory organizations. However, upon review of comments addressing that proposed section, the Commission has determined that the proposal restricting the activities of governing members merits further deliberation and possible amendment. Accordingly, as discussed in connection with the publication of the final rule, that section has been deleted from regulation 1.59. The Commission anticipates that a provision relating to governing members will be reproposed at a later date. The Commission invites further comments on how best to revise the governing members provision so as to address the issues raised by the earlier commenters. Comments must be received on or before February 10, 1987.

DATE: Comments must be received by February 10, 1987.

ADDRESS: Comments should be sent to Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: De'Ana Hamilton-Brown, Attorney/Advisor, Division of Trading and Markets, Comnodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

Issued in Washington, DC on December 8, 1986 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-27898 Filed 12-11-86; 8:45 am]

BILLING CODE 6351-01-M

federal register

Friday
December 12, 1986

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 108

Airport and Airplane Operator Security; Evidence of Compliance With Security Programs; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 108

[Docket No. 24719; Reference Amdt. No. 108-3]

Airport and Airplane Operator Security; Evidence of Compliance With Security Programs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; notice of effective date.

SUMMARY: This notice announces the effective date of the Federal Aviation Regulation that requires certificate holders to provide evidence of compliance with the airplane operator security rules and their approved security programs. This new reporting requirement is needed to ensure that all certificate holders provide FAA Security Inspectors access to information that will demonstrate compliance. It can now become effective because approval has been received from the Office of Management and Budget.

DATES: Effective date of 14 CFR 108.27 is December 12, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Donnie Blazer, Civil Aviation Security Division (ACS-100), Office of Civil Aviation Security, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Telephone: (202) 267-8701.

SUPPLEMENTARY INFORMATION:

Background

On July 16, 1985, a final rule was published, amending Part 108 of the Federal Aviation Regulations (50 FR 28892; Amdt. No. 108-3). This rule adopted a new § 108.27, which provides that, on request of the Administrator, each certificate holder shall provide evidence of compliance with Part 108 and the certificate holder's approved security program. The section seeks to ensure effective compliance with, among other things, the training requirements added to Part 108 by Amendment 108-3. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the new reporting provision was submitted for approval to the Office of Management and Budget (OMB). The Final Rule stated that § 108.27 would not become effective until OMB approval was received and notice of that approval was published in the **Federal Register.**

OMB Approval

OMB approval for the new reporting requirement was received on August 18, 1986. OMB consolidated the approval number for § 108.27 with the previous approval number for the other reporting requirements in Part 108. That number appears in § 11.101.

Discussion of Comments

Comments were invited on Amendment 108-3. Of the six comments received, only one, from the Air Transport Association of America (ATA), objects to the § 108.27 reporting requirements. The ATA alleges that this requirement is a "profound and fundamental change" in enforcement procedures that is "unprecedented." It contends that the compliance mechanism contemplated by the regulation is not consistent with that "traditionally used by the FAA to enforce certificate holder compliance with other parts of the Federal Aviation Regulations." The ATA suggests that "the potential administrative and paperwork burdens on both certificate holders and the FAA could be enormous without any redeeming compliance benefits."

The FAA has considered ATA's comments on new § 108.27. The FAA continues to believe, however, that in an age of heightened terrorism, this reporting requirement is necessary to ensure the highest level of safety in air transportation for Americans, in accordance with the Federal Aviation Act of 1958. The provision is not intended to be a harbinger of a change in FAA enforcement practice. In the past, the FAA has routinely examined certificate holders' training records and other evidence of compliance with the security requirements of Part 108. For the most part, certificate holders have cooperated with FAA Civil Aviation Security Inspectors, showing their willingness to ensure the effective implementation of required security measures and to demonstrate their own dedication to combatting the current threat of terrorism. The size and complexity of the current security effort make this cooperation essential for the FAA's performance of its role in aviation security. Section 108.27 is intended to provide a sanction for the small number of persons who would impede the task of monitoring that effort. It is not expected to result in an increased burden on either Part 108 certificate holders or the FAA.

List of Subjects in 14 CFR Part 108

Transportation, Air safety, Safety, Aviation safety, Air transportation, Air carriers, Airports, Airplanes, Airlines, Law enforcement officers, Police, Security, Security measures, Training.

Immediate Effective Date

In view of the fact that new § 108.27 was published on July 16, 1985, and that the need to ensure effective compliance with Part 108 continues under the undiminished threat of terrorism to civil aviation, § 108.27 is being made effective on publication of this notice.

Issued in Washington, DC, on December 3, 1986.

Raymond A. Salazar,

Director of Civil Aviation Security.

[FR Doc. 86-27910 Filed 12-11-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Register

Friday
December 12, 1986

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 23

Small Airplane Airworthiness Review Program Notice No. 1 and Advisory Circular; Dynamic Evaluation of Small Airplane Seating Device Systems; Notice of Proposed Rulemaking (NPRM) and Notice of Availability of Proposed Draft Advisory Circular (AC) and Request for Comments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 25147; Notice No. 86-19]

Small Airplane Airworthiness Review Program Notice No. 1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice is the first of a series that will be issued as the result of a recent review of Part 23 and would adopt new and amended airworthiness standards for small airplanes. These proposals are based upon a number of issues discussed at the Small Airplane Airworthiness Review Conference held on October 22–26, 1984, in St. Louis, Missouri, and the FAA's Crash Dynamics Program. These proposals arise from the recognition, by both government and industry, that updated safety standards are needed for improvement of the cabin safety and occupant protection design requirements for small airplanes. The proposals of this first notice, when adopted, will enhance cabin safety and occupant protection by raising the level of safety for new designs of small airplanes type certificated to these new and revised standards.

DATES: Comments must be received on or before June 12, 1987.

ADDRESS: Comments on this notice may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 25147, 800 Independence Avenue SW., Washington, DC 20591, or delivered in triplicate to: FAA Rules Docket, Room 915–G, 800 Independence Avenue SW., Washington, DC 20591. All comments must be marked Docket No. 25147. Comments may be examined in Room 915–G between 8:30 a.m. and 5:00 p.m. on weekdays, except on Federal holidays.

In addition, the FAA is maintaining an information docket of comments in the Office of the Regional Counsel, ACE–7, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Comments in the information docket may be examined in the Office of Regional Counsel on weekdays, except Federal holidays, between the hours of 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: J. Robert Ball, Regulations and Policy Office (ACE–110), Aircraft Certification Division, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All comments received on or before the closing date for comments specified above will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received 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 filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25147." The postcard will be date stamped and mailed to the commenter.

The FAA is also proposing improved seat safety standards for transport airplanes. This proposal is contained in a separate notice (51 FR 25982; July 17, 1986; Docket No. 25040). To avoid possible confusion, comments that apply to that notice must be submitted to its respective docket. In addition, the agency is considering rulemaking to improve seat safety standards for rotorcraft.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Inquiry Center (APA–230), 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The FAA announced its Small Airplane Airworthiness Review Program in Notice No. CE–83–1 (48 FR 4290; January 31, 1983), and invited all interested persons to submit proposals for consideration. The Review Program goal is to provide the public an opportunity to participate in improving, updating, and developing the airworthiness standards applicable to small airplanes as set forth in Part 23 of the FAR.

In subsequent Notice No. CE–83–1A, published in the **Federal Register** on June 9, 1983 (48 FR 26623), the FAA extended the period for submission of proposals invited by Notice No. CE–83–1 to May 3, 1984. This action was based upon an FAA determination that it would be in the public interest to reopen the proposal period to afford the public and the aviation industry additional time to review Part 23 of the FAR and submit proposals to amend Part 23.

