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Monday
August 18, 1986

Briefings on How to Use the Federal Register—
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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: September 25; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Doris Tucker 202-523-3419

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Presidential Documents

Title 3—

The President

Memorandum of August 14, 1986

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

To our mutual benefit, the Governments of the United States and the Republic of Korea (Korea) have reached an agreement resolving the investigation initiated under Section 302(c) of the Trade Act of 1974, as amended (19 U.S.C. 2412(c)), of Korea's prior prohibitions and restrictions on access to its insurance market. This agreement represents the constructive benefits of cooperation between our Governments. Therefore, pursuant to Section 301 of the Trade Act, I have determined to accept the agreement described below as an appropriate and feasible action to resolve this investigation and therefore to terminate the investigation. I direct the United States Trade Representative (USTR) to notify the Government of Korea of my approval of the agreement and to take any actions necessary to implement and monitor it.

Reasons for Determination

On September 16, 1985, in response to my request, the USTR initiated an investigation pursuant to Section 302(c) of the Trade Act of 1974 into the Korean Government's policy of prohibiting or restricting the activities in Korea of foreign insurance firms. These restrictions prevented U.S. firms from participating fully in Korea's compulsory fire insurance, life insurance, and reinsurance markets. Pursuant to Section 301 of the Trade Act of 1974, I have determined that these restrictions were unjustifiable, unreasonable, or discriminatory and a burden or restriction on U.S. commerce.

Representatives of the Governments of Korea and the United States held a series of consultations from November 1985 through May 1986 concerning access to the Korean insurance market. As a result of these consultations, we reached an agreement regarding actions that Korea will take to improve our firms' access to its insurance market. Korea has agreed to license qualified U.S. insurance firms to underwrite both life and non-life insurance in Korea. Furthermore, Korean insurance authorities will review all applications in a timely manner and provide written notice of their decisions on the qualifications of U.S. firms. A consultative mechanism will ensure discussion of matters relating to implementation of this agreement and other issues related to the Korean insurance market. This agreement accomplishes our goal of obtaining increased access for U.S. firms to Korea's insurance market.

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

Ronald Reagan

THE WHITE HOUSE,
Washington, August 14, 1986.

[FR Doc. 86-18689
Filed 8-14-86; 4:46 pm]
Billing code 3195-01-M

Presidential Documents

Memorandum of August 14, 1986

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

To our mutual benefit, the Governments of the United States and the Republic of Korea (Korea) have reached an agreement resolving the investigation initiated under Section 302(c) of the Trade Act of 1974, as amended (19 U.S.C. 2412(c)), of Korea's previously ineffective protection of intellectual property rights. The sustained, cooperative efforts of both our Governments and the successful outcome of these efforts demonstrate how we can work together constructively to achieve a more open world trading system. Therefore, pursuant to Section 301 of the Trade Act, I have determined to accept the agreement described below as an appropriate and feasible action to resolve this investigation and therefore to terminate the investigation. I direct the United States Trade Representative (USTR) to notify the Government of Korea of my approval of the agreement and to take any actions necessary to implement and monitor it.

Reasons for Determination

On November 4, 1985, in response to my request, the USTR initiated an investigation into the adequacy of Korean laws governing the protection of intellectual property rights. Korean laws deny patent protection for pharmaceutical and agricultural chemical products and do not provide copyright protection for computer software and audio recordings. Under Korean trademark law, Korean firms have been permitted to register trademarks similar or even identical to foreign trademarks that are not "well known" in Korea. Moreover, there has been a lack of effective enforcement of existing laws pertaining to copyright protection for literary works. Pursuant to Section 301 of the Trade Act of 1974, as amended, I have determined that the prior policy of Korea of denying effective protection to intellectual property rights was unreasonable and a burden or restriction on U.S. commerce.

Representatives of the Governments of Korea and the United States intensively negotiated concerning amendments to existing Korean laws and improved enforcement by the Government of Korea of existing laws. As a result of these negotiations, we reached an agreement regarding actions the Korean Government will take to improve dramatically Korea's protection of copyright, patent, and trademark rights. Korea has agreed to take the following actions:

—introduce for enactment by July 1, 1987, comprehensive copyright laws explicitly covering computer software;

—accede to the Universal Copyright Convention and Geneva Phonograms Convention by October 1987;

—introduce amendments to its patent law to extend product patent protection for chemicals and pharmaceuticals and for new uses of these products;

—adhere to the Budapest Treaty and extend patent protection to new microorganisms; and

—remove requirements for technology inducement and exportation previously applied to trademarked goods and to remove restrictions on royalty terms in trademark licenses.

Korea and the United States have also agreed to establish a consultative mechanism to discuss matters relating to implementation of this agreement and other issues related to protection of intellectual property.

This agreement represents a major achievement in our efforts to obtyain effective intellectual property protection for American industries. Thus, this agreement will encourage freer trade with the Republic of Korea and remove trade distortions.

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

Ronald Reagan

THE WHITE HOUSE,
Washington, August 14, 1986.

[FR Doc. 86-18690
Filed 8-14-86; 4:47 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 926 and 944

Tokay Grapes Grown in San Joaquin County, and Imported Tokay Grapes; Handling Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule and opportunity to file comments.

SUMMARY: This rule establishes quality requirements for the current season and for succeeding seasons as well, for fresh shipments of Tokay grapes grown in San Joaquin County, California, and Tokay grapes imported into the United States. Such grapes are required to meet the minimum grade and size requirements for U.S. No. 1 Table grade, with an additional color requirement for the berries on the lower portion of the bunch. California Tokay grapes are also subject to container lot marketing requirements. These requirements are needed to assure the shipment and importation of ample supplies of acceptable quality Tokay grapes.

DATES: § 926.324 California Tokay Grape Regulation 23 becomes effective August 14, 1986, and § 944.605 Tokay Grape Regulation 5 becomes effective August 21, 1986. Comments which are received by September 17, 1986, will be considered prior to issuance of the final rule.

ADDRESSES: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085–S, U.S Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

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 interim final rule has been revised 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 actions to the scale of business subject to such actions in order that small businesses will not be unduly 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 own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 14 handlers of California Tokay grapes under the marketing order for fresh Tokay grapes grown in San Joaquin County, California, will be subject to regulation during the course of the current season and that the great majority of these firms may be classified as small entities. There are no importers of record of Tokay grapes. Regulations issued under this rulemaking have been in effect for several past seasons and have resulted in shipments into fresh markets of quality fruit, the creation of buyer confidence, and the promotion of consumer satisfaction with purphases of fresh Tokay grapes, with attendant benefits to handlers.

The handling requirements applicable to Tokay grapes grown in San Joaquin County, California (California Tokay grapes) are issued under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of fresh Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The California Tokay grape regulation is based upon the recommendations and information submitted by the Industry Committee, established under the order, and upon other available information.

The handling requirements applicable to imported Tokay grapes are issued under section 8e (7 U.S.C. 608e–1) of the act. Section 8e of the act requires that when certain domestically produced commodities, including table grapes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements. This rule would establish effective August 21 this season, and August 16, each following season, the same import requirements for imported Tokay grapes, as those being established for California Tokay grapes.

The interim final rule establishes for California and imported Tokay grapes the minimum grade and size requirements specified in the U.S. No. 1 Table grade of the U.S. Standards for Grades of Table Grapes (European or Vinifera type), except that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. The rule also requires that each container of California Tokay grapes bear a Federal-State Inspection Service lot stamp number in plain letters and figures on one outside end. The minimum grade and container marking requirements for grapes are necessary to prevent the shipment of immature, poor quality, and excessively small fruit in fresh commercial marketing outlets. Shipment of low quality fruit would tend to depress prices of all grapes since low quality fruit undermines consumer confidence in the quality of all fruit sold in the market and discourages repeat purchases. The specified grade requirements are consistent with the quality and size composition of the available crop and are designed to provide ample supplies of good quality fruit consistent with the declared policy of the act. California Tokay grapes not meeting these requirements may be sold in local markets within San Joaquin County, or in the processing outlet where a major portion of the crop is utilized.

Handling requirements contained in this interim final rule will continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by

the Secretary, upon the recommendation and information submitted by the committee, or upon other information available to the Secretary. Heretofore, regulations issued under Marketing Order 926 were effective for a single marketing season. However, over the past several years the same handling requirements have been imposed each season without revision. Last year's requirements were published in the **Federal Register** at 50 FR 32554 (August 13, 1985). It is expected that the quality and handling requirements will continue unchanged from season to season. Therefore, it is believed unnecessary to issue regulations for only a single season. In addition, this change could result in a reduction in operational costs to the committee and the government.

Although the handling regulations will be effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of Tokay grapes would tend to effectuate the declared policy of the act.

Pursuant to 5 U.S.C. 553, it is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and to engage in public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication thereof in the **Federal Register** because: (1) Shipments of Tokay grapes grown in the production area will begin on or about August 13; (2) California Tokay grape handlers have been apprised of these requirements and no additional time is needed to prepare to meet such requirements; (3) the Tokay grape import requirements are mandatory under § 8e of the act; and (4) the import regulation imposes the same quality requirements as are being made applicable to shipments of Tokay grapes grown in San Joaquin County, California, under § 926.324.

List of Subjects in 7 CFR Parts 926 and 944

Marketing agreements and orders, Grapes, California, Fruits, Import regulations.

1. The authority citation for 7 CFR Parts 926 and 944 continues to read as follows:

Authority: Secs. 1.19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

2. New § 926.324 and is added to read as follows:

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

§ 926.324 California Tokay Grape Regulation 23.

(a) During the period August 14 through November 15, 1986, and during the period August 12 through November 15 of each year thereafter, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table grade, and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definitions.* "U.S. No. 1 Table grade" and "characteristic color" shall mean the same as in the United States Standards for Grades of Table Grapes (European or Vinifera type) (7 CFR 51.880 – 51.912).

PART 944—FRUITS: IMPORT REGULATIONS

3. New § 944.605 is added to read as follows:

§ 944.605 Tokay Grape Import Regulation 5.

(a) *Applicability to imports.* Pursuant to section 8e of the act and Part 944–Fruits; Import Regulations, during the period August 21 through November 15, 1986, and during the period August 16 through November 15 of each year thereafter, the importation into the United States of Tokay variety grapes is prohibited unless such grapes meet the grade and size specifications of U.S. No. 1 Table Grade, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera type) (7 CFR 51.880–51.912), and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are atrtached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color.

(b) The Federal of Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, and quality of Tokay grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of Tokay grapes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements may be reconditioned or exported. Any failed lot which is not exported shall be disposed of under the supervision of the Federal of Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) *Minimum quantity exemption.* Any person may import up to 250 pounds of grapes in any one shipment exempt from the requirements of this section.

(f) It is determined that imports of Tokay grapes, during the effective time of this regulation, are in most direct competition with Tokay grapes grown in the San Joaquin County of California, under 7 CFR Part 926, and that the grade, size and quality requirements specified in this section shall be the same as those established under § 926.324 for California Tokay grapes.

Dated: August 13, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–18636 Filed 8–14–86; 12:08 pm]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1900

Farmers Home Administration Appeal Procedure

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding appeal procedures. This action is being taken to provide appellants with clear instructions on how to request a review of an adverse decision made by FmHA. The intended effect is to clarify instructions and improve the timeliness of Agency reviews of appeals.

EFFECTIVE DATE: August 18, 1986.

FOR FURTHER INFORMATION CONTACT: David J. Villano, Senior Realty Specialist, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, South Agriculture Building, Room 5309, 14th and Independence Avenue SW., Washington, DC 20250, telephone: (202) 382-1452.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined to exempt from those requirements as it involves only internal Agency management.

The programs affected by this final rule are listed in the Catalog of Federal Domestic Assistance under:

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10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
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10.422 Business and Industrial Loans
10.423 Community Facilities Loans
10.427 Rural Rental Assistance Payments

For the reasons set forth in the Final Rule related Notice(s) to 7 CFR, Subpart V, catalog numbers 10.405, 10.411, 10.414, 10.415, 10.418, 10.419, 10.421, 10422, 10.423 and 10.427 are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. Catalog numbers 10.404, 10.406, 10.407, 10.410, 10.416 and 10.417 are excluded from Executive Order 12372 by virtue of the aforementioned CFR reference.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-90, an Environmental Impact Statement is not required.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rule making since they involve Agency procedure, and publication for comments is unnecessary.

Current FmHA regulations [7 CFR Part 1900, § 1900.57(i)] provide appellants with their rights to request a review of an adverse decision subsequent to an appeal hearing. These rights currently contain the name and full mailing address of the review officer. Later on in the review rights, appellants are requested to submit their request for a review through the office of the hearing officer. Unfortunately, the majority of requests for review are sent directly to the review officer. This practice causes delays in the timely review of appeals since the request for the review is sent to one location and the case file with related materials is located in another FmHA office. This is especially evident in reviews conducted in Washington, DC.

FmHA amends Subpart B of Part 1900 by clarifying where appellants should submit their requests for review of an adverse FmHA decision.

List of Subjects in 7 CFR Part 1900

Appeals, Credit, Loan programs—Housing and community development.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1900—GENERAL

1. The authority citation for Part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart B—Farmers Home Administration Appeal Procedure

2. Section 1900.57 is amended by redesignating paragraph (j) as paragraph (k), revising the statement at the end of paragraph (i), and adding a new paragraph (j) to read as follows:

§ 1900.57 The hearing.

* * * * *

(i) * * *

If you wish to have the above decision further reviewed, you may appeal in writing to [review officer/town (do not provide mailing address)] within 30 calendar days from the date of this letter explaining why you believe the decision is incorrect. Your request for a review should be submitted to the review officer at the following address: *

_____

_____

_____

[*Insert address of office where case file will be located after the decision letter is remitted.]