Prior to FAA's announcement of the Part 23 Review, the General Aviation Safety Panel (GASP), representing a broad constituency from the general aviation community, was formed for the purpose of recommending regulatory and nonregulatory means by which the FAA could improve general aviation safety. As a result of numerous GASP technical working sessions, the panel submitted proposals for enhanced cabin safety and occupant protection in Part 23 airplanes. These proposals were developed and supported by FAA and NASA research programs and data, and were among the approximately 560 proposals received in response to Notice Nos. CE–83–1 and CE–83–1A. Following the receipt of these proposals, the FAA issued Notice No. CE–84–1 on July 25, 1984 (49 FR 30053), containing the Availability of Agenda, Compilation of Proposals, and Announcement of the Small Airplane Airworthiness Review Program Conference. The conference was held on October 22–26, 1984, in St. Louis, Missouri. A copy of the transcript of all discussions held during the conference is filed in the FAA regulatory docket, Docket No. 23494, and may be examined by interested persons.

During the discussion of the GASP proposals at the Small Airplane Airworthiness Review conference, it was generally agreed that the proposals were technologically and economically achievable, and when adopted, would be a very significant step forward in the enhancement of cabin safety and occupant protection of Part 23 airplanes.

The GASP proposals submitted to the conference represented the combined efforts of all those persons who participated in the GASP working sessions and have, as indicated at the conference, the support of those members of the general aviation community in attendance at the conference.

The FAA has reviewed the proposals and the transcript from the conference and has concluded that the first Notice of Proposed Rulemaking (NPRM) resulting from the Part 23 Review Program conference should concentrate on airworthiness standards for the improvement of cabin safety and occupant protection in small airplanes.

At this time, the FAA also has under consideration the adoption of an additional category of airplane within Part 23 of the FAR. Notice No. 83–17 (48 FR 52010, November 15, 1983) proposed certification procedures, airworthiness and noise standards, and operating rules for an additional category of increased size propeller-driven, multiengine airplane, designated as the Commuter Category. Notice No. 83–17 was proposed to include additional airworthiness standards for airplanes with a maximum seating capacity, excluding pilot seats, of 19 or less, and a maximum certificated takeoff weight of 19,000 pounds or less. Final action to complete the adoption of standards for the proposed Commuter Category airplane is not complete at this time. In light of the pending rulemaking activity of Notice No. 83–17, the FAA will consider additional requirements for the commuter category airplane and will initiate appropriate rulemaking action addressing issues to enhance the cabin safety and occupant protection requirements for that category airplane, if it is adopted. Proposals will be developed after a thorough study of the need and substance of such additional requirements identified from the study.

Regulatory and Economic Evaluations

The proposals contained in this notice would upgrade airworthiness standards to enhance the crashworthiness of small airplanes. These upgraded standards, which are based on proposals submitted at the Small Airplane Airworthiness Review Conference held in October 1984 in St. Louis, would apply only to airplanes for which an application for a type certificate under Part 23 is made after the effective date of the proposed amendments.

Two of the seven proposals contained in this notice would impose dynamic testing standards to determine the adequacy of energy absorbing seats and occupant restraints on passenger movement resulting from sudden deceleration forces on the airplane which are likely to be experienced in accidents. Two other proposals pertaining to doors and emergency exits would facilitate emergency egress from airplanes sustaining heavy ground impact damage. Another three proposals are of an organizational rather than substantive nature and will not have any economic impacts. The economic impact of the proposals were estimated by the FAA and a research firm, which relied heavily on General Aviation Manufacturers Association (GAMA) information pertaining to expected costs and National Transportation Safety Board (NTSB) data pertaining to expected benefits. The estimation procedure quantified the costs and benefits expected to result from these proposals based upon the official FAA forecast of small airplane production and a more conservative forecast that projects a continuation of the depressed condition of this industry. The effect of using the more conservative forecast was to substantially reduce the magnitude of both the expected total costs and benefits of the proposals for which quantification of these impacts was possible, reflecting the considerably smaller number of affected airplanes. The use of the more conservative forecast did not alter the general results of the analysis with regard to the overall combined economic impact of the proposals, however, although the effects on the cost-effectiveness of the individual proposals differed.

Using the FAA production forecast, the total expected quantified benefits for the two proposals aimed at passenger energy absorbing seats and occupant restraints (benefits could not be quantified for the others) were estimated to be approximately $30.5 million on a discounted basis over a 20-year period, considerably higher than the expected associated costs, which were estimated at about $17.1 million. The use of the more conservative production forecast resulted in an estimate of about $4.3 million for the discounted benefits of these proposals and expected costs of about $4.0 million. Benefits could not be quantified for the other substantive proposals because of insufficient accident data.

One of the two proposals directed at passenger restraint, which would require a shoulder harness capable of satisfying a dynamic test at all seats in new type certificated Part 23 airplanes and is similar to an airworthiness standard recently adopted by the FAA. This adopted rule, which also imposes a shoulder harness requirement at all seats of airplanes manufactured after December 12, 1986, requires a shoulder harness to satisfy a static test. This recently adopted rule is broader than the shoulder harness proposal covered in this analysis because it applies to all small airplanes with a seating configuration of nine or less, excluding pilot seats, regardless of the date of type certification and type certification basis. The implementation of the adopted rule has the effect of minimizing any costs pertaining to shoulder harnesses that could be attributed to this proposal because a shoulder harness capable of passing a static test is not expected to require additional strength in order to pass the proposed dynamic test. The dynamic test is a more stringent one because the basic seat structure and its attachment to the cabin floor must be designed so as to afford greater passenger protection through energy-absorption, a requirement whose incremental costs have been attributed to a separate proposal covered by this notice and pertains only to seat strength.

The benefits of the shoulder harness proposal in this notice are not totally eliminated, however, because it would require that shoulder harnesses pass a dynamic test of the ability of seat systems as a whole to protect passengers, as noted above. In contrast, the recently adopted rule requires only a shoulder harness static test that less accurately represents the forces on passengers resulting from otherwise survivable airplane accidents. The full extent of those incremental benefits can not be quantified, however, because the benefits for the two proposals pertaining to seat systems are interdependent. The benefits estimated for the seat proposal were found to be directly proportional to the rate of shoulder harness usage. These benefits were estimated over a 20-year period, compared to the 10-year period used for estimating costs, in order to capture all of the benefits that could be attributed to seats installed near the end of the intitial 10-year period.

For the purpose of this analysis, the quantified benefits for the seat system improvements will be attributed solely to the proposal requiring energy-absorbing seats, recognizing that the shoulder harness proposal is likely to produce additional benefits that appear difficult, if not impossible, to quantify. The cost-effectiveness of the seat proposal (based on the FAA production forecast) was found to be contingent on the assumption that over 56 percent of the occupants would use shoulder harnesses. The required rate of shoulder harness usage increases to 93 percent

based on the more conservative forecast.

The benefits of the proposals pertaining to door and emergency exit requirements as well as cargo restraint could not be precisely quantified because of a lack of detail in the historical accident data although an expected range of benefits in terms of fatalities prevented was estimated. Accidents involving post-crash fires were regarded as being the most relevant for assessing the benefits because fatalities caused by this type of accident are more likely to have resulted from evacuation problems than impact forces. A "breakeven" analysis of the number of fatalities that would have to be prevented in order to offset the costs of these proposals ($1.6 million for cargo restraint requirements, $10.2 million for the door requirements and $17.1 million for the emergency exit requirements based on the FAA forecast) was performed to provide an indication of the expected relationship between the costs and benefits that were estimated for these proposals. This comparison revealed a strong probability that these proposals would prevent a substantially greater number of fatalities than would be required to offset their costs based on the most realistic assumptions regarding the effectiveness of the proposed requirements. More specifically, the benefits estimated for these proposals ranged from about 17 to 50 fatalities prevented on an annual basis based on an intermediate assumption pertaining to effectiveness, far in excess of the "breakeven point" of 5.5 fatalities prevented (See Table 1 and the Regulatory Evaluation). The "breakeven point" declines to only one fatality prevented when the more conservative production forecast is used.

TABLE 1.—FATALITIES EXPECTED TO BE PREVENTED BY DOOR AND EMERGENCY EXIT REQUIREMENTS UNDER VARIOUS ASSUMPTIONS [1]

Effectiveness of door emergency exit requirements in preventing fatalities	Number of fatalities in accidents involving post-crash fires attributable solely to egress problems		
	25 percent	50 percent	75 percent
25 percent	8	17	25
50 percent	17	33	60
75 percent	25	50	75

[1] The numbers in this table are based on an expected annual average of 1,133 fatalities derived from the FAA's Accident/Incident Data System.

Source: Office of Aviation Policy and Plans, FAA.

Trade Impact Analysis

The proposals in this notice would have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the U.S. In the U.S., foreign manufacturers would have to meet U.S. requirements, and thus they would gain no competitive advantage. In foreign countries, U.S. manufacturers would not be bound by Part 23 requirements and could therefore implement the proposal under study solely on the basis of competitive considerations.

Regulatory Flexibility Determination

The FAA has also determined that the proposed rule changes will not have a significant economic impact on a substantial number of small entities. The FAA's criteria for a small airplane manufacturer is one employing less than 75 employees, a substantial number is a number which is not less than 11 and which is more than one-third of the small entities subject to the proposed rules, and a significant impact is one having an annual cost of more than $14,256 per manufacturer.

A review of domestic general aviation manufacturing companies indicates that only six companies meet the size threshold of 75 employees or less. The proposed amendments to 14 CFR Part 23 will therefore not affect a substantial number of small entities.

Conclusion

For reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation that is not major under the provisions of Executive Order 12291, (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) in addition, I certify that under the criteria of the Regulatory Flexibility Act, this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Air transportation, Safety, Tires.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 23 of the Federal Aviation Regulations (14 CFR Part 23) as follows:

1-1. The authority citation for Part 23 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.45; 49 CFR 1.47.

1-2. By amending § 23.561 by removing paragraph (c); by revising paragraph (b); redesignating paragraphs (d) and (e) as paragraphs (c) and (d) respectively; and revising newly redesignated paragraphs (c) and (d), to read as follows:

§ 23.561 General.

* * * * *

(b) The structure must be designed to give each occupant every reasonable chance of escaping serious injury in a minor crash landing when—

(1) Proper use is made of seats, safety belts, and shoulder harnesses provided for in the design;

(2) The occupant experiences the ultimate dynamic forces resulting from the conditions prescribed in § 23.562; and

(3) Each item of mass that could injure an occupant, if it came loose, is restrained when subjected to the conditions prescribed in § 23.561(d).

(c) If it is not established that a turnover is unlikely during an emergency landing, the structure must be designed to protect the occupants in a complete turnover. The likelihood of a turnover may be shown by an analysis, assuming the following conditions:

(1) Maximum weight;

(2) Most forward center of gravity position;

(3) Longitudinal load factor of 9.0 g;

(4) Vertical load factor of 1.0 g;

(5) For airplanes with tricycle landing gear, the nose wheel strut failed with the nose contacting the ground; and

(6) For determining the loads to be applied after turnover and to the inverted airplane, an upward ultimate inertia load factor of 3.0 g and a coefficient of friction of 0.5 with the ground must be assumed.

(d) When this part requires consideration of the forces resulting from ultimate static load factors,

compliance with the following values must be shown:

ULTIMATE STATIC LOAD FACTORS

	Normal and utility categories	Acrobatic category	Items of mass within the occupiable cabin area—all categories
Upward	3.0 *g*	4.5 *g*	3.0 *g*
Forward	9.0 *g*	9.0 *g*	18.0 *g*
Sideward	1.5 *g*	1.5 *g*	4.5 *g*

Explanation

A number of changes to this section are necessary in light of proposed § 23.562, Emergency landing dynamic conditions. Section 23.561 is proposed for revision since proposed § 23.562 proposes the use of dynamic requirements and criteria for occupant protection. Dynamic requirements more accurately simulate emergency landing conditions and the timeframe in which the protection of occupants is intended.

The GASP originally recommended that items of mass within the cabin area be dynamically tested to the same conditions as recommended for seats and other seating devices. The FAA and GASP have subsequently examined this recommendation and have concluded that a substantial increase in the ultimate static load factors achieves the intent of the original GASP recommendation at a significant decrease in the certification cost to an applicant and achieves the increase in cabin safety and occupant protection intended by the GASP recommendation. The purpose of the GASP recommendation and the FAA proposal is to assure that the attachment of items of mass in the cabin are adequately restrained in three axes during the dynamic environment of an impact event. Unless adequately restrained, these items of mass might otherwise come loose, causing possible injury to the occupants being restrained in their seats by a safety belt and shoulder harness provided in the design.

Existing § 23.561(e) is proposed to be removed from the section because the proposed addition of § 23.562 significantly exceeds the current requirements. The dynamic requirements and criteria provide a realistic standard for occupant protection when "wheels up" landings are made with retractable gear airplanes.

The term "reasonably probable" in § 23.561(d), as related to airplane turnover, has been a source of ambiguity in the requirement because probability terms are not defined for this section. Proposed § 23.561(c) states the turnover requirement in objective terms, including the variables to be considered in making a determination by analysis whether or not a turnover of the airplane is likely during emergency landing conditions. In addition, a requirement similar to present § 23.561(d) has been in the airworthiness regulations dating back to the mid-1930s. At that time, and for some time later, virtually all airplanes were equipped with conventional landing gear with a tailwheel, a configuration prone to turnover. Since then, the tricycle configuration landing gear, which is inherently resistant to turnover during *normal* operations, became the most common type. Accordingly, it is asserted that airplanes with tricycle landing gear need not be evaluated for occupant protection during a turnover situation.

However, a review of FAA accident/incident data shows that tricycle-gear small airplanes do turn over during emergency landing conditions and during normal operations that include incidences of undershoot, overshoot, loss of directional control, etc. This data shows that turnovers occur with sufficient frequency that new type designs should continue to be investigated to determine if turnover is likely during such conditions.

Most low-wing, tricycle-gear airplanes certificated in the past have had some fuselage structure above the cabin which has provided some degree of occupant protection during a turnover. However, some new designs of this general configuration incorporates a sliding transparent canopy without any structure to provide occupant protection in a turnover accident.

The FAA accident/incident data reveal that the frequency of turnover of high-wing, tricycle gear small airplanes is much higher than low-wing, tricycle-gear airplanes, and no fatalities and few injuries have occurred. From this data it appears that the structural protection inherent in most high-wing configuration provides the needed protection to occupants during a turnover; however, all airplanes need to be evaluated to assure occupant protection is provided in the design.

Although § 23.561(b) as proposed, identifies new dynamic requirements, the table of values provided in current § 23.561(b)(2) is retained because these values are referenced in other sections of Part 23. Therefore, the contents of the table redesignated as ULTIMATE STATIC LOAD FACTORS are being retained in new § 23.561(d) with an additional set of values for items of mass within the occupiable cabin area to assure retention of such mass items during an impact event.

The FAA has carefully considered each of the conference proposals listed below together with the transcript of the related discussions which occurred during the conference. The FAA has concluded that the proposal for amendment of § 23.561, when adopted, would significantly improve the cabin safety and occupant protection of small airplanes. This proposal, supported by the FAA Crash Dynamics Engineering and Development Program and the GASP recommendations, meets the intent of other referenced proposals which would only have increased the static load factors.

Reference

Proposals 218, 219, 220, 221, 222, 223, and 518.

1–3. By adding a new § 23.562 to read as follows:

§ 23.562 Emergency landing dynamic conditions.

(a) The airplane must be designed as prescribed in this section to protect each occupant during an emergency landing when—

(1) Proper use is made of seats, safety belts and shoulder harnesses provided for in the design; and

(2) The occupant experiences the ultimate dynamic forces resulting from the conditions prescribed in this section.

(b) Each seat design, or other seating device for crew or passenger occupancy, must successfully complete dynamic tests with an occupant simulated by an anthropomorphic test dummy (ATD) defined by 49 CFR Part 572, Subpart B, or its equivalent, with a nominal weight of 170 pounds, in accordance with each of the following conditions:

(1) A change in velocity of not less than 31 feet per second when the seat, or other seating device, is pitched 60 degrees nose-up and zero-degrees yaw with respect to a level landing attitude of the airplane. For the airplane's first row of seats, peak deceleration must occur in not more than 0.05 seconds after impact and must reach a minimum of 19 *g*'s. For all other seats, or seating devices, peak deceleration must occur in not more than 0.06 seconds after impact and must reach a minimum of 15 *g*'s.