Since this review will be based upon the record, including papers filed, FmHA files, notes or transcripts of the appeal meeting, my decision, applicable statutes and regulations, and any *additional written* information you wish to submit, you should include any additional information you think is important, including any changes you believe should be made on the attached hearing notes.

(j) Upon receipt of a request for a review, the case file and all applicable information will be *immediately* remitted *directly* to the review officer.

* * * * *

Dated: August 4, 1986.

Vance L. Clark,

Administrator.

[FR Doc. 86-18552 Filed 8-15-86; 8:45 am]

BILLING CODE 3410-07-M

Packers and Stockyards Administration

9 CFR Part 205

Clear Title—Protection for Purchasers of Farm Products

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Final regulations.

SUMMARY: This refers to the establishment of statewide central filing systems, for "effective financing statements," for "farm products," as defined in section 1324 of the Food Security Act of 1985 (hereinafter "the Statute").

Interim final regulations were previously published without the usual notice and opportunity for comment, because the Statute provided a 90-day time limit for them. These modifications to those regulations are issued pursuant to numerous requests, after publication of notice and opportunity for comment.

The principal modifications relate to the counties or parishes by which a master list must be arranged, the format and medium of distribution of portions of the master list to registrants, and the categories of farm products by which a master list must be organized.

EFFECTIVE DATE: September 17, 1986.

FOR FURTHER INFORMATION CONTACT:

James L. Smith, Deputy Administrator, Packers and Stockyards Administration, 3039A South Building, USDA, Washington, DC 20250, 202/447-7063.

John J. Casey, Packers and Stockyards Division, Office of the General Counsel, 2446 South Building, USDA, Washington, DC 20250-1400, 202/447-7357.

SUPPLEMENTARY INFORMATION: Section 1324 of the Food Security Act of 1985, Pub. L. 99-198, headed "Protection for Purchasers of Farm Products" (hereinafter "the Statute"), provides (subsections (e) and (g)) that certain persons may be made subject to a security interest in a farm product created by the seller under certain circumstances including the existence of a statewide "central filing system" as defined, for an "effective financing statement" (hereinafter EFS) as defined.

Subsection (c)(2) of the Statute requires such a system to obtain certification from the Secretary of Agriculture, and requires the Secretary to certify such a system if it complies with the requirements of the Statute.

Subsection (i) of the Statute requires the Secretary to prescribe regulations "to aid States in the implementation and management of a central filing system." The Packers and Stockyards Administration (P&SA) was delegated the Secretary's responsibilities under the Statute.

Interim final regulations were published on March 31, 1986, 51 FR 10795. The usual notice of proposed rulemaking and opportunity for comment were omitted only because the Statute provided a 90-day time limit for the regulations. However, as stated in the document issuing the interim regulations, requests to modify them were considered.

In response to numerous comments on and requests to modify the interim regulations, a notice of proposed amendments thereto was published on June 23, 51 FR 22814. That notice allowed 30 days for comments on the modifications proposed therein.

Section 205.1 (definitions): One person suggested that there be a definition of the term "buy" or "purchase" in accord with UCC § 1-201(9), to clarify that the Statute would not apply to transfers in bulk or sales in satisfaction of antecedent debts, and that subsequent lenders would not be considered "buyers." That UCC section contains a definition of the phrase "Buyer in ordinary course of business" and specifies: " 'Buying' may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt." Subsection (c)(1) of the Statute contains a definition of the same phrase, which is different and does not contain the UCC language. The legislative history does not show what if anything was intended by this difference, but the phrase must have been intended to have a different meaning since a different definition was written.

Section 205.102(b) (referring to how a corporate name shall appear in a system): One person observed that a punctuation mark at the beginning of a name can cause difficulties in locating the name alphabetically or phonetically. That section is modified accordingly.

Sections 205.103 (on the EFS) and 205.205 (on fees): One person suggested clarification as to whether one EFS can list multiple products and multiple counties and, if so, whether multiple fees could be collected for it. He observed that such an EFS would substantially increase the probability of errors in indexing. The Statute is silent about this, leaving it discretionary with the State. Section 205.103 is amended to clarify this. Section 205.205 already recites that fee structure is discretionary with the State.

Section 205.104 (minimum information necessary on a registration of a buyer, commission merchant, or selling agent): One person suggested that a registrant be required to indicate the form for distribution of portions of the master list. As shown in § 205.105(b), unless a registrant requests another form, the Statute requires recording on paper by any technology in a form which can be read by humans without special equipment.

Section 205.105(a) (referring to format of the master list and portion thereof distributed to a registrant): One person observed that arrangement by crop year is unnecessary and costly. Arrangement by crop year is required by the Statute at subsection (c)(2)(C)(ii)(IV).

Section 205.202(a) (which recites that the EFS *need not* be the same as a financing statement or security agreement under the UCC): One person suggested clarification as to whether the EFS *could* be the same as one of these UCC documents. The Statute does not prohibit this, but it may not be feasible as a practical matter.

With regard to fee structure, it was proposed that it must be a consideration in review for certification since it was intended to be fair as to different industry segments. On further consideration, it has been concluded that the Statute does not give the Secretary any authority with respect to fees. Accordingly, the above-mentioned proposed language will not be added to § 205.205.

One person requested clarification as to the length of time for which registration of a buyer, etc. is effective, and whether a registrant, wishing to change registration as to county or product, can amend an existing registration or must file a new one. This is discretionary with the State, since the Statute is silent about it. Section 205.208 is amended to clarify this.

One person objected to the provision in § 205.209(d) that a continuation of an EFS is subject to the same requirement as an amendment. He noted that, under the UCC, the requirements for continuation statements are different from those for amendments of financing statements. The Statute does not specify different requirements with respect to EFS's. Thus § 205.209(d) is changed only by addition to it of the statement of reasoning set forth in the proposed amendments published on June 23.

One person suggested further clarification of the requirements in subsection (c)(4)(D)(iv) and (E) of the Statute, that the EFS contain "a description of the farm products * * * including the amount * * * and a reasonable description of the property," and that it be amended "to reflect material changes." The Statute and the legislative history do not contain any basis for more clarification than already appears in §§ 205.103(a)(3), 205.104(a)(3), 205.105(a), 205.207, and 205.209(a).

One person complained that the Statute "has no provision for terminating or purging the system of outdated or non-existent EFS's." Subsection (c)(4)(G) provides for "lapse" of the EFS. There is nothing to prevent purging the system of lapsed EFS's.

One person requested clarification of the effect if a State has a central filing system which does not comply with the

Statute. If a State does not not comply with the Statute, it would be considered not to have such a system.

One person suggested that States be given an additional year to establish central filing systems before the "clear title" provision becomes effective. That could be done only by amendment of the Statute.

One person suggested that certification of a system be automatic if the Department cannot review an application and notify a State of noncompliance within 30 days. Automatic certification would be worthless. The Statute specifies requirements for a system and, if a system is not in compliance with the Statute, a court could so hold, and invalidate the protection of a secured person filing in the system, notwithstanding the Department certification. See § 205.214. The Department has committed itself to prompt review and action on applications for certification. Naturally, if numerous States make submissions at the same time, or if the material submitted is organized in such a manner as to require excessive time to review, action will not be as prompt. Sacrificing competent review for the sake of expediency is not necessarily in the interest of the operators or the users of the system.

There were no other written comments received on the proposed amendments.

In addition to the changes proposed, other minor changes, consistent with what was proposed, have been made.

Executive Order

Regulatory impact analyses are not required for these regulations because it has been determined that they are not "major" rules as defined by section 1(b) of E.O. 12291. They will not have an annual effect on the economy of $100 million or more, and they will not result in major increases in costs or prices for consumers, individual industries, government agencies or geographic regions. They will not have 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.

Regulatory Flexibility Act

It has been determined that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980 (44 U.S.C. 250)

The information collection requirements have been approved by the Office of Management and Budget under control No. 1590-0004.

List of Subjects in 9 CFR Part 205

Agriculture, Central filing system, Definitions, Certifications, Interpretive Opinions.

Dated: August 12, 1986.

B.H. Jones,

Administrator, Packers and Stockyards Administration.

Title 9 CFR, Part 205 is revised to read as set forth below.

PART 205—CLEAR TITLE—PROTECTION FOR PURCHASERS OF FARM PRODUCTS

Definitions

Sec.

205.1 Definitions.

Regulations

205.101 Certification—request and processing.
205.102 Name of person subjecting a farm product to a security interest, on EFS and master list—format.
205.103 EFS—minimum information.
205.104 Registration of buyer, commission merchant, or selling agent—minimum information.
205.105 Master list and portion thereof distributed to registrants—format.
205.106 Farm products.
205.107 Crop year.

Interpretive Opinions

205.201 System operator.
205.202 "Effective financing statement" or EFS.
205.203 Place of filing EFS.
205.204 Filing "notice" of EFS.
205.205 Fees.
205.206 Farm products.
205.207 "Amount" and "reasonable description of the property."
205.208 Distribution of portions of master list—registration—information to non-registrants on request.
205.209 Amendment or continuation of EFS.
205.210 Effect of EFS outside State in which filed.
205.211 Applicability of court decisions under the UCC.
205.212 "Buyer in ordinary course of business" and "security interest."
205.213 Obligations subject—"person indebted"—"debtor."
205.214 Litigation as to whether a system is operating in compliance with the Section.

Authority: Sec. 1324(i), Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631; 7 CFR 2.17(e)(3), 2.56(a)(3), as amended June 17, 1986, 51 FR 22795.

Definitions

§ 205.1 Definitions.

Terms defined in section 1324 of the Food Security Act of 1985, Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631, shall mean the same in this Part as therein. In addition, except as otherwise specified, as used in this Part:

(a) "The Secretary" means the Secretary of Agriculture of the United States;

(b) "The Section" means section 1324 of the above-cited Act, and "subsection" means a subsection of that Section;

(c) "System" means "central filing system" as defined in subsection (c)(2);

(d) "EFS" means "effective financing statement" as defined in subsection (c)(4);

(e) "System operator" means Secretary of State or other person designated by a State to operate a system;

(f) "Registrant" means any buyer of farm products, commission merchant, or selling agent, as referred-to in the Section, registered with a system under subsection (c)(2)(D);

(g) "Master list" means the accumulation of data in paper, electronic, or other form, described in subsection (c)(2)(C);

(h) "Portion" means portion of the master list distributed to registrants under subsection (c)(2)(E);

(i) "UCC" or "Uniform Commercial Code" means the Uniform Commercial Code prepared under the joint sponsorship of the American Law Institute and the National Conference of Commissioners on Uniform State Laws, and in effect in most States of the United States at the time of enactment of Pub. L. 99-198.

Regulations

§ 205.101 Certification—request and processing.

(a) To obtain certification of a system, a written request for certification must be filed together with such documents as show that the system complies with the Section. If such material is voluminous, a summary, table of contents, and index must accompany it as necessary to facilitate review.

(b) The request must:

(1) Include an introductory explanation of how the system will operate;

(2) Identify the information which will be required to be supplied on an EFS;

(3) Identify where an EFS, amendment thereto, or continuation thereof, will be filed and, if elsewhere than with the system operator, explain how and in what form the system operator will

receive information needed to compile and update the master list;

(4) Explain the method for recording the date and hour of filing of an EFS, amendment thereto, or continuation thereof;

(5) Explain how the master list will be compiled, including the method and form of storage and arrangement of information, explain the method and form of retrieval of information from the master list, the method and form of distribution of portions of the master list to registrants as required by subsection (c)(2)(E), and the method and form of furnishing of information orally with written confirmation as required by subsection (c)(2)(F) (details of computer hardware and software need not be furnished but the results it will produce must be explained);

(6) Explain how the list of registrants will be compiled, including identification of where and how they will register, what information they must supply in connection with registration, and the method and form of storage and retrieval of such information (details of computer hardware and software need not be furnished but the results it will produce must be explained);

(7) Show how frequently portions of the master list will be distributed regularly to registrants;

(8) Show the farm products according to which the master list will be organized;

(9) Show how the system will interpret the term "crop year" and how it will classify as to crop year an EFS not showing crop year;

(10) Show what fee will be charged and explain how the costs of the system will be covered if not by such fee and the general revenue of the State; and

(11) Include copies of:

(i) All State legislation or other legal authority under which the system is created and operated, and the system operator is designated;

(ii) All regulations, rules and requirements issued under such legislation or other legal authority and governing operation of the system, designation of the system operator, and use of the system by members of the public; and

(iii) All printed forms required to be used in connection with the system.

(c) Any such request and attachments must be filed in triplicate (one copy for public inspection, a second copy for use in P&SA, and a third copy for use in the Office of the General Counsel, USDA). All three copies must be received in the headquarters of the Packers and Stockyards Administration, USDA, Washington, DC 20250.

(d) A refusal to certify such a system, if any, will be explained in writing. Reconsideration of such a refusal must be requested in writing with specification of errors believed to have been made.

§ 205.102 Name of person subjecting a farm product to a security interest, on EFS and master list—format.

On an EFS, and on a master list, the name of the person subjecting a farm product to a security interest must appear as follows:

(a) In the case of a natural person, the surname (last name or family name) must appear first;

(b) In the case of a corporation or other entity not a natural person, the name must appear beginning with the first word or character not an article or punctuation mark.

§ 205.103 EFS—minimum information.

(a) The minimum information necessary on an EFS is as follows:

(1) Crop year *unless* every crop of the farm product in question, for the duration of the EFS, is to be subject to the particular security interest;

(2) Farm product name (see §§ 205.106, 205.206);

(3) Each county or parish in the same State where the farm product is produced or to be produced;

(4) Name and address of each person subjecting the farm product to the security interest, whether or not a debtor (see § 205.102);

(5) Social security number or, if other than a natural person, IRS taxpayer identification number, of each such person;

(6) Further details of the farm product subject to the security interest *if needed* to distinguish it from other such product owned by the same person or persons but not subject to the particular security interest (see § 205.207); and

(7) Secured party name and address.