(2) A change in velocity of not less than 42 feet per second when the seat, or other seating device, is pitched zero degrees up and is yawed 10 degrees either right or left with respect to a straight-ahead, level landing attitude of the airplane, whichever would cause the greatest load on the upper torso restraint system. For the airplane's first row of seats, peak deceleration must occur in not more than 0.05 seconds

after impact and must reach a minimum of 26 g's. For all other seats, or seating devices, peak deceleration must occur in not more than 0.06 seconds after impact and must reach a minmum of 21 g's. In addition, the floor rails or attachment means used to attach the seating devices to the airframe structure must be loaded after the seating device is installed to obtain a misalignment with respect to each other by at least 10 degrees vertically; i.e., pitch out of parallel.

(3) In showing compliance with the requirements of paragraphs (b)(1) and (b)(2) of this section, if the shape of the input pulse deviates significantly from a symmetrical triangle, at least half of the impact velocity must be represented by the area under the deceleration versus time curve measured over the maximum time period to peak deceleration, as defined in paragraph (b)(1) and (b)(2) of this section.

(c) Compliance with all of the following requirements must be shown:

(1) The seating device system must retain the ATD in position in the airplane although the seating device components may experience deformation, elongation, displacement, or crushing intended as part of its design.

(2) The attachment between the seating device system and the airframe structure must remain intact, although the structure may have exceeded its limit load.

(3) The ATD's shoulder harness belt must remain on the ATD's shoulder during the impact.

(4) The safety belt must remain on the ATD's pelvis during the impact.

(5) The ATD's head either does not contact any portion of the cockpit or cabin, or if contact is made, the resultant deceleration at the center of gravity of the head may not exceed a Head Impact Criteria (HIC) of 1,000, as expressed by the equation—

$$HIC = \left\{ (t_2 - t_1) \left[\frac{1}{(t_2 - t_1)} \int_{t_1}^{t_2} a(t)\,dt \right]^{2.5} \right\}_{\text{Maximum}}$$

In the above equation, a is the resultant deceleration expressed as a multiple of g (the acceleration due to gravity) and the time duration $(t_2 - t_1)$ covers the time interval of the major head impact timeframe. Compliance with the HIC may be demonstrated by measuring the head impact during the conditions prescribed in paragraphs (b)(1) and (b)(2) of this section or by a separate showing of compliance with the Head Impact Criteria by tests or analysis procedures.

(6) In upper torso restraints having a single shoulder belt, the test load in that belt must not exceed 1,750 pounds. If dual shoulder belts are used for restraining the upper torso, the total belt test loads must not exceed 2,000 pounds.

(7) During the test, the compression load measured between the pelvis and the lumbar spine of the ATD must not exceed 1,500 pounds.

(d) An alternate approach that achieves an equivalent, or greater, level of occupant protection to that required by paragraph (c) of this section may be used if substantiated on a rational basis.

Explanation

This FAA proposal is based upon the GASP submittal to the Small Airplane Airworthiness Review and represents consideration of available information plus the consensus of the general aviation community together with state-of-the-art technology supported by FAA tests, NASA impact tests, and NTSB accident evaluations for the enhancement of cabin safety and occupant protection in small airplanes. The specific numbers for the dynamic test conditions are proposed from data obtained during the various small airplane "drop tests" conducted by the National Aeronautics and Space Administration (NASA), accident evaluation information obtained from the National Transportation Safety Board (NTSB), dynamic tests conducted by the FAA's Civil Aeromedical Institute (CAMI), and generally accepted human impact injury criteria for the head, upper torso, and pelvic area.

One concern expressed at the conference was why § 23.562(b)(1) was proposed to have the first row of seats have different and more stringent requirements than the remaining seats. In response to this concern, it is noted that, in general, the impact loads are less the farther aft an occupant is sitting in an airplane due to load attenuation by the airframe structure. Consequently, the closer to the point of impact, the more severe the loads are going to be, and this is the reason for the more stringent requirements proposed for the first row of seats. It should be noted that the velocity changes in the proposed requirements are the same regardless of seat position. This assures that all seats will be evaluated for the same level of kinetic energy dissipation. In addition, experience in examining accidents shows that the wing spar, especially in a low-wing airplane, is usually the stopping point of the major portion of structural crushing for survivable accidents. In all cases, for the first row of seats and the remaining seats, the change in velocity is the basic criteria plus the characteristic of the timeframe in which the velocity change occurs to obtain the peak deceleration. Full scale impact tests of general aviation airplanes conducted by NASA have validated these concepts.

Dynamic testing is considered necessary to assure that the cabin safety and occupant protection enhancements intended for incorporation into new designs perform their intended function in a dynamic environment. The testing of full-scale hardware, with occupants simulated by anthropomorphic test dummies (ATD), creates the most accurate simulation of actual emergency landing conditions. Other methods of simulating dynamic conditions may be used as design tools; however, the consistency of such methods must be validated before they are used for the final verification of a design.

The occupant weight of 170 pounds was selected for the dynamic tests of § 23.562 because it is considered a nominal weight of the persons flying in these airplanes. Higher weights are not being proposed because the higher weight would require more force to operate energy absorption devices, and that greater force would be more likely to cause serious injury to lighter occupants. For energy absorption design and dynamic testing, this nominal weight is considered the optimum choice. The 50th percentile male ATD, defined in 49 CFR Part 572, Subpart B, is cited because the specifications for this ATD are readily available to the public and the prescribed ATD is adequate for the proposed dynamic tests. In addition, the improved injury and fatality rates of the military, who have adopted

improved crash protection based on the 50th percentile ATD, offers some insight that the desired occupant protection is achieved by this selection.

The first test requirement in proposed § 23.562(b)(1) is set at 31 feet per second with the seat rotated back 60 degrees. The 31-feet-per-second velocity translates to a 27-feet-per-second downward vertical velocity for the seat and occupant (ATD). The intent of the proposal is to evaluate the seating device and to achieve a symmetrical triangular impact pulse of 19 *g* peak for 0.1 seconds. It is recognized that test facilities cannot, in all cases, generate a symmetrical triangular pulse because controlling the downward slope of the pulse can be very difficult. For this reason, the wording reflects a velocity change and a maximum time to reach the peak deceleration of 0.05 seconds. This allows the peak to occur between 0 to 0.05 seconds. This requirement will provide a level of uniformity to the test severity while allowing enough variation in the test pulse to accommodate a large number of existing test facilities. Also, some latitude is given for lengthening the pulse beyond the intended 0.1 seconds. The latitude for lengthening the pulse is necessary because some test facilities have a "bleed down" effect in which the stopping is not complete at 0.1 seconds. The test continues at low *g*'s for several 100th's of a second. This latitude in the proposal is not intended to permit tests which use odd-shaped pulses that do not adequately load the test article. The impact pulse should, as much as possible, always approach the shape of a symmetric triangular pulse. It is not the intent of this proposed rule to allow impact pulses which consist of a long period of low level deceleration with a very short duration pulse of high deceleration superimposed. The intent is to require dynamic conditions in which as much of the total kinetic energy change as possible occurs during a well defined impact pulse which complies with the minimum peak deceleration requirements. Although the symmetric triangular pulse is desired, it is recognized that testing facilities may be limited to pulse shapes closer to the shape of a right triangle, trapezoid, or half-sine. The pulse shapes are acceptable provided the requirements of paragraph (b)(3) are met.

The 60-degree orientation of the velocity vector of § 23.562(b)(1) is intended to create a predominantly vertical deceleration input to assess the spinal protection provided by the seat for an occupant. Seats behave differently when loaded straight down by the occupant and this is considered an unrealistic condition because seat belt loading would not occur. Thus, the test requires the forward component to simulate a realistic impact environment.