(b) A requirement of additional information on an EFS is discretionary with the State.

(c) Whether to permit one EFS to reflect multiple products, or products in multiple counties, is discretionary with the State.

§ 205.104 Registration of buyer, commission merchant, or selling agent—minimum information.

(a) The minimum information necessary on a registration of a buyer, commission merchant, or selling agent is as follows:

(1) Buyer, commission merchant, or selling agent name and address;

(2) Farm product or products (see §§ 205.106, 205.206) in which registrant is interested; and

(3) If registrant is interested only in such product or products produced in a certain county or parish, or certain counties or parishes, in the same State, the name of each such county or parish.

(b) A registrant, if not registered for any specified county or parish, or counties or parishes, must be deemed to have registered for all counties and parishes shown on the master list.

(c) A requirement of additional information on a registration form is discretionary with the State.

§ 205.105 Master list and portion thereof distributed to registrants—format.

(a) The master list must contain all the information on all the EFS's filed in the system, so arranged that it is possible to deliver to any registrant all such information relating to any product, produced in any county or parish (or all counties or parishes), for any crop year, covered by the system. The system must be able to deliver all such information to any registrant, either in alphabetical order by the word appearing first in the name of each person subjecting a product to a security interest (see § 205.102), in numerical order by social security number (or, if other than a natural person, IRS taxpayer identification number) of each such person, or in both alphabetical and numerical orders, as requested by the registrant.

(b) Subsection (c)(2)(E) requires the portion to be distributed in "written or printed form." This means recording on paper by any technology in a form which can be read by humans without special equipment. The system may, however, honor requests from registrants to substitute recording on any medium by any technology including, but not limited to, electronic recording on tapes or discs in machine-readable form, and photographic recording on microfiche.

(c) After distribution of a portion of a master list, there can be supplementary distribution of a portion showing only changes from the previous one. However, if this is done, cumulative supplements must be distributed often enough that readers can find all the information given to them for any one crop year in no more than three distributions.

§ 205.106 Farm products.

The farm products, according to which the master list must be organized as required by subsection (c)(2), and which must be identified on an EFS as required by (c)(4)(D)(iv), must be specific commodities, species of livestock, and specific products of crops or livestock.

The Section does not permit miscellaneous categories.

§ 205.107 Crop year.

(a) The crop year, according to which subsection (c)(2)(C)(ii)(IV) requires the master list to be arranged "within each such product," must be:

(1) For a crop grown in soil, the calendar year in which it is harvested or to be harvested;

(2) For animals, the calendar year in which they are born or acquired;

(3) For poultry or eggs, the calendar year in which they are sold or to be sold.

(b) An EFS or notice thereof which does not show crop year (the Section does not require it to do so) must be regarded as applicable to the crop or product in question for every year for which subsection (c)(4)(F) makes the EFS effective.

Interpretive opinions

§ 205.201 System operator.

The system operator can be the Secretary of State of a State, or any designee of the State pursuant to its laws. Note that the provision in subsection (c)(2) for a system refers to operation by the Secretary of State of a State, but the definition in (c)(11) of "Secretary of State" includes "designee of the State."

§ 205.202 "Effective financing statement" or EFS.

(a) An EFS under subsection (c)(4) need not be the same as a financing statement or security agreement under the Uniform Commercial Code (or equivalent document under future successor State law), but can be an entirely separate document meeting the definition in (c)(4). Note that (c)(4) contains a comprehensive definition of the term which does not include any requirement that the EFS be the instrument by which a security interest is created or perfected. Note also the House Committee Report on Pub. L. 99–198, No. 99–271, Part 1, September 13, 1985, at page 110: "[T]he bill would not preempt basic state-law rules on the creation, perfection, or priority of security interests."

(b) An EFS must be a paper document since subsection (c)(4)(B) and (C) require it to be signed.

(c) Countermeasures against mishandling after filing, such as a requirement that a copy be date-stamped and returned to the secured party, are discretionary with the State.

§ 205.203 Place of filing EFS.

The place of filing an EFS is wherever State law requires, which need not be with the system operator so long as the system operator receives the information needed for the master list, including the information required in subsection (c)(4)(D). Note that the requirements in subsection (c)(4) for an EFS include the requirement that it be "filed with the Secretary of State," but the definition in (c)(11) of "Secretary of State" includes "designee of the State," and the requirements in (c)(2) for a system refer in (A) to filing with the system operator of "effective financing statements *or notice of such financing statements.*" (emphasis added)

§ 205.204 Filing "notice" of EFS.

(a) If an EFS is filed somewhere other than with the system operator, and if notice of it is filed with the system operator, such notice could be electronic filing, telephoned information, or any other form of notice which gives the system operator the information needed for the master list. Such notice need not be signed. Note that the Section does not contain any requirement for such notice except the one in subsection (c)(4)(B) that an EFS must be filed somewhere pursuant to State law as discussed above.

(b) Countermeasures against falsifications, errors or omissions in such notices or in the handling of them by the system operator, such as requirements that the notices be on paper and signed, with copies date-stamped and returned to the persons filing them, however advisable they might be from other standpoints, are discretionary with the State and not required by the Section.

§ 205.205 Fees.

The Section provides at subsection (c)(4)(H) for a fee for filing an EFS. The fee can be set in any manner provided by the law of the State in which such EFS is filed. The basis for this is that (c)(4)(H) provides for the fee to be set by the "Secretary of State" but (c)(11) defines the latter term to include "designee of the State." The fee structure is discretionary with the State.

§ 205.206 Farm products.

(a) The master list must be organized by farm product as required by subsection (c)(2), and the farm product must be identified on an EFS as required by (c)(4)(D)(iv). The following is a list of such farm products.

Rice, rye, wheat, other food grains (system must specify by name)

Barley, corn, hay, oats, sorghum grain, other feed crops (system must specify by name)

Cotton

Tobacco

Flaxseed, peanuts, soybeans, sunflower seeds, other oil crops (system must specify by name)

Dry beans, dry peas, potatoes, sweet potatoes, taro, other vegetables (system must specify by name)

Artichokes, asparagus, beans lima, beans snap, beets, Brussels sprouts, broccoli, cabbage, carrots, cauliflower, celery, corn sweet, cucumbers, eggplant, escarole, garlic, lettuce, onions, peas green, peppers, spinach, tomatoes, other truck crops (system must specify by name)

Melons (system must specify by name)

Grapefruit, lemons, limes, oranges, tangelos, tangerines, other citrus fruits (system must specify by name)

Apples, apricots, avocados, bananas, cherries, coffee, dates, figs, grapes (& raisins), nectarines, olives, papayas, peaches, pears, persimmons, pineapples, plums (& prunes), pomegranates, other noncitrus fruits (system must specify by name)

Berries (system must specify by name)

Tree nuts (system must specify by name)

Bees wax, honey, maple syrup, sugar beets, sugar cane, other sugar crops (system must specify by name)

Grass seeds, legume seeds, other seed crops (system must specify by name)

Hops, mint, popcorn, other miscellaneous crops (system must specify by name)

Greenhouse & nursery products produced on farms (system must specify by name)

Mushrooms, trees, other forest products (system must specify by name)

Chickens, ducks, eggs, geese, turkeys, other poultry or poultry products (system must specify by name)

Cattle & calves, goats, horses, hogs, mules, sheep & lambs, other livestock (system must specify by name)

Milk, other dairy products produced on farms (system must specify by name)

Wool, mohair, other miscellaneous livestock products produced on farms (system must specify by name)

Fish, shellfish

Other farm products (system must specify by name).

(b) Note the definition of the term "farm product" at subsection (c)(5), and the Conference Report on Pub. L. 99–198, No. 99–447, December 17, 1985, at page 486.

(c) A State may establish a system for specified products and not for all. A State establishing a system for specified products and not for all will be deemed to be "a State that has established a central filing system" as to the specified products, and will be deemed not to be such a State as to other products.

§ 205.207 "Amount" and "reasonable description of the property."

(a) The "amount" of farm products and "reasonable description of the property including county or parish," on an EFS and on the master list under subsection (c)(4)(D)(iv) and (2)(C)(iii), need not be shown on every EFS and master list entry.

(b) Any EFS and master list entry will identify a product. If they do not show an amount, this constitutes a representation that all of such product owned by the person in question is subject to the security interest in question.

(c) Any EFS and master list entry will identify each county or parish in the same State where the product is or is to be produced. If they do not show any further identification of the location of the product, this constitutes a representation that all such product produced in each such county or parish, owned by such person, is subject to the security interest.

(d) The need to supply additional information arises only where some of that product owned by that person is subject to the security interest and some is not.

(e) The additional information about amount and property must be sufficient to enable a reader of the information to identify what product owned by that person is subject, as distinguished from what of the same product owned by the same person is not subject. The precision needed, in the description of the amount and location, would vary from case to case.

(f) The basis for this is the purpose of the entire exercise, to make information available as necessary to enable an identification of what product is subject to a security interest as distinguished from what is not.

§ 205.208 Distribution of portions of master list—registration—information to non-registrants on request.

(a) The provisions in the Section regarding registration of "buyers of farm products, commission merchants, and selling agents," "regular" distribution of "portions" of the master list, furnishing of "oral confirmation * * * on request," and the effect of all this, that is, subsections (c)(2) (D), (E) and (F), (e) (2) and (3), and (g)(2) (C) and (D), must be read together.

(b) The Section does not require such persons to register. Not registering with a particular system operator has the effect, under subsections (e)(2) and (g)(2)(C), of making such persons, whether they are inside or outside the State covered by that system, subject to security interests shown on that system's master list whether or not such persons know about them, so that such persons for their own protection will need to query the system operator about any seller "engaged in farming operations," of a farm product produced in the State covered by that system, with whom they deal.

(c) The effect of registration by such persons with a particular system is to get them on the list for regular distribution of portions of that system's master list, the portions to be determined by the registration. They are subject only to security interests shown on the portions which they receive, and are not subject to such interests as are shown on the master list but not shown on portions which they receive. Also, if a particular security interest is shown on the master list, but has been placed on it since the last regular distribution of portions of that list to registrants, registrants would not be subject to that security interest. These conclusions are based on the provisions in subsections (e)(3)(A) and (g)(2)(D)(i) that such persons are subject to a security interest only if they receive "written notice * * * that specifies both the seller and the farm product."

(d) A question arises as to the length of time for which a registration is effective, and whether a registrant, wishing to change registration as to county or product, can amend an existing registration or must file a new one. This is discretionary with the State since the Section is silent about it.

(e) A question arises whether persons can register to receive only portions of the list for products in which they do not deal, and thus not be subject to security interests in products in which they deal because they are registrants but do not receive written notice of them. For example, can cattle dealers register to receive portions of the master list only for oranges, and thus take cattle free and clear of security interests shown on the master list, but as to which they do not receive written notice because they have not registered to receive the portion for cattle? Registrants will be deemed to be registered only *as to those portions* of the master list for which they register, and will be deemed to have failed to register as to those portions for which they do not register.

(f) The Section requires "regular" distribution, to registrants, of portions of the master list as amended from time to time by the filing of EFS's and amendments to EFS's. The requirement that the distribution be "regular" necessarily refers to an interval specified in advance. The interval may vary according to product and region. The frequency of such distribution must be a consideration in review for certification since distribution must be timely to serve its purpose. While subsection (c)(2)(E) (providing that distribution be made "regularly as prescribed by the State") gives each State discretion to choose the interval between distributions, whatever interval a State chooses will inevitably make possible some transactions in which security interests are filed in the system but registrants are not subject to them.

(g) Legislative history of the Section shows that buyers, commission merchants, and selling agents are not intended to be liable for errors or other inaccuracies generated by the system. See Nov. 22, 1985 Cong. Rec., Senate, pg. S16300, and Dec. 18, 1985 Cong. Rec., House, pg. H12523.

(h) In furnishing to non-registrants "oral confirmation within 24 hours of any [EFS] on request followed by written confirmation," by a system operator pursuant to subsection (c)(2)(F), any failure in use of a telephone caused by a "busy signal" could not be the basis of liability of the system operator. The basis for this is that subsection (c)(2)(F) does not mention telephones. Also, while it mentions *furnishing* information orally, it does not contain any provision as to how queries are to be *received*, that is, orally, in writing, or otherwise.

(i) Of course it is to be expected that telephones would be used in most cases, but use of them is not required by the legislation and is discretionary with the State.

(j) In the matter of receiving queries and giving oral replies to them, subsection (c)(2)(F) will be complied with if a system operator maintains an office and staff where a query can be received on business days and during business hours such as are regular in the State, and where an oral reply will be available on the regular business day following the day on which the query is received, at or before the time of day when it was received.

(k) Written confirmation is required, by subsection (c)(2)(F), to be given to any non-registered buyer, commission merchant, or selling agent.

(l) Such a written confirmation pursuant to subsection (c)(2)(F) does not alter the liability of the non-registrant querying the system and receiving information about a security interest recorded in it. The basis of this, as above, is that non-registrants are subject to security interests recorded in a system whether or not they know about them, and must query the system for their own protection.

(m) The Section does not specify when or how the written confirmation must be furnished, but provides only that it must follow the oral information. Thus the time and method of furnishing written confirmation is discretionary with the State.

§ 205.209 Amendment or continuation of EFS.

(a) The "material change," required by subsection (c)(4)(E) to be reflected in an amendment to an EFS and master list entry, is whatever change would render the master list entry no longer informative as to what is subject to the security interest in question. That will vary from case to case. The basis for this is the purpose for which the information is supplied, that is, to make information available, to a buyer, commission merchant, or selling agent who proposes to enter into a transaction in a product, whether it is subject to a security interest. The requirement to amend arises when the information already made available no longer serves the purpose and other information is needed in order to do so.