The impact pulse requirements of paragraph (b)(2) for the longitudinal test have the same format for the pulse shape requirement as discussed previously for the requirements of paragraph (b)(1). The velocity vector describes a forward impact, except the fuselage is yawed 10 degrees. The 10-degree yaw provides a test which assures that the seating device can withstand a reasonable side load during the prescribed dynamic conditions. Also, the yaw is an important factor for evaluating occupant protection and determining that the shoulder harness is free of rollout problems.

One of the major causes of seat separations is floor warpage. If the seating device cannot flex as the floor deforms during impact, high localized loads can be exerted on seat legs or attach points and cause structural failure of the seat. The floor warpage requirements of § 23.562(b)(2) provide an assessment of the ability of the seating device to function and maintain structural integrity after floor deformation has occurred during an impact event. After the installation of the seat on the test device, the seat should be preloaded by misalignment of the floor rails or other floor attachment means to achieve the deformation. If the seat is assembled in a deformed position and then mounted, a less severe test will result and the purpose of the dynamic test will not be met.

Performance standards of paragraph (c) are required because the purpose of dynamically testing seat designs is to evaluate the seat to achieve occupant protection.

The intent of paragraphs (c)(1) and (c)(2) is to allow permanent deformation and/or separation as long as those actions are a part of the intended energy absorption design when the seating device system is substantiated by dynamic tests.

The wording of paragraph (c)(3) is intended to prevent rollout. If the belt comes off the shoulder, it will normally slide down the upper arm and rib cage. This would be a severe case of rollout. Minor cases of rollout can occur even without the shoulder harness slippage, but no specific performance standards are being proposed since the evaluation of those minor cases would be too subjective. Also, significant injuries are not expected from minor rollout conditions.

The purpose of the requirement of (c)(4) is to ensure that the lap belt remains on the iliac crest of the pelvis. If the belt slips up or the pelvis rotates under the belt, the belt may be driven into the abdominal area causing possible serious injury from a condition known as occupant "submarining".

Even with good restraint systems, head contact with the instrument panel and other injurious objects is still possible. The FAA is proposing that, if contact with the cockpit or cabin could be made by the ATD head during the showing of compliance with the requirements of this section, that the Head Impact Criteria (HIC) not exceed 1,000. The HIC is proposed to be determined by measurements obtained from dynamic testing as stated in paragraph (c)(5).

Larger shoulder harness belt loads increase the possibility for injury in the shoulder, chest, or rib cage area of an occupant. The 1,750 and 2,000 pound loads of paragraph (c)(6) are proposed to limit these injuries while maintaining the safe level of restraint.

The compression load of paragraph (c)(7) is intended to limit the frequency of the vertebrae fracture by eliminating excessively stiff seat designs. A seat may be able to withstand high vertical loads, but serious injury could result if those loads were transferred directly into the occupant's vertebrae. When energy attenuation design concepts are used, spinal loads can be reduced, thus decreasing the risk of spinal injury.

The GASP proposal did not specify the equation stated in § 23.562(c)(5); however, use of this equation is necessary for stating the objective regulatory requirement. A HIC value of 1,000 has been recommended as the threshold above which serious injury is likely to occur. The head-strike velocity can be measured during the dynamic tests and then can be duplicated by swinging a head form into the contact structure or other injurious object for the seat location. The contact area may have to be padded or may be designed to yield, to keep the HIC below 1,000.

Manufacturers have the option to use alternate methods to achieve the desired level of occupant protection. For example, the lower fuselage or landing gear may be designed to crush in a manner which will limit the severity of the impact at the cabin floor. If the applicant desires to deviate from the test conditions of § 23.562(b), adequate test data and/or analyses of the fuselage structure is necessary to form a rational basis for a modified impact pulse. The proposed seat impact test requirements were developed with consideration for typical effects of existing airplane structural crushing.

Following is a discussion of the more significant concerns expressed during the conference regarding the GASP proposal and the responses made to those concerns at that time.

The GASP proposal, which was discussed at the conference, states that each design for the seat must successfully complete dynamic tests. It was asked whether the proposal excluded the use of an analysis for the showing of compliance with the requirements. It was the consensus at the conference, and the FAA agrees, that the GASP proposal should be revised to address this concern. Accordingly, the FAA proposal states that an applicant may depart from the dynamic conditions prescribed if the alternate approach proposed by the applicant achieves an equivalent, or greater, level of occupant protection as required, and the alternate is substantiated on a rationale basis. However, an opinion was expressed at the conference that there is not a sufficient data base at the present time to permit use of an analysis in lieu of dynamic testing to show compliance with the proposed requirements and the FAA concurs with this opinion. The FAA recognizes that considerable advancement is being made in the area of analysis to substantiate designs in lieu of dynamic testing and the language of § 23.562(d) is intended to provide flexibility when the state of analytical techniques evolves sufficiently for application in lieu of these dynamic tests.

Another concern expressed during the conference addressed the issue of rear-facing and side-facing seats. It was the consensus that if these seats could be designed to comply with all of the requirements, these seats should be approved and the FAA concurs with this position. When dynamic tests are conducted on seats which are not forward-facing, the seat alignment relative to the impact vector should be consistent with the expected orientation of the seat in the airplane and the conditions being proposed for forward-facing seats.

One attendee at the conference noted that no reference was made to other types of passenger accommodations, such as litters, and asked if it would be appropriate to discuss at this point during the deliberations. A representative of the GASP made reference to § 23.785 on the subject of seats, berths, or other devices for crew or passenger occupancy and concluded, at that time, that litters could be included under the dynamic test case.

The FAA has carefully considered the issue of dynamic testing of litters and has concluded that such dynamic testing is impractical because the ATD, referenced in 49 CFR Part 572, has a seated form which cannot be rotated at the hips. This ATD configuration cannot be made to simulate the horizontal position of an occupant on a litter and, therefore, cannot be used for dynamic testing. However, in proposed § 23.785 the FAA is proposing to increase the ultimate static load factors for the attachment provisions for litters within the cabin to assure these attachments have an increased structural capability to hold litters when installed.

Another issue raised at the conference concerned the reasoning behind proposing a 215-pound occupant load for the static portion of the GASP proposal and a 170-pound occupant for the dynamic test requirements. In response to this issue, it was stated that when a load-limiting seat is designed for a heavy person, a light person may receive excessive loads when occupying that seat. The largest benefit to society occurs when the protection means is optimized for the largest number of people. This occurs with the 170-pound occupant which is the 50-percentile male occupant. In addition, the 215-pound occupant is only being used for the static test of the seat to determine that it performs its intended function during its normal use in flight and ground operations of the airplane.

Also, the GASP proposal stated that the new requirements would apply to new airplanes with applications for type certification dated after December 31, 1985. It was assumed by the GASP that the new requirements would be adopted by that date. The FAA has determined that the new requirements will apply after the effective date of amendment, when adopted. No intention is made to make the requirements retroactive to the date proposed by GASP if the effective date of the amendment is after December 31, 1985.

Reference

Proposal 518.

1–4. By amending § 23.783 by adding new paragraphs (c), (d), and (e) to read aa follows:

§ 23.783 Doors.

* * * * *

(c) There must be a means to lock and safeguard each external passenger door against inadvertent opening in flight, either by persons or as a result of mechanical failure. Each external passenger door must be openable from the inside and from the outside when the internal locking means is in the locked position. The means of opening must be simple and obvious, and must be arranged and marked so that each passenger door can be readily located, unlocked, and opened in darkness. In addition, each external passenger door must meet the marking requirements of § 23.807(c).

(d) Each external passenger door must be reasonably free from jamming as a result of fuselage deformation in a minor crash or an emergency landing.

(e) For external doors forward of any engine or propeller, and all doors of the pressure vessel of pressurized airplanes, the following additional requirements apply:

(1) There must be a means to lock and safeguard each external door, including cargo and service type doors, against inadvertent opening in flight, either by persons or as a result of "mechanical failure or failure of a single structural element, either during or after closure.

(2) There must be a provision for direct visual inspection of the locking mechanism to determine if each external door, for which the initial opening movement is not inward, including cargo and service type doors, are fully closed and locked. The provision must be discernible under operating lighting conditions by a crewmember using a flashlight or an equivalent lighting source.