(b) Where an owner of a product makes a change, such as planting a different crop or purchasing different animals from what was represented, without informing the secured party, so that the master list entry is rendered not informative, but the EFS and master list are not amended through no fault of the secured party, the Section is silent as to the consequences. However, see the legislative history cited in § 205.208(f).

(c) The amendment must be a paper document, signed by both the person who subjects the farm product to the security interest and the secured party, and filed wherever State law provides. Note the requirement of subsection (c)(4)(E) that it be "similarly signed and filed," following the provisions about signing and filing of the EFS.

(d) A continuation of an EFS is subject to the same requirement as an amendment. The EFS as first filed expires in a given time. A continuation modifies it as to its expiration date and thus is an amendment.

§ 205.210 Effect of EFS outside State in which filed.

(a) A question arises whether, if an EFS is filed in one State, a notice of it can be filed in another State and shown on the master list for the second State. There is nothing in the Section to prevent this, but it would serve no purpose.

(b) The Section provides only for filing an EFS, covering a given product, in the system for the State in which it is produced. Upon such filing in such system, subsections (e)(2) and (g)(2)(C) make buyers, commission merchants and selling agents *not registered* with that system subject to the security interest in that product whether or not they know about it, *even if they are outside that State*. Subsections (e)(3) and (g)(2)(D) make persons *registered* with that system subject if they receive written notice of it *even if they are outside that State*. All of these provisions apply only where an EFS is filed in the system for the State in which the product is produced. They do not apply to a filing in another system.

(c) What constitutes "receipt" of notice is determined by the law of the State in which the intended recipient of notice resides. This is based on subsection (f) which follows provisions for notice to buyers, and (g)(3) which follows provisions for notice to commission merchants and selling agents. Each of those provisions uses the word "buyer" but it means "intended recipient of notice."

§ 205.211 Applicability of court decisions under the UCC.

(a) Court decisions under the Uniform Commercial Code (UCC), about the scope of the "farm products" exception in Section 9–307(1) thereof, and interpreting the terms therein, particularly "person engaged in farming operations" which is not defined in the Section, are applicable to an extent in interpreting the Section. The basis of this is the legislative intent of the Section to pre-empt State laws reflecting that "farm products" exception, as shown in the House Committee Report on Pub. L. 99–198, No. 99–271, Part 1, September 13, 1985, at pages 108 *et seq.*

(b) That UCC Section 9–307(1) reads as follows:

> (1) A buyer in ordinary course of business (subsection (9) of Section 1–201) *other than a person buying farm products from a person engaged in farming operations* takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence. (emphasis added)

§ 205.212 "Buyer in ordinary course of business" and "security interest."

The terms "buyer in ordinary course of business" and "security interest" are defined in subsection (c) (1) and (7). There are differences between those definitions and the UCC definitions of the same terms. In interpreting those differences, the following would be pertinent:

(a) The legislative intent discussed above in § 205.211, to pre-empt State laws reflecting the "farm products" exception; and

(b) The legislative intent shown in subsections (a) and (b) that certain persons take free and clear of certain interests of a "secured lender" "when the seller fails to repay the lender," unless such persons have information about such interests made available to them as provided in the Section.

§ 205.213 Obligations subject—"person indebted"—"debtor."

(a) A debt need not exist at the time of filing of an EFS. The basis for this is that subsection (c)(4) does not require the EFS, and (c)(2)(C) does not require the master list, to show any amount of debt.

(b) The Section does not provide for the transaction in which one person subjects a product to a security interest for another's debt. However the terms "person indebted" and "debtor" in the Section refer to the person who owns a product and subjects it to a security interest, whether or not that person owes a debt to the secured party. The basis for this is the purpose for which the information is supplied. Any buyer of a farm product, commission merchant, or selling agent querying a master list or system operator about a prospective seller of a farm product is interested in whether that seller has subjected that product to a security interest, not in whether the debt is owed by that seller or by another.

(c) Security interests existing prior to establishment of a system can be filed in such a system and reflected in the master list if documents are in existence or are created which meet the requirements of subsection (c)(4) besides filing, if such documents are filed wherever State law requires, and if the system operator receives the information about them needed for the master list.

(d) A system can be in compliance with the Section, although it reflects security interests not supported by EFS's as defined in the legislation, and although it reflects security interests on items other than farm products. However, subsections (e) (2) and (3), and (g)(2) (C) and (D), will apply only as to entries reflecting farm products and supported by EFS's as defined in the Section, and it must be possible to distinguish the entries to which these provisions apply from the other entries.

§ 205.214 Litigation as to whether a system is operating in compliance with the Section.

(a) The requirements for a system in subsection (c) are written as the definition of the term "central filing system," so that failure of a system to meet any such requirement, either at the time of its establishment or later, will mean that it is not a "central filing system" as defined.

(b) The issue whether a system, after certification, is operating in compliance, thus whether it is a "central filing system" as defined, could be litigated and ruled on in a case involving only

private parties, such as a lender and a buyer of a farm product. The only immediate effect of a finding in such a case, that a system is not a "central filing system" as defined, would be that the rights of the secured party in the case would be as if the State had no system. However, others would be in doubt as to whether they could safely rely on the same system.

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Food Safety and Inspection Service

9 CFR Parts 317 and 318

[Docket No. 85-021F]

Binder Consisting of Sodium Alginate, Calcium Carbonate, Lactic Acid, and Calcium Lactate

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the Federal meat inspection regulations to permit the use of a dry mixture of sodium alginate, lactic acid, calcium lactate, and calcium cabonate to produce an edible binder in formed meat food products. The Food and Drug Administration (FDA) has determined these substances to be generally recognized as safe (GRAS) for use in foods separately or in a dry mixture. FSIS has determined that it is now appropriate to add sodium alginate, calcium carbonate, lactic acid, and calcium lactate as a binding mixture to the list of acceptable binders commonly used in foods. This dry binding mixture will have several benefits including expansion of meat food product lines where structured and formed meat food products would bind in a raw refrigerated state as well as in a cooked state. Formed and restructured meat food products bound with this edible binding mixture will be labeled to denote that they are formed, and the binding mixture ingredients will be listed.

EFFECTIVE DATE: September 17, 1986.

ADDRESS: Written comments to: U.S. Department of Agriculture, Food Safety and Inspection Service, Attn: Policy Office, Room 3803, South Agriculture Building, Washington, DC 20250. (See also "Comments" under "Supplementary Information.")

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Jones, Chief, Standards Branch, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7503.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this final rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule provides for the use of sodium alginate at 1.0 percent, lactic acid and, calcium lactate at 0.3 percent, and calcium carbonate at 0.2 percent in a dry mixture to be added to meat food products in order to form an edible binder of calcium alginate in restructured meat food products. The current Federal meat inspection regulations provide only for lactic acid at levels sufficient for purpose for use as an acidifier (9 CFR 318.7(c)(4)), sodium alginate at levels sufficient for purpose limited to breading mixes and sauces (9 CFR 318.7(c)(4)), and sodium alginate as a protective film for fresh carcasses at a level of 1.5 percent of hot carcass weight when used in a mixture of calcium chloride, sodium alginate, sodium carboxymethylcellulose and corn syrup solids (50 FR 19905; May 13, 1985). Industry will benefit from this action through the ability to use a wider variety of binders. Livestock producers may benefit from this action through increased markets for meat food products.

Effect on Small Entities

The Administrator has determined that this final rule will not have a significant economic impact upon a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rulemaking will impose no new requirement on industry; rather, it will permit the meat industry to use a new type of binder which allows raw or cooked pieces of meat to cohere. Costs for equipment may be reduced due to elimination of usual freezing, tempering, and/or precooking prior to or after portioning. The resulting formed meat food product can be conveniently portioned, packaged and marketed as a refrigerated raw meat food product, a frozen raw meat food product, or precooked and marketed refrigerated or frozen. Use of this binding mixture will be entirely voluntary.

Comments

This is a final rule consistent with the provisions of Section 318.7 of the Federal meat inspection regulations (9 CFR 318.7). As such, no request for comments is being made. However, interested parties may inform the Agency of any additional information which raises questions about this action during the 30 day period between publication of this rule and its effective date.

Background

The Agency has been petitioned by Colorado State University Research Foundation, Fort Collins, Colorado, to amend the Federal meat inspection regulations to allow the use of sodium alginate, calcium carbonate, lactic acid, and calcium lactate in a dry binding mixture in certain raw or cooked, restructured formed meat food products.

Currently, meat processors use sausage technology to produce from carcass trimmings formed meat products resembling fresh, intact muscle cuts. These restructured, formed meat products are marketed either frozen or precooked to retain structural integrity. The algin/calcium gelation mechanism, which results from the addition of the mixture of sodium alginate, calcium carbonate, lactic acid and calcium lactate, allows formed meat food products to be made without the use of sodium chloride or phosphate salts. These products would possess binding properties in the cooked as well as the raw, refrigerated state. Meat pieces would first be reduced to the appropriate particle size, dependent on desired product attributes. Dry non-meat ingredients would then be added during mild mixing of the meat pieces. The mixed ingredients including the mixture of sodium alginate, calcium carbonate, lactic acid and calcium lactate, could then be formed by molding or stuffing into the desired shape. After the gel has set, the raw product may be portioned and packaged. Other options include precooking and freezing or freezing the raw product.

The petitioner has supplied analytical data at FSIS's request supporting its claims and indicating that wholesomeness is not affected when meat food products are processed with this binding mixture. The quantity of mixture required to bind is not more

than 1.5 percent of the total product formulation. Data are available from the Standards and Labeling Division at the address given under "For Further Information Contact."

Issuance of Final Rule

In the **Federal Register** of July 19, 1983 (48 FR 32749), the Agency published a final rule on new procedures for the approval of added substances in meat and poultry products. This final rule amended the Code of Federal Regulations, Title 9, § 318.7. Under that rule, applicants are required to show that a proposed added substance has been approved by the Food and Drug Administration (FDA) for use in meat or meat food products as a food additive, color additive, or as a substance generally recognized as safe (GRAS) and is listed in Title 21 of the Code of Federal Regulations, Parts, 73, 74, 81, 172, 173, 179 182, or 184. If this is established, the use of the added substance will be permitted upon further determination by the Administrator that (1) the requested use in meat or meat food products will not render the product adulterated or misbranded, or otherwise not in compliance with the Federal Meat Inspection Act, (2) its use is suitable and functional for the particular product, and (3) it is used at the lowest level necessary to accomplish the stated technical effect.

The substances addressed in this rule have been affirmed as GRAS by the FDA and are listed in 21 CFR Part 184. Lactic acid, calcium lactate, and calcium carbonate are affirmed as GRAS in 21 CFR 184.1061, 21 CFR 184.1207 and 21 CFR 184.1191, respectively, for use in food when added in accordance with good manufacturing practice.

Sodium alignate is affirmed as GRAS in 21 CFR Part 184.1724 in the "all other" food category with conditions of use limited to a stabilizer and thickener at a level of 1.0 percent. Lactic acid is listed in the Federal meat inspection regulations in 9 CFR 318.7(c)(4) at levels sufficient for purpose when used as an acidifier. Sodium alginate is listed for use as a binder at levels sufficient for purposes in breading mixes and sauces (9 CFR 318.7(c)(4)), and in a protective film covering for fresh carcasses (50 FR 19805, May 13, 1985). Calcium alginate which is produced by the action caused by mixing lactic acid, sodium alginate, calcium lactate and calcium carbonate is listed as GRAS in 21 CFR 184.1187 in the "all other" food category with conditions of use limited to a stabilizer and thickener.

FDA has advised FSIS that it considers the mixture of these substances as GRAS when the total mixture of such substances are dispersed in a dry form into the formulation and the mixture does not exceed 1.5 percent of product formulation. At this level and under these conditions there would be only minimal reaction to produce calcium alginate, the binding compound. If the mixture is dispersed in water prior to application to meat food product, calcium alginate gel could be produced at a level that would be in conflict with FDA's GRAS standard for its use (21 CFR 184.1187).

The Administrator concurs with FDA's conclusions regarding the safety of these substances for their proposed use. He further finds that information provided by the petitioner and other data available to the Agency indicates that (1) the proposed use of these substances in a dry mixture, as described and limited above, will be in compliance with applicable FDA requirements, (2) their use will be functional and suitable for the products intended, (3) the substances will be used at the lowest level necessary to accomplish their intended technical effect, and (4) the use of these substances will not render products in which they are used, adulterated, misbranded, or otherwise not in accordance with the requirements of the Federal Meat Inspection Act.

Therefore, the Department is amending the table of approved substances in the Federal meat inspection regulations (9 CFR Part 318.7) to include the use of sodium alginate, calcium carbonate, lactic acid and calcium lactate in a dry mixture to form an edible binder matrix in raw and cooked restructured formed meat food products.

The Agency is also amending the labeling provisions in the Federal meat inspection regulations (9 CFR Part 317) to require a qualifying statement contiguous to the product name identifying these substances when they are used in a binding mixture. This is being done in order that the product will not be misbranded under the terms of the Federal Meat Inspection Act (21 U.S.C. 601(n)).

Indexing Terms

Following are the indexing terms for this regulation:

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection, and Meat and Meat Food Products.

9 CFR Part 318

Food additives, Meat inspection.

For reasons explained in the preamble, Parts 317 and 318, Subchapter A, Chapter III of Title 9, Code of Federal Regulations, are amended as set forth below.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

9 CFR Part 317 is amended as follows:

1. The authority citation for Part 317 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254, unless otherwise noted.

§ 317.8 [Amended]

2. In Part 317, § 317.8 is amended by adding a new paragraph (b)(36) to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(36) When sodium alginate, calcium carbonate, lactic acid and calcium lactate are used together in a dry binding matrix in restructured, formed meat food products, as permitted in Part 318 of this subchapter, there shall appear on the label contiguous to the product name, a statement to indicate the use of sodium alginate, calcium carbonate, lactic acid and calcium lactate.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

9 CFR Part 318 is amended as follows:

3. The authority citation for Part 318 continues to read as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*); 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

§ 318.7 [Amended]

4. In Part 318, § 318.7(c)(4) is amended to add the substances sodium alginate, calcium carbonate, lactic acid, and calcium lactate as one entry to the chart in alphabetical order under the class of substances entitled "Binders."

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
Binders	A mixture of sodium alginate, calcium carbonate, lactic acid and calcium lactate	To bind meat pieces	Restructured meat food products	Sodium alginate at 1.0 percent; calcium carbonate at 0.2 percent; and lactic acid and calcium lactate at 0.3 percent of product formulation. Added mixture may not exceed 1.5 percent of product at formulation. Ingredients of mixture must be added dry.

* * * * *

Dated: August 13, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-18551 Filed 8-15-86; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Part 570

[86-808]

Insurance of Accounts; Interpretation

Dated: August 7, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Interpretive rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is issuing an interpretive rule regarding payment of FSLIC insurance on accounts established for the purpose of funding an insurance company's obligations under life insurance contracts or annuity contracts it has issued. This rule clarifies existing FSLIC insurance coverage.

DATE: This interpretation is incorporated into the Board's rules and regulations as of August 18, 1986.

FOR FURTHER INFORMATION CONTACT: Karen Knopp O'Konski, Attorney, Regulations and Legislation Division, Office of General Counsel, (202) 377-7240, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Title 12 U.S.C. 1726(a) (1982) authorizes the FSLIC to insure the accounts of federally and state-chartered institutions described therein. Pursuant to 12 U.S.C. 1728(a), the Board as operating head of the FSLIC, has issued regulations at 12 CFR Part 561 *et seq.* (1986) (the "Insurance Regulations") defining the coverage provided by the FSLIC to institutions whose accounts it insures ("insured institutions").

Those Insurance Regulations include provisions specifically governing the insurance of trust accounts. They permit "all trust estates for the same beneficiary invested in accounts established pursuant to valid trust arrangements created by the same settlor (grantor)" to be insured, up to $100,000 in the aggregate, separately from other accounts of the trustee, the beneficiary, or the settlor. 12 CFR 564.10 (1986). The Board's Insurance Regulations do not more specifically define "valid trust arrangements." The term "trust estate," however, is defined in part as "the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statutes, but does not include any interest retained by the settlor." 12 CFR 561.4 (1986). Pursuant to 12 CFR 564.2(a), the existence of a valid, irrevocable trust is determined under the law of the state in which the principal office of the insured institution is located.

In 1980, the Board's Office of General Counsel ("OGC") responded to a request for an opinion that certain accounts at insured institutions were insurable under the trust-account provisions of the Insurance Regulations. This opinion request was made on behalf of an insurance company that proposed to issue annuity contracts funded by FSLIC-insured accounts ("annuity accounts"). It was followed by a number of similar requests over a period that continues to date. The particulars of the annuity programs underlying the annuity accounts have varied slightly from instance to instance. For example, some insurance companies have sold individual annuity contracts, while others have sold participation certificates in group annuity programs. Under some programs, the insurance company reregistered in its own name an existing savings account belonging to the annuitant. That account then became an annuity account. Under other programs, the insurance company established one or more annuity accounts directly in its own name.

Most of the annuity accounts that have been the subject of opinion requests have features in common, however, because they were established to conform with a statute, adopted in virtually identical form by many states, that specifically governs accounts intended to fund life insurance contracts or annuity contracts (and any benefit incidental to such contracts) payable either in fixed or variable amounts, or both. These statutes are commonly called "separate-account statutes" because they impose a requirement that an insurance company establish a separate account for the purpose of funding the obligations arising from such contracts.

From 1980 until 1983, the Board, through its OGC, took the view that when all other requirements of the Insurance Regulations were met and the insurance company was required to establish a statutory separate account, the relationship between the insurer and the annuitant for whom the company held the separate account was sufficiently similar to a trust arrangement to qualify as a trust for purposes of § 564.10 of the Insurance Regulations. This interpretation of the trust-account provisions of the Insurance Regulations was expressed in opinion letters issued by OGC during the period from 1979 to 1983.

Subsequently, however, OGC concluded that the presumption of a trustee-beneficiary relationship between the insurance company and each annuitant conflicted with the law of a number of states. More specifically, certain of the separate-account statutes provide that an insurance company may not be, nor hold itself out to be, a trustee with respect to amounts held in statutory separate accounts (that is, annuity accounts). *See, e.g.*, Ark. Stat. Ann. 66-3337 (Bobbs-Merrill 1980); Ill. Ann. Stat. ch. 73, 857.21(c) (Smith-Hurd Supp. 1985). Further, these statutes also generally provide that amounts allocated to a separate account are owned by the insurance company which establishes the account. *Id.*

In light of this typical statutory provision, and in view of the regulatory requirement of §§ 561.4, 564.2(a) and 564.10 that trusts must be valid, express, and irrevocable under applicable state law in order to qualify for trust-account insurance, the OGC revised its previous interpretation of the Insurance Regulations as applied to annuity accounts. The revised interpretation stated that annuity accounts were not insurable under the trust-account regulations if they were established pursuant to a state separate-account statute that expressly precluded an insurance company from acting as trustee with respect to the funds in the account. This interpretation, as set forth

in OGC opinion letters, has been effective since 1983.

The Board desires to clearly state its position with regard to the limitations on applicability of trust-account insurance, which, as discussed above, are set forth in the Insurance Regulations. The Board believes that today's ruling is the most effective method of notifying annuity account-holders of the requirements of the Insurance Regulations with respect to trust-account insurance, as these requirements have been interpreted since 1983.

Today's ruling is limited in scope to annuity accounts established pursuant to separate-account statutes; the definition of "annuity account" set forth *supra* in § 570.13(a), therefore, incorporates several key features of the separate-account statutes for purposes of identifying as precisely as possible the accounts intended to be covered by this interpretative rule. The definition also includes accounts established to fund life insurance contracts because many of the separate-account statutes apply to both life insurance contracts and annuity contracts issued by the insurer.

Section 570.13(b) clarifies that because annuity accounts established pursuant to separate-account statutes do not meet the requirements associated with obtaining trust-account coverage, the accounts cannot be insured as trust accounts. Other types of insurance coverage, however, may be applicable to such accounts. If recordkeeping requirements of 12 CFR 564.2 are met and if an insurance company is holding such accounts as agent on behalf of annuitants, agency account insurance may be available pursuant to 12 CFR 564.3(b). Alternatively, pursuant to 12 CFR 564.6, funds in annuity accounts could be insured to the insurance company which established the accounts up to $100,000 in the aggregate with all other corporate accounts held by the company in the same institution.

In the interest of equity, and in order to grant accountholders an adequate opportunity to restructure their accounts to avoid potentially uninsured amounts, § 570.13(c) of this Ruling delays application of this currently effective interpretation of the Insurance Regulations. Annuity-accountholders will be permitted to rely on OGC's prior opinions which granted separate trust-account insurance pursuant to 12 CFR 564.10 for three years following the publication of this interpretive ruling.

During this time period, the Board expects that annuity-accountholders will collateralize their accounts or restructure them to bring them into compliance with the Insurance Regulations.

Because this is an interpretive rule, it is exempt from the notice, comment, and delay-of-effective date requirements of 5 U.S.C. 553, 12 CFR 508.11 and 508.14 (1986). In accordance with Recommendation No. 76–2 of the Administrative Conference of the United States, this interpretive rule will be preserved in the Code of Federal Regulations.

List of Subjects in 12 CFR Part 570

Savings and loan associations.

Accordingly, the Board hereby amends Part 570, Subchapter D, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 570—BOARD RULINGS

1. The authority citation for 12 CFR Part 570 is revised to read as follows:

Authority: Secs. 552, 559, 80 Stat. 383, 388, as amended (5 U.S.C. 552, 559); sec. 11, 47 Stat. 733, as amended (12 U.S.C. 1431 (e)(2)(c)); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–403, 405, 407, 48 Stat. 1255–1257), 1259–1260, as amended (12 U.S.C. 1724–1726, 1728, 1730); sec. 414, as added by sec. 522, 94 Stat. 165, as amended (12 U.S.C. 1730g); Reorg. Plan No. 3 of 1947, 3 CFR, 1943–48 Comp., p. 1071.

2. Add a new § 570.13 to read as follows:

§ 570.13. Insurance of annuity accounts.

(a) *Definition.* For purposes of this Ruling, the term "annuity account" means an account established or maintained by an insurance company at an insured institution for the exclusive purpose of funding life insurance contracts or annuity contracts (and any benefits incidental to such contracts), payable in fixed or variable amounts, or both, *provided, however,* that the account was established or maintained pursuant to a state statute which, at the time the life insurance contract or annuity contract was issued:

(1) Required the insurance company to establish or maintain a "separate account" for the purpose described above; and

(2) Provided that the "separate account" was the property of the insurance company and that the insurance company could not be, or hold itself out to be, a trustee with respect to the funds in the separate account.

(b) *Insurance of annuity accounts.* Pursuant to the Board's Insurance Regulations, trust-account insurance is only available to express irrevocable trusts, established pursuant to either trust instrument or statute, which are valid under applicable state law. 12 CFR 561.4, 564.2(a), 564.10. Annuity accounts, as defined in section (a) above, do not meet these requirements and, therefore, can not be insured as trust accounts pursuant to the Board's regulations.

(c) *Delay of effective date.* Application of the interpretation of the Corporation's insurance regulations set forth in this Ruling shall be delayed until August 18, 1989.

(3) Amend § 570.11 and § 570.12 by removing the authority citations located at the end of the sections.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86–18637 Filed 8–15–86; 8:45 am]

BILLING CODE 6720–01–M

FARM CREDIT ADMINISTRATION

12 CFR Parts 620 and 621

Disclosure to Shareholders; Accounting and Reporting Requirements; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration published amendments to regulations under Part 620 that (1) require disclosure by each Farm Credit System bank and association in its annual report to shareholders of the aggregate amount of compensation paid during the last fiscal year to the institutions' senior officers as a group, without naming them; (2) require each production credit association (PCA) to send the financial statements of the Federal intermediate credit bank in its district to PCA shareholders; and (3) require each System bank and PCA, beginning with the quarter ended June 30, 1986, to report quarterly to shareholders on the financial condition of the institution. Minor technical and clarifying amendments were also made to other sections of Parts 620 and 621.

The final rule was published in the June 12, 1986 **Federal Register**, and provided that notice of the actual effective date would be subsequently published (51 FR 21336). In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of this rule was July 29, 1986.

EFFECTIVE DATE: July 29, 1986.

FOR FURTHER INFORMATION CONTACT: Dorothy J. Acosta, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020.

(Sec. 5.17(9) and (10), Pub. L. 92–181, as amended by Pub. L. 99–205, 12 U.S.C. 2252(a) (9), (10))

Marvin Duncan,

Acting Chairman, Farm Credit Administration Board.

[FR Doc. 86–18597 Filed 8–15–86; 8:45 am]

BILLING CODE 6705–01–M

12 CFR Parts 622 and 623

Rules of Practice and Procedure and Practice Before the Farm Credit Administration; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published final regulations designated as 12 CFR Parts 622 and 623. Part 622 establishes rules of practice and procedure applicable to formal and informal hearings held before the FCA, and to formal investigations conducted under the Farm Credit Act of 1971, as amended (12 U.S.C. 2001, et seq.) (Act). Part 623 prescribes rules with regard to persons who may practice before the FCA and the circumstances under which such persons may be suspended or debarred from practice before the FCA.

The final rule was published in the June 11, 1986 **Federal Register**, and provided that notice of the actual effective date would be subsequently published (51 FR 21138). In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of this rule was July 28, 1986.

EFFECTIVE DATE: July 28, 1986.

FOR FURTHER INFORMAT1ON CONTACT: Kathleen M. Mullarkey, or Nancy E. Lynch, Office of General Counsel, (703) 883–4020, Farm Credit Administration, McLean, VA 22102–5090.

(Sec. 5.17(9) and (10), Pub. L. 92–181, as amended by Pub. L. 99–205, 12 U.S.C. 2252(a) (9), (10))

Marvin Duncan,

Acting Chairman, Farm Credit Administration Board.

[FR Doc. 86–18598 Filed 8–15–86; 8:45 am]

BILLING CODE 6705–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86–AGL–14]

Establishment of Transition Area-Pontiac, IL

Correction

In FR Doc. 86–17834 beginning on page 28528 in the issue of Friday, August 8, 1986, make the following correction:

On page 28529, in the first column, under "Pontiac, Illinois [New]," in the fourth line "41" should read "51".

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 85F–0202]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antioxidants and Stabilizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of tris(triethylene glycol) phosphate as a stabilizer in ethylene terephthalate polymers intended for use in contact with food. This action responds to a petition filed by American Enka Co.

DATES: Effective August 18, 1986; objections by September 17, 1986.

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

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 29, 1985 (50 FR 21943), FDA announced that a petition (FAP 5B3864) had been filed by American Enka Co., Enka, NC 28728, proposing that the food additive regulations be amended to provide for the safe use of tris(triethylene glycol) phosphate as a stabilizer in ethylene terephthalate polymers intended for use in contact with food.

FDA, in its evaluation of the safety of this additive, reviewed the safety of both the additive and the starting materials used to manufacture the additive. Although tris(triethylene glycol) phosphate has not been found to cause cancer, it may contain minute amounts of 1,4-dioxane and ethylene oxide as byproducts of its production. These chemicals have been shown to cause cancer in test animals. Residual amounts of reactants and manufacturing aids, such as these chemicals, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances." H. Rept. 2284, 85th Cong., 2d Sess. 1 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delaney clause of the Food Additives Amendment of 1958 (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A)) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve a use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain a carcinogenic chemical, but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6 published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been

shown to cause cancer, even though it contains a carcinogenic constituent.