(3) There must be a visual warning means to signal a flight crewmember if any external door is not fully closed and locked. The means must be designed such that any failure or combination of failures that would result in an erroneous closed and locked indication is unlikely for doors for which the initial opening movement is not inward.

Explanation

A concern was expressed at the conference that Conference Proposal 281 addressed "each external door," in contrast to the current requirements which address passenger doors. The FAA has concluded that this proposal needs to be clarified to address external passenger doors since there is no need to require that cargo or similar doors be reasonably free from jamming as a result of fuselage deformation in a minor crash landing. Clarification is provided in proposed § 23.783(d). A similar requirement is proposed in § 23.807(b)(4) and applies to the emergency exits required for type certification.

There have been recorded accidents in which fatalities have resulted because persons attempting to rescue the airplane occupants were unable to open a door. Therefore, the FAA is proposing that each external door be openable from the outside, when the normal internal locking means is locked.

The FAA is acutely aware of the security problem that comes to mind from this aspect of the proposal and is of the opinion that the use of an auxiliary locking device may be used with a key external to the airplane to meet the objective, but such devices must be designed so as to be overridden by the normal internal opening means if the pilot fails to unlock the securing means prior to flight.

The requirements of proposed § 23.783(e) are necessary because Part 23 has no requirements specifically addressing the minimum standards necessary to assure the integrity of external doors in pressurized airplanes and similar requirements have already been adopted as special conditions for type certification of pressurized Part 23 airplanes. While the concern was expressed at the conference that the proposal should be simplified for clarity, the FAA has reexamined the proposal and concludes the proposal, as worded, states the requirements in the detail necessary to assure the integrity of all external doors in pressurized airplanes. In addition, to assure that external doors forward of any engine do not inadvertently open in flight and thereby allow the airplane cabin contents to be ingested into the engine or propeller, the proposed requirement applies to those doors also.

Reference

Proposals 281 and 282.

1–5. By revising § 23.785 to read as follows:

§ 23.785 Seats, berths, litters, safety belts, and shoulder harnesses.

(a) Each seat, safety belt, shoulder harnesses, and adjacent part of the airplane at each station designated for occupancy during takeoff and landing must be free of potentially injurious objects, sharp edges, protuberances, hard surfaces, and must be designed so that a person making proper use of these facilities will not suffer serious injury when subjected to the emergency landing dynamic conditions of § 23.562.

(b) Each seated occupant must be protected from serious head injury as defined in § 23.562(c)(5) by a shoulder harness that will prevent the head from contacting any injurious object when subjected to the emergency landing dynamic conditions of §§ 23.561 and 23.562.

(c) Each installed seat must have a combined safety belt and shoulder harness with a single-point release. The pilot's combined seat belt and shoulder harness must allow the pilot, when seated with the safety belt and shoulder harness fastened, to perform all functions necessary for flight operations. There must be a means to secure safety belts and shoulder harnesses, when not in use, to prevent interference with the operation of the airplane and with rapid egress in an emergency.

(d) Each pilot seat must be designed for the reactions resulting from the application of pilot forces to the primary flight controls as prescribed in § 23.395.

(e) Unless otherwise placarded, each seat in utility and acrobatic category airplanes must be designed to accommodate an occupant wearing a parachute.

(f) Each seat, other seating device, and its supporting structure must withstand the static loads imposed by a 215-pound occupant when subject to the airplane's design loads, as defined in the airplane's approved flight/ground envelope. In addition, these loads must be multiplied by a factor of 1.33 in determining the strength of all fittings and the attachment of—

(1) Each seat to the structure; and

(2) Each safety belt and shoulder harness to the seat or structure.

(g) For the purpose of this section and § 23.562, each seating device system includes the device, such as the seat, the cushions, the occupant safety belt and shoulder harness, and attachment devices.

(h) Each seating device may use design features, such as crushing or separation of certain parts of the seats in the design, to reduce occupant loads for compliance with the emergency landing dynamic conditions of § 23.562; otherwise, the system must remain intact.

(i) Each seat track must be fitted with stops to prevent the seat from sliding off the track.

(j) Each berth and provisions for litters installed parallel to the longitudinal axis of the airplane must be designed so that the forward part has a padded end-board, canvas diaphragm, or equivalent means that can withstand the load reaction of a 215-pound occupant when subjected to the ultimate static load factors applicable to items of mass within the occupiable cabin area as prescribed in § 23.561(d). For the purpose of this section, a litter is defined as a device designed to carry a nonambulatory person, primarily in a prone position, into and on the airplane. In addition—

(1) Each berth or litter must have an occupant restraint system and may not have corners or other parts likely to cause serious injury to a person occupying it during emergency landing conditions; and

(2) Occupant restraint system attachments for the berth or litter must withstand the ultimate static load factors as prescribed in § 23.561(d) for items of mass.

Explanation

The FAA is proposing a substantial revision of the current and new requirements for seats, berths, litters, safety belts, and shoulder harnesses. The revision is considered necessary to present the proposed requirements in a more logical sequence as a result of the new requirements being proposed by this rulemaking action. The new requirements are based to a large extent on the proposals submitted by the GASP to the Part 23 Airworthiness Review Program. The GASP proposals were based in large measure on FAA, NASA, and NTSB research studies and impact/accident analyses.

Proposed § 23.785(a) cites the articles to be considered in protecting seated occupants from injurious objects during takeoffs and landings when proper use is made of the seating and restraint facilities and when the occupant is subjected to the emergency landing dynamic conditions being proposed in new § 23.562. This part of the proposal includes some of the requirements from the current paragraph (j) with respect to cabin areas surrounding the seats when occupants may be subjected to the dynamic conditions proposed in new § 23.562, Emergency landing dynamic conditions.

Section 23.785(b) retains the requirements for a shoulder harness for the protection of each seated occupant as adopted by Amendment 23–32 (50 FR 46872; November 13, 1985) which revised § 23.785(g). In addition, the requirement is specific in citing head injury protection required by referencing the criteria proposed in § 23.562(c)(5) for head injuries.

Section 23.785(c) proposes to require a combined safety belt and shoulder harness with a single-point release. The single-point release proposal is considered necessary to effect rapid egress following an emergency landing and simplicty is necessary for this to be effective. The present requirements of § 23.785 (h) and (i) are integrated into the proposal in a logical manner, addressing each current requirement.

Section 23.785(d) is a redesignation of current § 23.785(c) without substantive change.

Section 23.785(e) is a redesignation of current § 23.785(d) without substantive change.

Section 23.785(f) is a proposed requirement to assure that the seats, and other seating devices, will withstand the loads normally encountered in routine

airplane operations. The requirement is considered necessary because these devices, when installed and evaluated for dynamic conditions only, may not function properly during normal airplane operations.

Section 23.785(g) defines the components which comprise the seating device system. This proposed definition is necessary to avoid the adverse consequences that may arise if the various components are not considered as a seating device system to function properly in the dynamic environment as proposed in § 23.562.

Section 23.785(h) proposes a seating device requirement that allows crushing or design induced separation. Otherwise, the system must remain intact.

Section 23.785(i) includes the requirement of current § 23.785(e) and requires each seat track to be fitted with a stop that prevents the seat from sliding off the track.

Section 23.785(j) provides requirements to protect the occupant of a berth or a litter that is installed parallel to the airplane's longitudinal axis.

The following is a discussion of some of the more significant concerns and opinions expressed during the Small Airplane Airworthiness Review conference.

One concern expressed at the conference was why the first row of seats had different, and more stringent, dynamic load test requirements than the remaining seats. In response to this concern, for any specific accident, the crash loads are generally less the farther aft an occupant is sitting in an airplane. Consequently, the closer the seat and occupant are to the point of impact, the more severe the loads are going to be on the seat and occupant. For this reason, more stringent test requirements are proposed for the first row of seats. Experience in examining accidents shows that the wing spar, especially in a low wing airplane, is usually the stopping point of the major portion of the structural crushing for survivable accidents. In all cases, for the first row of seats and the remaining seats, the change in velocity is the basic criteria plus the characteristic of the timeframe in which this velocity change occurs to obtain the peak deceleration.

The GASP conference proposal stated that each design for the seat must successfully complete dynamic tests and the question was asked if the proposal excluded the use of an analysis for the showing of compliance with the requirements. It was the consensus of the attendees at the conference, and the FAA agrees, that the GASP proposal should be revised to address this concern. Accordingly, proposed § 23.562(d) addresses the issue of a rational analysis based upon previously approved dynamically tested designs. However, an opinion was expressed at the conference that at the present time, there is not a sufficient data base to use an analysis in lieu of dynamic testing to show compliance with the proposed requirements and the FAA agrees with this opinion. However, considerable advancement is being made in the area of analysis to substantiate designs in lieu of dynamic tests.

Another concern expressed during the conference addressed the issue of rear-facing and side-facing seats. It was the consensus that if these seats could be designed to comply with all of the requirements that these seats should be approved and the FAA concurs with this position.

Another issue raised dealt with the reasoning behind proposing a 215-pound occupant load for the static portion of the GASP proposal and a 170-pound occupant for the dynamic test requirements. In response to this issue, it was stated that when a load-limiting seat is designed for a heavy person, a light person may receive excessive loads when occupying that seat. The largest benefit to society occurs when the protection means is optimized for the largest number of people. This occurs with the 170-pound occupant, which is the 50-percentile male occupant. In addition, the 215-pound occupant is only being used for a static test of the seat to determine that it performs its intended function during its normal use in flight and ground operations of the airplane.

Also, the GASP proposal stated that the new requirements would apply to new airplanes with applications for type certification, dated after December 31, 1985. It was assumed that the new requirements would be adopted by that date. The FAA wishes to make it clear that the new requirements will apply after the effective date of amendment, when adopted, and no intention is made to make the requirements retroactive if the effective date is after December 31, 1985.

The FAA has carefully considered each of the proposals cited in the reference below and the transcript of the discussions which occurred during the conference. The FAA has concluded that the proposal for amendment of § 23.785, when adopted, would significantly improve the cabin safety and occupant protection of designs of airplanes shown to comply with the new requirements.

Reference

Proposals 283, 284, 285, 285a, 286, 287, 518

1–6. By amending § 23.787 by revising paragraphs (c) and (e) to read as follows:

§ 23.787 Cargo compartments.

* * * * *

(c) Where the cargo compartment is located aft of occupants and separated from them by structure, there must be means to protect the occupants from injury by the contents of the cargo compartment when subjected to the ultimate normal and utility categories static load factors prescribed in § 23.561(d).

* * * * *

(e) Designs which provide for cargo to be carried in the same compartment with the occupants must have means to protect the occupants from injury when the cargo is subjected to the ultimate static load factors for items of mass within the occupiable cabin area as prescribed in § 23.561(d).

* * * * *

Explanation

Section 23.787(c) is proposed to be revised because, as presently stated, the required ultimate forward inertia force for cargo restraint is not adequate considering the current requirements of § 23.561. It was the consensus at the conference that cargo restraint should be at least to the ultimate inertia forces of § 23.561 to adequately protect occupants forward of the cargo. In addition, when designs provide for cargo to be carried in the same compartment with occupants, it is proposed that means be provided to restrain the cargo, at least to the loads resulting from the emergency landing dynamic conditions being proposed in § 23.562(b)(2). It is considered necessary to protect occupants from cargo being forced into their occupied area as a result of an emergency landing when they are otherwise being adequately protected from serious injury. The increased ultimate static load factors will achieve this objective.

Reference

Proposals 288, 289, 518, and 524.

1–7. By amending § 23.807 by revising paragraphs (a)(1) and (b) introductory text, redesignating paragraph (c) as (d), and adding a new paragraph (c) to read as follows:

§ 23.807 Emergency exits.

(a) * * *

(1) For all airplanes with a seating capacity of two or more, excluding

airplanes with canopies, at least one emergency exit on the opposite side of the cabin from the main door specified in § 23.783.

* * * * *

(b) *Type and operation.* Emergency exits must be movable windows, panels, canopies, or external doors, openable from both inside and outside of the airplane, that provide a clear and unobstructed opening of not less than 388 square inches with a minimum dimension in any direction of not less than 19 inches. Auxiliary locking devices used to secure the airplane must be designed so they may be overridden by the normal internal opening means. In addition, each emergency exit must—

* * * * *

(c) *External markings.* Each emergency exit and external door in the passenger compartment must be externally marked and readily identifiable from outside the airplane by—

(1) Any conspicuous visual identification scheme; and

(2) A permanent decal or placard on or adjacent to the emergency exit which shows the means of opening the emergency exit, including any special instructions, if applicable.

* * * * *

Explanation

There were nine proposals related to emergency exits submitted for consideration at the conference. These nine proposals address issues of number and location, type and operation, marking and identification of emergency exits, and demonstration of compliance with the current requirements of § 23.807(b)(5).

The issue of number and location was addressed by one proposal to require that for all airplanes with a seating capacity of two or more, excluding airplanes with canopies, have at least one emergency exit on the opposite side of the cabin from the main door specified in § 23.783. There have been egress difficulties experienced with center line engine airplanes with a seating capacity of two or more, excluding those airplanes with canopies, and no emergency exit or door opposite the main cabin door. In some cases, occupants have had to kick out windows to egress the airplanes after survivable accidents. A second proposal recommended one emergency exit adjacent to the pilot on the pilot's side of the airplane. The justification given for this second proposal was that, in the event of a crash or other emergency necessitating an emergency evacuation, that the pilot could get outside the airplane and open the doors for the occupants. A comment made regarding the second proposal was that there is no requirement specifying which side of the airplane is the pilot's side since many airplanes can be and are flown with equal ease from either side of the airplane. In further support of this second proposal, the proponent contended that Part 25 of the FAR has a provision that gives the pilot an exit on the side; i.e., a window that can be pushed out. It was noted by another attendee that the Part 25 requirement did not apply to airplanes with a seating capacity of 20 or less and further noted that current § 23.807(a)(3) requires that if the pilot compartment is separated from the cabin by a door that is likely to block the pilot's escape in a minor crash that there must be an exit in the pilot's compartment. The consensus at the conference was that § 23.807(a)(1) should be revised substantially as stated in the first proposal discussed above and that the current requirements adequately address the issue of the second proposal. The FAA agrees with the consensus expressed at the conference and § 23.807(a)(1) is proposed for revision substantially as submitted in the first conference proposal.

The second issue relating to type and operation was addressed in three proposals submitted for consideration at the conference. The first proposal recommended the use of an area of 388 square inches in place of the current requirement that a 19-inch by 26-inch ellipse be able to pass through the emergency exit opening generated considerable discussion. The proponent of the proposal stated that some emergency exits had been approved that did not meet the literal requirement of the 19-inch by 26-inch ellipse. In order to show an equivalent level of safety, emergency evacuation tests have been required. It was noted that in the configuration submitted for approval, the evacuees could egress as rapidly as through the required ellipse opening type of emergency exit. It was further noted by one attendee at the conference that Part 25 of the FAR permits a 19-inch by 20-inch opening as an emergency exit for the crew and that this exit area is somewhat less than the area of the 19-by 26-inch ellipse so there is precedence on the larger airplanes. The proposal stated that the most critical dimension, width or height, be not less than 19 inches. A question asked regarding the specific wording of the proposal was relative to the "critical" dimension; that is, is it the horizontal, vertical, or immaterial. It was the consensus at the conference that the word "critical" in the proposal should be changed to "minimum" to remove a subjective judgment as to which dimension is critical and it was believed that was the intent of the use of the word "critical" in the proposal. Evacuation tests have indicated the orientation of the minimum dimension is not a significant factor in egress demonstrations. One comment made regarding the proposal was that the present requirement has the advantage of being an exact starting point for emergency exit design and evaluation. Another proposal on the issue of opening recommended that emergency exits be openable from outside of the airplane. The proposal was based upon the concern that egress difficulties have been experienced in assisting occupants of airplanes involved in survivable accidents. In one documented case, a fatality occurred because the rescue personnel could not open the emergency exit from the outside and a fire developed precluding further rescue attempts. One attendee's company had encountered problems with the removable window type of exit in that, while the FAR doesn't require emergency exits be openable from the outside, some countries do have such a requirement. When the emergency exits are made openable from the outside of the airplane, the security of the airplane may become a problem. The attendees at the conference recognize a serious problem may exist and means to provide emergency egress and airplane security were offered during the discussions.