Since that decision, FDA has approved the use of other color additives and food additives on the same basis. FDA fully explained the scientific, legal, and policy underpinnings for these decisions in the advance notice of proposed rulemaking on a policy for regulating carcinogenic chemicals in food and color additives, published in the **Federal Register** of April 2, 1982 (47 FR 14464).

The agency now believes that the Delaney or anticancer clause is applicable only when the food additive as a whole is found to cause cancer. An additive that has not been shown to cause cancer, but that contains a carcinogenic constituent, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use

FDA estimates that the petitioned use of tris(triethylene glycol) phosphate will result in extremely low levels of exposure to this additive. The agency has calculated an estimated daily intake of tris(triethylene glycol) phosphate based on considerations such as the migration of the additive under the most severe intended use conditions and the probable concentration of the additive in the daily diet from food-contact articles that contain this substance. The estimated daily intake for the additive is 4.2 micrograms per day (1.4 parts per billion in the diet) for a 60-kilogram person.

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of additives involving such low exposure (Refs. 1 and 2) and has not required such testing here. Because tris(triethylene glycol) phosphate has not been shown to cause cancer, the anticancer clause does not apply to it.

FDA has evaluated the safety of this additive under the general safety clause, using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in the additive. Based on this evaluation, the agency has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that it used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see, e.g., 49 FR 13018, 13019; April 2, 1984). This risk evaluation of the carcinogenic impurities 1,4-dioxane and ethylene oxide has two aspects: (1) Assessment of the worst case exposure to the impurities from the proposed use of the additive; and (2) Extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. 1,4-Dioxane

Based on the fraction of the daily diet that may be in contact with surfaces containing tris(triethylene glycol) phosphate, as well as the level of 1,4-dioxane that may be present in the additive (Ref. 5), FDA estimated the hypothetical worst case exposure to 1,4-dioxane from the use of tris(triethylene glycol) phosphate to be 5 nanograms per person per day. The agency used data in a carcinogenesis bioassay on 1,4-dioxane conducted for the National Cancer Institute (Ref. 4) to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of tris(triethylene glycol) phosphate. The results of the bioassay on 1,4-dioxane demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidences of squamous cell carcinomas and hepatocellular tumors in female rats.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 1,4-dioxane. The committee further concluded that an estimate of the upper bound limit of lifetime human cancer risk from potential exposure to 1,4-dioxane stemming from the proposed use of tris(triethylene glycol) phosphate could be calculated from the bioassay.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additive. Based on a worst case exposure of 5 nanograms per person per day, FDA estimates that the upper bound limit of individual lifetime risk from potential exposure to 1,4-dioxane from the use of tris(triethylene glycol) phosphate is 2×10^{-10} or less than 2 in 10 billion. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to 1,4-dioxane is expected to be substantially less than the estimated daily intake, and therefore the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to 1,4-dioxane that results from the use of tris(triethylene glycol) phosphate.

B. Ethylene Oxide

Based on the fraction of the daily diet that may be in contact with surfaces containing tris(triethylene glycol) phosphate, as well as the level of ethylene oxide that may be present in the additive (Ref. 5), FDA estimated the hypothetical worst case exposure to ethylene oxide from the use of tris(triethylene glycol) phosphate to be 5 nanograms per person per day. The agency used data in a carcinogenesis bioassay on ethylene oxide conducted by the Institute of Hygiene, University of Mainz, West Germany (Ref. 3), to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of tris(triethylene glycol) phosphate. The results of the bioassay on ethylene oxide demonstrated that this material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidences of squamous cell carcinoma of the forestomach and carcinoma in situ of the glandular stomach.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that this information on ethylene oxide supported the findings of carcinogenicity. The committee further concluded that an

estimate of the upper bound limit of lifetime human cancer risk from potential exposure to ethylene oxide could be made from the bioassay.

Based on a worst case exposure of 5 nanograms per person per day, FDA estimates, using a linear proportional model, that the upper bound limit of individual lifetime risk from potential exposure to ethylene oxide from the use of tris(triethylene glycol) phosphate is 1×10^{-8} or less than 1 in 100 million. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to ethylene oxide is expected to be substantially less than the estimated daily intake, and therefore, the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to ethylene oxide that results from the use of tris(triethylene glycol) phosphate.

C. Need for Specifications

The agency has also considered whether a specification is necessary to control the amount of the ethylene oxide and 1,4-dioxane impurities in the food additive. The agency finds that a specification is not necessary for the following reasons: (1) Because of the levels at which ethylene oxide and 1,4-dioxane are used in the production of the additive, the agency would not expect these impurities to become components of food at other than extremely small levels; and (2) the upper bound limit of lifetime risk from exposure to these impurities, even under worst case assumptions, is very low, less than 1 in 100 million for ethylene oxide and less than 2 in 10 billion for 1,4-dioxane.

D. Conclusion on Safety

FDA has evaluated the available toxicity data and the exposure calculation for the additive and has determined that the additive is safe for its proposed use.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the Federal Register of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be reviewed in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, C.M. "Carcinogenicity Testing Programs" *in* "Food Safety: Where Are We?" Committee on Agriculture, Nutrition, and Forestry, United States Senate, p. 59, July 1979.

2. Kokoski, C.J., "Regulatory Food Additive Toxicology" presented at the "Second International Conference on Safety Evaluation and Regulation of Chemicals," Cambridge, MA, October 24, 1983.

3. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2-Propylene Oxide upon Intragastric Administration to Rats," *British Journal of Cancer*, 46:924, 1982.

4. "Bioassay of 1,4-Dioxane for Possible Carcinogenicity," National Cancer Institute, NCI–CG–TR–80, 1978.

5. Memorandum dated February 13, 1986, from Food Additive Chemistry Evaluation Branch to Indirect Additives Branch, "Exposure to Ethylene Oxide (EO) and 1,4-Dioxane (DX)."

Any person who will be adversely affected by this regulation may at any time on or before September 17, 1986, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

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

2. In § 178.2010(b) by alphabetically inserting in the list of substances a new item to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Tris(triethylene glycol) phosphate (CAS Reg. No. 9056-42-2).	At levels not to exceed 0.1 percent by weight of polyethylene phthalate polymers complying with § 177.1630 of this chapter, such that the polymers contact foods only of Type VI–B described in Table 1 of § 176.170(c) of this chapter.
* * * * *	

Dated: August 11, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–18534 Filed 8–15–86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 522 and 556

Animal Drugs, Feeds, and Related Products; Ivermectin Injection

Correction

In the issue of Wednesday, August 13, 1986, on page 28932, in the third column, a correction to FR Doc. 86–16938 appeared inaccurately. The section references should have read as follows:

§ 522.1192 [Corrected]

2. On page 27021, second column, § 522.1192(d)(4)(ii), last line, "scabiei" was misspelled.

BILLING CODE 1505-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Salinomycin, Roxarsone, and Bacitracin Zinc

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by A. H. Robins Co., providing for safe and effective use of Type C medicated broiler chicken feeds manufactured with separately approved salinomycin, roxarsone, and bacitracin zinc Type A medicated articles. The feeds are used for increased rate of weight gain and improved feed efficiency and for prevention of coccidiosis.

EFFECTIVE DATE: August 18, 1986.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: A.H. Robins Co., 1407 Cummings Dr., P.O. Box 26609, Richmond, VA 23261, filed NADA 137-536 providing for use of the following separately approved Type A articles: Bio-Cox® containing 30 grams per pound salinomycin, with 3-Nitro® containing 10, 20, or 50 percent roxarsone, and Albac® containing 50 grams per pound bacitracin zinc. The Type A articles are combined to make Type C broiler feeds containing salinomycin at 40 to 60 grams per ton, roxarsone at 45.4 grams per ton (0.005 percent), and bacitracin zinc at 4 to 50 grams per ton. The feeds are used for prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati,* including some field strains of *E. tenella* which are more susceptible to roxarsone combined with salinomycin than to salinomycin alone; and for increased rate of weight gain and improved feed efficiency. The NADA is approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information summary.

In addition, that part of the roxarsone regulation citing additional combinations (21 CFR 558.530(d)(4)) is amended to add a cross reference reflecting this approval and the August 10, 1984, approval of a complete broiler feed containing salinomycin, roxarsone, and bacitracin methylene disalicylate. The cross reference was inadvertently omitted.

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

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.78 is amended by revising paragraph (d)(3)(x) to read as follows:

§ 558.78 Bacitracin zinc.

* * * * *

(d) * * *

(3) * * *

(x) Salinomycin alone or with roxarsone as in § 558.550.

3. Section 558.530 is amended by adding new paragraph (d)(4) (iii) and (iv) to read as follows:

§ 558.530 Roxarsone.

* * * * *

(d) * * *

(4) * * *

(iii) Roxarsone may be used in combination with salinomycin and bacitracin methylene disalicylate as in § 558.550.

(iv) Roxarsone may be used in combination with salinomycin and bacitracin zinc as in § 558.550.

4. Section 558.550 is amended by adding new paragraph (b)(1)(viii) to read as follows:

§ 558.550 Salinomycin.

* * * * *

(b) * * *

(1) * * *

(viii)(*a*) *Amount per ton.* Salinomycin 40 to 60 grams with roxarsone 45.4 grams and bacitracin zinc 4 to 50 grams.

(*b*) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati,* including some field strains of *E. tenella* which are more susceptible to roxarsone combined with salinomycin than to salinomycin alone; for increased rate of weight gain and improved feed efficiency.

(*c*) *Limitations.* See paragraph (b)(1)(iv)(*c*) of this section.

* * * * *

Dated: August 12, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-18530 Filed 8-15-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 812 and 882

[Docket No. R-86-1205; FR-1829]

Shared Housing in the Section 8 Existing Housing Program; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that appeared in the Federal Register on Wednesday, June 11, 1986 (51 FR 21300). It corrects typographical errors in the rule text, as well as making two corrections in the amendatory language of the rule.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-7055. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: Accordingly, the Department is

correcting FR Document 86–13126, published on June 11, 1986 (51 FR 21300) as follows:

§ 882.320 [Corrected]

1. On page 21311, column 2, in § 882.320(d) the reference to paragraphs "(c)" and "(d)" is corrected to read "(b)" and "(c)".

§ 812.2 [Corrected]

On page 21307, column 3, the amendatory language for amendment number 2 is corrected to read:

"2. Section 812.2 is amended by revising the definition of Disabled Person, Displaced Person, Elderly Family, Family, Handicapped Person, and Single Person and by adding definitions of Elderly Person and Live-in-Aide, to read as follows:"

3. On pages 21307 and 21308, the rule text for § 812.2 is corrected by adding five asterisks in the following five places: before the definition of Displaced Person; before the definition of Family; before the definition of Live-in-Aide; before the definition of Single Person; and after the definition of Single Person.

Dated: August 5, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 86–18471 Filed 8–15–86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 1145–86]

Technical Amendment

AGENCY: Department of Justice.

ACTION: Final Rule; technical amendment.

SUMMARY: This technical amendment corrects a prior designation of 28 CFR Part 0, Subpart P–1, § 0.95, as printed in the Federal Register of October 25, 1985 at page 43386, from § 0.95 to § 0.94–1. This is being done because there is already a 28 CFR 0.95.

EFFECTIVE DATE: August 18, 1986.

FOR FURTHER INFORMATION CONTACT: Charles A. Lauer, General Counsel, Office of Justice Programs, 202/724–7792.

SUPPLEMENTARY INFORMATION: A previous final rule (50 FR 43385, Oct. 25, 1985) added a § 0.95 to Subpart P–1, the Office of Justice Programs and related agencies. There was already a section 0.95 in Subpart Q, the Bureau of Prisons. This final rule corrects the designation of section 0.95 in subpart P–1 to section 94–1.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Organizations and functions (Government agencies).

By the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, Subpart P–1 of Part O of Title 28 of the Code of Federal Regulations is amended as follows:

PART D—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303; 8 U.S.C. 1103, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 200(c); 50 U.S.C. App. 2001–2017p; Pub. L. No. 91–513, sec. 501; EO 11919; EO 11267; EO 11300.

2. The designation for § 0.95 in Subpart P–1 is revised to read as follows:

§ 0.94–1 Bureau of Justice Assistance.

Dated: August 6, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86–18555 Filed 8–15–86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Conyngham et al.

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Conyngham (DDG 17), USS Semmes (DDG 18) and USS Tattnall (DDG 19) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval destroyers. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS Conyngham (DDG 17), USS Semmes (DDG 18), and USS Tattnall (DDG 19) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with their special functions as naval destroyers. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS Conyngham (DDG 17), USS Semmes (DDG 18), and USS Tattnall (DDG 19) are members of the DDG 2 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to these three vessels.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels' abilities to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessels:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Section 2(a)(i), Annex I
USS CONYNGHAM	DDG 17	1.77
USS SEMMES	DDG 18	2.12
USS TATTNALL	DDG 19	2.39

Dated: August 6, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18539 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Manitowoc and USS Saginaw

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Manitowoc (LST 1180)and USS Saginaw (LST 1188) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval tank landing ships. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS MANITOWOC (LST 1180) and USS Saginaw (LST 1188) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with their special function as Navy ships. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these ships in a manner differently from that prescribed herein will adversely affect the ships' ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessels:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, section 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, section 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, section 2(f) (Except for task lights, see Annex I, section 2f(ii))	Vertical separation of masthead lights used when towing less than required by Annex I, section 2(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, section 2(b)	Forward masthead light not in forward quarter of ship. Annex I, section 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, section (3)(a)	Percentage horizontal separation attained.
USS MANITOWOC	LST 1180	N/A	N/A	N/A	N/A	N/A	N/A	X	88
USS SAGINAW	LST 1188	N/A	N/A	N/A	N/A	N/A	N/A	X	86

Dated: August 6, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18541 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Peoria

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS *Peoria* (LST 1183) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval tank landing ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 31, 1986.

FOR FURTHER INFORMATION CONTACT: Capt. P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS *Peoria* (LST 1181) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the

aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, section 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, section 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, section 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, section 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, section 2(b)	Forward masthead light not in forward quarter of ship. Annex I, section 3(a)	After masthead light less than one-half ship's length aft of forward masthead light. Annex I, section (3)(a)	Percentage horizontal separation attained.
USS PEORIA	LST 1183	N/A	N/A	N/A	N/A	N/A	N/A	X	90

Dated: July 31, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18542 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS San Bernardino

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS *San Bernardino* (LST 1189) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval tank landing ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 31, 1986.

FOR FURTHER INFORMATION CONTACT: Capt. P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS *San Bernardino* (LST 1189) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, section 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, section 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, section 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, section 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, section 2(b)	Forward masthead light not in forward quarter of ship. Annex I, section 3(a)	After masthead light less than one-half ship's length aft of forward masthead light. Annex I, section (3)(a)	Percentage horizontal separation attained.
USS SAN BERNARDINO	LST 1189	N/A	N/A	N/A	N/A	N/A	N/A	X	89

Dated: July 31, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18543 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Sellers

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Sellers (DDG 11) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval destroyer. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS Sellers (DDG 11), is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with its special function as a naval destroyer. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS Sellers (DDG 11) is a member of the DDG 2 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this vessel.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's abilities to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Section 2(a)(i), Annex I
USS SELLERS	DDG 11	1.3

Dated: August 6, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18544 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Flint

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Flint (AE 32) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval ammunition ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 31, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. § 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS FLINT (AE 32) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. § 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, section 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, section 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, section 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of tnm. Annex I, section 2(b)	Forward masthead light not in forward quarter of ship. Annex I, section 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, section (3)(a)	Percentage horizontal separation attained
USS FLINT	AE 32	N/A	N/A	N/A	N/A	N/A	N/A	×	98

Dated: July 31, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18540 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Side Loadable Warping Tug

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that Side Loadable Warping Tug (SLWT 1) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval warping tug. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 31, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. § 1605, and Executive Order 11964, the Department of the Navy amends 32 C.F.R. Part 706. This amendment provides notice that the Secretary of the Navy has certified that Side Loadable Warping Tug (SLWT 1) is a vessels of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Rule 21(a), pertaining to the centerline location of the masthead lights, and Annex I, section 3(b), pertaining to the location of the sidelights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Two of § 706.2 is amended by adding the following vessel and footnote 2 to read as follows:

Vessel	Number	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(k), Annex	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
	SLWT 1	1.62							3.93 [2]

[2] Port sidelight only.

Dated: July 31, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 6-18545 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Baltimore, MD Regulation 86-07]

Safety Zone Regulations; Brewerton Channel Eastern Extension, MD

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Brewerton Channel Eastern Extension, Upper Chesapeake Bay, Maryland. The zone is needed to protect vessels from a safety hazard associated with the dredging of the Brewerton Channel Eastern Extension. Entry into this zone by vessels in excess of 130 feet length overall and vessels with tows of a combined tug and tow length overall in

excess of 130 feet is prohibited unless authorized by the Captain of the Port, Baltimore, Maryland.

EFFECTIVE DATES: This regulation become effective at 4:00 AM local time on August 20, 1986. It terminates at 8:00 PM local time on December 1, 1986, unless sooner terminated by the Captain of the Port, Baltimore.

FOR FURTHER INFORMATION CONTACT: Commander D.M. Strasser, Chief Port Operations Department, USCG Marine Safety Office, Custom House, 40 South Gay Street, Baltimore, Maryland 21202–4022, (301) 962–5105.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to potential hazards to the vessels involved.

Drafting Information

The drafters of this regulation are Chief Warrant Officer D.L. Hutchinson, project officer for the Captain of the Port, Baltimore, MD and LT W.M. Patrick, Project Attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulation

The operation requiring this regulation will involve three clam shell dredges working the entire length and width of the Brewerton Channel Eastern Extension. The dredges will be deepening and widening the present channel. The dredges will be accompanied by spoil barges and tugs. The dredging operation will substantially increase the risk associated with navigation of the channel by vessels.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

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

2. A new § 165.T0507 is added to read as follows:

§ *165. T0507 Safety Zone:* Brewerton Channel Eastern Extension, Upper Chesapeake Bay, Baltimore, Maryland.

(a) *Location:* The following area is a safety zone: Brewerton Channel Eastern Extension; bounded on its eastern end by a line drawn in a southwesterly direction from Upper Chesapeake Channel Lighted Buoy "7" (Light List, Volume II, 1986, Number 3625) in approximate position 39.08.52N, 076.19.23W, to the point of intersection of the Upper Chesapeake Channel with Brewerton Channel Eastern Extension at approximately position 39.08.40N, 076.19.35W; and bounded on its western end by a line drawn in a southeasterly direction from Craighill Channel Lighted Buoy "20C" (Light List Number 3360) in approximate position 39.10.42N, 076.25.57W to the point of intersection, of Craighill Channel Upper Range with Brewerton Channel Eastern Extension at approximate position, 39.10.35N, 076.25.52W.

(b) *Effective dates.* This regulation becomes effective on August 20, 1986. It terminates on December 1, 1986 unless sooner terminated by the Capitain of the Port, Balitimore.

(c) *Regulations.* (1) In accordance with the general regulation in 165.23 of this part, entry into this zone is prohibited by all vessels in excess of 130 feet length overall and vessels with tows of a combined tug and tow length overall in excess of 130 feet unless authorized by the Captain of the Port, Baltimore, Maryland.

Dated: August 7, 1986.

R.C. Pickup,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 86–18571 filed 8–15–86; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1 and 3

Permit Requirements; Penalty Provisions

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rulemaking clarifies the penalty provisions of the three general regulations used by the National Park Service as basic authorities to issue and require permits for members of the public to engage in certain activities. These provisions were inadvertently omitted when the regulations were originally promulgated in 1983. Experience since that time has shown that these clarifications are necessary in order to outline the mandatory aspects of permit systems established and used by park managers to manage visitor use activities in park areas. This rulemaking is a clarification only and does not impose new restrictions or requirements.

EFFECTIVE DATE: September 17, 1986.

FOR FURTHER INFORMATION CONTACT: Andy Ringgold, National Park Service, Branch of Ranger Activities, P.O. Box 37127, Washington, DC 20013–7127, Telephone: 202–343–1360.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 1983, the National Park Service (NPS) published a major revision of its general regulations in Title 36 of the Code of Federal Regulations that pertain to resource protection, public use and recreation (48 FR 30252). One of these regulations, section 1.6, provides the general procedures and criteria under which NPS permits are issued. Another, section 1.5, sets forth the basic authority for park managers to establish permit systems in order to implement public use limits. A third general regulation, section 3.3, authorizes the superintendent to issue permits to manage boating activities within a park area.

These three regulations all contain provisions that address a superintendent's authority to issue permits and/or to establish permit conditions; other provisions prohibit violating the terms and conditions of a permit. Both sections 1.5 and 3.3 make reference to the permit criteria and procedures of section 1.6. However, none of these sections contains text that clearly indicates that, if a permit is required by a superintendent in order for a person to engage in a certain activity, failure to obtain a permit prior to engaging in that activity constitutes a violation of the regulation by that individual.

The original intent of the NPS was that such a provision was understood as being inherent in the fact that the superintendent was authorized to require a permit. However, in the period since the effective date of these regulations, questions raised by members of the public, NPS employees and some U.S. Magistrates have indicated that this intention was not

clear and that clarifying text is necessary.

This rulemaking clarifies NPS permit requirements by consolidating all the general procedural and regulatory provisions pertaining to NPS permit systems and authorities found in these three sections in section 1.6 and deleting duplicative provisions from sections 1.5 and 3.3. A provision emphasizing the mandatory nature of permit requirements has been added to section 1.6. Clarifying text has also been added to paragraph 1.6(e) that indicates that terms and conditions of a permit may derive not only from the criteria presently specified in that paragraph but also from criteria and restrictions that exist in other regulations.

These changes do not add new obligations or impose new restrictions. The intent of this rulemaking is solely one of clarification. A minor technical change is also included in this rulemaking to revise the authority citation in 36 CFR Part 3 to reflect the statutory authority found in 16 U.S.C. 1a-2(h) that authorizes the NPS to regulate boating activities in park areas.

Summary of Public Comments

The NPS published a proposed rule in the **Federal Register** and requested public comments on this rulemaking on June 3, 1986 (51 FR 19858). No public comments were received in response. One written comment and several telephonic comments were received from various NPS officials, all supporting the proposal. The regulatory text of the proposed rule is therefore published unchanged as the final rule.

Drafting Information

The author of this rulemaking is Andy Ringgold of the NPS Branch of Ranger Activities, Washington, DC.

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. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These determinations are based on the fact that this rulemaking is a clarification only and has no economic effect.

The National Park Service has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects

36 CFR Part 1

National Parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

36 CFR Part 3

Marine safety, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 1—GENERAL PROVISIONS

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

Authority: 16 U.S.C. 1, 3, 9a, 460*l*–6a(e), 462(k).

2. By revising paragraph (f) of § 1.5 to read as follows:

§ 1.5 Closures and public use limits.

* * * * *

(f) Violating a closure, designation, use or activity restriction or condition, schedule of visiting hours, or public use limit is prohibited.

3. By revising paragraphs (e), (g) and (h) of § 1.6 to read as follows:

§ 1.6 Permits.

* * * * *

(e) The superintendent shall include in a permit the terms and conditions that the superintendent deems necessary to protect park resources or public safety and may also include terms or conditions established pursuant to the authority of any other section of this chapter.

* * * * *

(g) The following are prohibited:

(1) Engaging in an activity subject to a permit requirement imposed pursuant to this section without obtaining a permit; or

(2) Violating a term or condition of a permit issued pursuant to this section.

(h) Violating a term or condition of a permit issued pursuant to this section may also result in the suspension or revocation of the permit by the superintendent.

PART 3—BOATING AND WATER USE ACTIVITIES

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

Authority: 16 U.S.C. 1, 1a–2(h), 3.

5. By revising § 3.3 to read as follows:

§ 3.3 Permits.

The superintendent may require a permit for use of a vessel within a park area in accordance with the criteria and procedures of § 1.6 of this chapter.

Dated: July 28, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–18593 Filed 8–15–86; 8:45 am]

BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Veterans Education; Educational Assistance Test Program; Correction

AGENCY: Veterans Administration and Department of Defense.

ACTION: Final rules; correction.

SUMMARY: The Veterans Administration recently published final rules on the implementation of the Educational Assistance Test Program. These rules were published in the **Federal Register** of July 29, 1986, at pages 27025 through 27033. This document is to correct the text of § 21.5742(a)(2).

EFFECTIVE DATE: September 8, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW, Washington, DC 20420 (202) 389–2092.

Dated: August 12, 1986.

Patricia B. Viers,

Chief, Directives Management Division.

On page 27028 of the **Federal Register** of July 29, 1986, Volume 51, § 21.5742(a)(2) is correctly revised to read as follows:

§ 21.5742 Entitlement.

* * * * *

(a) * * *

(2) The VA shall convert the number of years determined in paragraph (a)(1) of this section to months by multiplying them by 12.

* * * * *

[FR Doc. 86-18579 Filed 8-15-86; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-211]

Organization and Delegation of Powers and Duties; Maritime Administration and Maritime Subsidy Board

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This amendment transfers to the Maritime Administrator certain responsibilities regarding subsidized vessels currently being carried out by the Maritime Subsidy Board. These changes would incease the efficiency with which these responsibilities are carried out.

DATE: This amendment takes effect August 18, 1986.

FOR FURTHER INFORMATION CONTACT: Gwyneth A. Jones, Office of the General Counsel, Department of Transportation, Washington, DC (202) 366-9305.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective immediately upon publication in the **Federal Register**.

Experience with the division of responsibilities between the Maritime Administrator and the Maritime Subsidy Board has indicated the potential for greater efficiencies by transferring to the Administrator certain minor administrative functions regarding the execution of routine amendments to subsidy contracts that have heretofore been carried out by the Board. These matters are non-controversial and the Administrator is sufficiently conversant with relevant factors to make the decisions outside the deliberative context of the Board. The Board would continue to make the determinations to award and terminate subsidy contracts.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

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

Authority: 49 U.S.C. 322.

§ 1.4 [Amended]

2. In § 1.4, paragraphs (k) (3) and (5) are removed and paragraphs (k) (4), (6), and (7) are redesignated as (k) (3) through (5). Redesignated paragraph (k)(5) is further amended by removing the reference to "paragraphs (k) (1) through (6) of this section." and adding, in its place, "paragraphs (k) (1) through (4) of this section."

3. Section 1.67(a)(1) is revised to read as follows:

§ 1.67 Delegations to Maritime Subsidy Board.

(a) * * *

(1) Carry out all functions previously vested in the Secretary of Commerce pursuant to section 105(1) (except the last proviso thereto and readjustments in determinations of operating cost differentials not requiring a hearing and contractual changes reducing or realigning service requirements not involving additional subsidy or requiring a section 605(c) hearing under the Act (46 U.S.C. § 1175(c)), section 105(2), and, insofar as applicable to these functions, section 105(3) of Reorganization Plan No. 21 of 1950, and section 202(b)(1) of Reorganization Plan No. 7 of 1961, except investigations, hearings and determinations, including changes in determinations, with respect to minimum manning scales, minimum wage scales, and minimum working conditions referred to in section 301(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.).

* * * * *

Issued in Washington, DC, on July 24, 1986.

Elizabeth H. Dole,

Secretary of Transportation.

[FR Doc. 86-18495 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 40800-4100]

Reef Fish Fishery of the Gulf of Mexico; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; correction.