The third proposal addressed the use of canopies as an acceptable emergency exit. It was the consensus at the conference that canopies be included as acceptable emergency exits. Canopies of the sliding or hinged type have been used on some of the smaller two- and four-place airplanes. It was contended that the addition to the rules to include canopies would clarify that a canopy may be used as an emergency exit and is subject to the other applicable parts of the airworthiness standards of Part 23. The FAA has concluded that a proposal to amend § 23.807(b), substantially as recommended and discussed at the conference, should enhance the crashworthiness of Part 23 airplanes by permitting an opening area of 388 square inches for emergency exits and specifying a minimum dimension of 19 inches, thereby relieving an existing regulatory burden yet achieving the current objective. In addition, the recommendation to require emergency exits be openable from outside of the airplane is being proposed. The FAA is aware of the security problems that

externally openable emergency exits may create, but has concluded that the use of an auxiliary locking device may be used to secure the airplane. Such devices must be designed so as to be overridden by the normal internal opening means if the pilot fails to unlock the securing means prior to flight. The potential benefits to be derived from such a requirement warrant the proposal.

The third issue discussed concerned marking and identification of emergency exits. It was the consensus at the conference that any proposed rule for external marking and identification should be stated in objective terms in order to give an applicant as much latitude as possible to comply with the proposed requirement. The FAA agrees. Therefore, a new paragraph is being proposed to assure the objectives are met.

The fourth issue concerned demonstration of compliance with the current requirements of § 23.807(b)(5) which addresses bailing out of acrobatic category airplanes quickly at any speed between V_{SO} and V_D. The proponent states that it appears impracticable to demonstrate for all airplane attitudes and speeds that each occupant can bail out quickly with parachutes. It was the consensus at the conference and the FAA agrees that, as presently worded, the requirement may be taken that the demonstration of compliance must be at all speeds between V_{SO} and V_D. However, the rule has been applied by analyzing the most critical speed between V_{SO} and V_D and a determination made that occupants can bail out quickly. Therefore, the FAA has concluded that the requirement should not be revised and compliance shown by analyzing for the most critical speed between V_{SO} and V_D.

Reference

Proposals 290, 291, 292, 293, 294, 295, 296, 297, and 517.

Issued in Kansas City, Missouri, on November 28, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-27911 Filed 12-11-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft Advisory Circular; Dynamic Evaluation of Small Airplane Seating Device Systems; Request for Comments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed draft Advisory Circular (AC) and request for comments.

SUMMARY: This AC describes the FAA crash dynamics program for small airplanes and provides information and guidance concerning compliance with the proposed revisions to Part 23 of the Federal Aviation Regulations (FAR) applicable to dynamic testing of seating device systems. This is a companion document to Notice of Proposed Rulemaking (NPRM) for the Part 23 Airworthiness Review Program, Notice No. 1.

DATE: Commenters must identify File AC 23.562-1;

Subject: Dynamic Evaluation of Small Airplane Seating Device Systems, and comments must be received on or before June 12, 1987.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, ATTN: Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph W. Burress, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 374-6941, or FTS 758-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited

Interested parties are invited to submit comments on the proposed AC. The proposed AC and comments received may be inspected at the offices of the Standards Office (ACE-110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

The FAA has established a crash dynamics engineering and development program for small airplanes which has the goal of increasing occupant protection levels for survivable impact accidents. This program has been structured to develop the technical data base and technical procedures necessary to assess the dynamic impact environment and occupant survivability characteristics of general aviation airplanes. Representatives of the FAA, National Aeronautics and Space Administration (NASA), and private industry have provided technical input to this program. A panel representing a broad constituency from the general aviation community was formed for the purpose of recommending ways the FAA could improve general aviation safety. The group, known informally as the General Aviation Safety Panel (GASP) made several specific recommendations pertaining to crash dynamics to increase the crash tolerance of small airplanes. The FAA has developed proposed rule changes for dynamic testing of seats for Part 23 airplanes.

Issued in Kansas City, Missouri, on November 26, 1986.

Barry D. Clements,

Manager, Aircraft Certification Division.

[FR Doc. 86-27912 Filed 12-11-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Register

Friday
December 12, 1986

Part V

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Reports

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals; Cumulative Report

December 1, 1986.

This report is submitted in fulfillment of the rquirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of December 1, 1986, of 21 deferrals contained in the first special message of FY 1987. This message was transmitted to the Congress on September 26, 1986.

Rescissions (Table A and Attachment A)

As of December 1, 1986, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of December 1, 1986, $1,762.1 million in 1987 budget authority was being deferred from obligation and $5.7 in 1987 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1987.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below: Vol. 51, FR p. 35976, Tuesday, October 7, 1986.

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1987 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

****

TABLE B

STATUS OF 1987 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	1,835.6
Routine Executive releases through December 1, 1986 (OMB/Agency releases of $67.8 million and cumulative adjustments of $ 0 million)	-67.8
Overturned by the Congress	0
Currently before the Congress	1,767.8 a/

a/ This amount includes $5.7 million in outlays for a Department of the Treasury deferral (D87-21).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1987

As of December 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1987

As of December 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 12-1-86
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D87-1	95,000		9-26-86					95,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D87-2	111,202		9-26-86					111,202
Timber salvage sales	D87-3	29,731		9-26-86					29,731
Cooperative work	D87-4	526,938		9-26-86					526,938
Gifts, donations, and bequests for forest and rangeland research	D87-5	200		9-26-86					200
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D87-6	2,350		9-26-86					2,350
Family Housing									
Family housing, Defense	D87-7	76,943		9-26-86	65,143				11,800
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation	D87-8	1,065		9-26-86					1,065
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D87-9	165		9-26-86					165
Southwestern Power Administration, Operation and maintenance	D87-10	7,554		9-26-86					7,554

Attachment B - Status of Deferrals - Fiscal Year 1987

As of December 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 12-1-86
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health Scientific activities overseas (special foreign currency program).....	D87-11	2,900		9-26-86					2,900
Social Security Administration Limitation on administrative expenses (construction).....	D87-12	7,073		9-26-86					7,073
DEPARTMENT OF JUSTICE									
Office of Justice Programs Crime victims fund.....	D87-13	70,000		9-26-86					70,000
DEPARTMENT OF STATE									
Bureau for Refugee Programs United States emergency refugee and migration assistance fund, executive.....	D87-14	6,100		9-26-86					6,100
Other Assistance for implementation of a Contadora agreement.....	D87-15	2,000		9-26-86	2,000				0
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration Facilities and equipment (Airport and airway trust fund).....	D87-16	803,877		9-26-86					803,877
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing Local government fiscal assistance trust fund.....	D87-17	74,149		9-26-86					74,149
Local government fiscal assistance trust fund.....	D87-21	5,981		9-26-86	257				5,724
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine Salaries and expenses.....	D87-18	100		9-26-86					100
Office of the Federal Inspector for the Alaska Natural Gas Transportation System, Salaries and expenses.....	D87-19	411		9-26-86	411				0
Pennsylvania Avenue Development Corporation Land acquisition and development fund.....	D87-20	11,873		9-26-86					11,873
TOTAL, DEFERRALS.....		1,835,613	0		67,811	0		0	1,767,802

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D87-21) of outlays only.

[FR Doc. 86-27990 Filed 12-11-86; 8:45 am]
BILLING CODE 3110-01-C

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LIST OF PUBLIC LAWS

Note: The listing of public laws enacted during the second session of the 99th Congress has been completed.

Last listing: November 20, 1986.

The listing will be resumed when bills are enacted into public law during the first session of the 100th Congress which convenes on January 6, 1987.