SUMMARY: A notice to correct two geographical coordinates listed in Table 1 in the final rule implementing the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico (published October 9, 1984, 49 FR 39548) was published August 5, 1986, 51 FR 28094. This document corrects one of the geographic coordinates that was submitted incorrectly.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

Dated: August 13, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

The following correction is made to Table 1 in § 641.22:

§ 641.22 [Corrected]

Under the "Loran C coordinates" heading in Table 1, the Y Loran C coordinate for point 8 is corrected from "44174.4" to "44117.4".

[FR Doc. 86-18595 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the recreational salmon fishery in the fishery conservation zone (FCZ) from Cape Falcon, Oregon, to Cape Blanco, Oregon, at midnight, August 13, 1986, to ensure that the overall coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Chairman of the Pacific Fishery Management Council (Council) and the Director of the Oregon

Department of Fish and Wildlife (ODFW) that the recreational fishery quota of 189,000 coho salmon for the area south of Cape Falcon will be reached by midnight, August 13, 1986. This closure is necessary to conform to the preseason announcement of 1986 management measures. This action is intended to ensure conservation of coho salmon.

DATES: Closure of the FCZ from Cape Falcon, Oregon, to Cape Blanco, Oregon, to recreational salmon fishing is effective at 2400 hours local time, August 13, 1986. Comments on this closure will be received until August 29, 1986.

ADDRESSES: Comments may be mailed to the Northwest Regional Office, NMFS, BIN C1 5700, 7600 Sand Point Way, NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1986 were made effective on April 30, 1986 (51 FR 16520, May 5, 1986). The 1986 recreational fishery for all salmon species in the FCZ from Cape Falcon to Cape Blanco was established as June 28 through the earliest of September 4 or attainment of a quota of 189,000 coho salmon for the area south of Cape Falcon. Coho caught south of Cape Blanco count toward the total quota, but the fishery south of Cape Blanco will not close when the quota is met. Based on the best available information, the recreational catch in the area south of Cape Falcon is projected to reach the 189,000 coho salmon quota by midnight, August 13, 1986.

The Regional Director consulted with the Chairman of the Council and the Director of ODFW regarding a closure of the recreational fishery between Cape Falcon and Cape Blanco, Oregon. The Director of ODFW has confirmed that Oregon will close the recreational fishery in State waters adjacent to this area of the FCZ effective midnight, August 13, 1986.

The Secretary therefore issues this notice to close the recreational fishery in the FCZ from Cape Falcon to Cape Blanco effective midnight, August 13, 1986. This notice does not apply to the regularly-scheduled recreational fishery for all salmon species in the FCZ from Cape Blanco to the U.S.-Mexico border because this area is not affected by the attainment of the coho salmon quota for the area south of Cape Falcon.

Other Matters

This action is taken under 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Authority: 16 U.S.C. 1801 et seq.

Dated: August 13, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–18596 Filed 8–13–86; 4:39 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 159
Monday, August 18, 1986

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

Kiwifruit Grown in California; Proposed Change in Inspection, Size, and Pack Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the period of time that inspection certificates for kiwifruit are valid from 14 to 21 days and would delete reference to size designations with the exception of the minimum size which may be shipped under the order. It would also amend the meaning of the term "fairly uniform in size" to conform to the U.S. Grade Standards for Kiwifruit. Increasing the length of time that inspection certificates remain valid would eliminate many unnecessary reinspections, and eliminating reference to all but the minimum size would simplify the regulations and provide handlers additional flexibility in meeting buyer needs.

DATE: Comments must be received by August 28, 1986.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085–S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

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 proposed 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 would 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 own behalf. Thus, both statutes have small entity orientation and compatibility.

Marketing Order No. 920 regulates the handling of kiwifruit grown in the State of California. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended. The Kiwifruit Administrative Committee, established under the order, is responsible for its local administration. The amendments proposed herein will lessen regulatory requirements and simplify and clarify the regulations, and would therefore decrease the regulatory burden on the affected industry.

At its meeting on April 25, 1986, the committee recommended that the inspection requirements in § 920.155 be changed to extend the validity of inspection certificates to 21 days instead of the 14 days currently allowed. Nearly all kiwifruit is harvested in the fall and placed in controlled-atmosphere storage until sold and shipped. Last season, some handlers were required to obtain reinspection when shipments were delayed, causing an unnecessary additional expense. Therefore, the committee unanimously recommended that certification be valid until January 15 or 21 days after inspection, whichever is later, and that § 920.155 be changed accordingly.

The committee has also recommended that reference to the various size designations, with the exception of size 49, be deleted from § 920.302(a)(2)—"Size Requirements." Kiwifruit shipped under the order must be at least size 49. The committee annually prepares a chart defining the sizes of fruit in terms of the number of fruit per eight-pound sample. This chart is used by both the industry and various inspection agencies. Inasmuch as growing conditions differ from one season to the next, the committee needs the flexibility of being able to adjust or revise the criteria for the various size designations as necessary. It is therefore proposed that the committee recommendation be adopted.

In addition, the committee also recommended that the meaning of the term "fairly uniform in size" in § 920.302(a)(3) be amended to conform to the current U.S. Standards for Grades of Kiwifruit (7 CFR 51.2338(d)).

It is hereby found and determined that a comment period of less than 30 days is appropriate. Kiwifruit shipments are expected to begin in early September, and the regulation should be effective at or near the beginning of the shipping season.

List of Subjects in 7 CFR Part 920

Marketing agreements and orders, Kiwifruit, California.

The proposal is as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

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

2. Section 920.155 (50 FR 41660, October 15, 1985) is proposed to be revised to read as follows:

§ 920.155 Inspection requirement.

Certification of any kiwifruit which is inspected and certified as meeting grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53 during each fiscal year shall be valid until January 15 of such year or 21 days from the date of inspection, whichever is later.

3. Section 920.302 (50 FR 36568, September 9, 1985) is hereby amended by revising paragraph (a)(2) and by revising the sixth sentence of paragraph (a)(3) through the word "Provided," to read as follows:

§ 920.302 Grade, size, pack, and container requirements.

(a) * * *

(2) *Size Requirements.* Such kiwifruit are at least a minimum size 49 (size 49 means that an eight-pound sample representative of this size in the package

or container contains not more than 64 pieces of fruit).

(3) * * * For the purposes of this section "fairly uniform in size" means that fruit in containers marked numerically to denote size may not vary in diameter more than ½ inch (12.7mm) in sizes 30 or larger; ⅜ inch (9.5mm) in sizes 31 through 38; and ¼ inch (6.4mm) in sizes 39 or smaller: Provided, * * * * * * * * *

Dated: August 12, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-18553 Filed 8-15-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-159-AD]

Airworthiness Directives; DeHavilland DHC-7 Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to DeHavilland DHC-7 aircraft which would require the installation of a fine mesh stainless steel screen to prevent flame penetration of the rear cargo compartment perforated ceiling center panel, in the event of a fire.

DATE: Comments must be received no later than October 9, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-159-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario M3K IY5, Canada. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis or Mr. W. White, Aerospace Engineers, Systems Branch, ANE-173, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone number (516) 791-6427.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or comments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date of comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-159-AD, 17900 Pacific Highway South, C 68966, Seattle, Washington 98168.

Discussion

As a result of several recent fires in cargo compartments of different aircraft, the Transport Canada conducted a study of compartment liner installations and their flammability characteristics. Results of the study established that, in the event of a fire in the DHC-7 rear cargo compartment, the perforated ceiling liner is unsatisfactory in that it would allow flame to pass tnrough the perforations to the fuselage primary structure.

DeHavilland has issued Service Bulletin No. 7-25-49, Revision A, dated April 11, 1986, to correct this condition by installing a fine mesh stainless steel screen to block the flame penetration. Transport Canada has issued airworthiness directive CF-86-08, making the service bulletin mandatory.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD would require the modification in accordance with the service bulletin previously mentioned.

This airplane is manufactured in Canada and type certificated in the United States under the provision of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

It is estimated that 44 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $14,080.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, DeHavilland Model DHC-7 airplanes are operated by small entities.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

DeHavilland:

Applies to all Model DHC-7 series airplanes, certificated in any category. Compliance is required as indicated, unless already accomplished.

To assure that flames will not penetrate the rear cargo compartment liner to the fuselage primary structure, accomplish the following:

A. Within the next 6 months after the effective date of this AD, modify the DHC-7 rear cargo liner in accordance with DH Modification No. 7/2499 as detailed in DeHavilland Service Bulletin No. 7-25-49, Revision A, dated July 11, 1986, or later revisions approved by the Manager, New

York Certification Office, FAA, New England Region.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

Issued in Seattle, Washington, on August 11, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18521 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-157-AD]

Airworthiness Directives; Lockheed-California Company Model L-188A and L-188C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require structural inspections and repairs or replacements, as necessary, on certain high-time Lockheed Model L-188A and L-188C series airplanes to assure continued airworthiness. Some Lockheed Model L-188A and L-188C series airplanes are approaching or have exceeded the manufacturer's original objective fatigue design life. The AD is prompted by a structural reevaluation which has identified certain structural details as likely to develop fatigue cracks as these airplanes approach and exceed their design life. Fatigue cracks in these details, if left undetected, could result in a compromise of the structural integrity of these airplanes.

DATE: Comments must be received no later than October 9, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-157-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: L-188, Commercial Support Contracts, Dept. 63-11, Unit 33. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 514-6319.

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. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-157-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

A significant number of L-188 airplanes are approaching their design life goal. It is expected that these airplanes will continue to be operated past this point. The incidence of fatigue cracking on these airplanes is expected to increase as airplanes reach and exceed this goal. In order to evaluate the impact of increased fatigue cracking with respect to maintaining fail-safe strength and the damage tolerance of the airplane structure, the manufacturer has conducted a structural assessment of the airplane. The criteria for this assessment were provided by Advisory Circular (AC) 91-56 "Supplemental Structural Inspection Program for Large Transport Category Airplanes," and Federal Aviation Regulations (FAR) 25.571 (Amdt. 25-45). Durability and damage tolerance analysis utilizing the latest techniques, combined with continuing studies of operators' service data, comprise the basis of the L-188 Supplemental Inspection Document (SID).

The assessment identified structurally significant items (SSI's) which are those details contributing significantly to carrying flight, ground, pressure or control loads, and whose failure could affect the structural integrity necessary for the safety of the airplane. The assessment established the critical amount of fatigue damage the SSI's could sustain and still carry limit loads, and the rate at which the fatigue cracks could be expected to grow. In assessing the reliability of detecting damage, it was found necessary to inspect all airplanes to provide protection for the fleet.

Using this information and guidelines of AC 91-56, the manufacturer, working with all interested operators (i.e. the working group), developed the Supplemental Inspection Document (SID) for the L-188, Lockheed Report, LR29428, Revision A, dated May 14, 1986. In developing the SID, the working group reviewed its operations, maintenance practices and existing maintenance programs with respect to the basic requirements of the L-188 SID program. The affected operators are allowed to take credit for maintenance already being performed. The L-188 SID supplements established FAA approved structural inspection and maintenance programs. In some instances new data from operations or analytic studies are included.

Therefore, in consideration of the hazardous consequence of failure to detect fatigue cracks in these older airplanes, this AD would require each operator to revise his existing inspection/rework program in accordance with the L-188 SID.

It is estimated that 60 airplanes of U.S. registry and 13 U.S. operators would be affected by this AD, that it would take approximately 500 manhours per airplane to accomplish the required

action, and that the average labor cost would be $40 per manhour. Based on these figures, the total capital cost impact of the AD is estimated to be $260,000.

The recurring inspection impact on the affected operators is estimated to be 250 manhours per airplane at an average labor cost of $40 per manhour. Based on these figures, the annual recurring cost of this AD is estimated to not exceed $600,000.

Based on the above figures, the total cost impact of this AD for the first year is estimated to not exceed $860,000 and $600,000 for each year thereafter.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model L-188 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed Model L-188A and L-188C airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure the continuing structural integrity of these airplanes accomplish the following:

A. Within one year after the effective date of this AD, incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the requirements specified for the structurally significant details listed in Section III C. of Lockheed Report No. LR29428, Revision A, dated May 14, 1986, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Cracks found in the structurally significant details as a result of the supplemental inspection in paragraph A. must be repaired before further flight in accordance with an FAA-approved method.

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

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

The FAA has requested **Federal Register** approval to incorporate by reference the manufacturer's Supplemental Structural Inspection Document identified and described in this directive.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: L-188, Commercial Support Contracts, Dept. 63-11, Unit 33. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on August 11, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-18522 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 24394; NPRM 86-12]

Special Federal Aviation Regulation No. 47; Special Flight Authorization for Noise Restricted Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: Special Federal Aviation Regulation (SFAR) 47 provides for limited issuance of special flight authorizations to conduct certain nonrevenue operations that are otherwise prohibited by the Part 91, Subpart E, noise restrictions. The current rule terminates on December 31, 1986. This proposal would extend SFAR 47 through December 31, 1987 and would reduce the purposes for which a special flight authorization may be issued by not permitting the return to the U.S. of an exported aircraft except to hushkit or scrap the aircraft or to permit movements between storage locations in the U.S.

DATE: Comments must be received on or before October 2, 1986.

ADDRESSES: Comments on the proposal are to be marked "Docket No. 24394" and mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24394, 800 Independence Ave., SW., Washington, DC 20591; or delivered in duplicate to Room 916, 800 Independence Ave., SW., Washington, DC. Comments may be inspected in Room 916 on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. David Smith, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal AviationAdministration, 800 Independence Ave., SW., Washington, DC 20591, telephone: (202) 267-3534.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments and by commenting on the possible environmental, energy, or economic impact of this proposal. The comment should contain the regulatory docket or notice number and be submitted in duplicate to the address above. All comments received as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for comments.

Before taking any final action on the proposal, the Administrator will consider the comments made on or before the closing date, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commentor submits a self-addressed, stamped postcard with the comment and on the postcard the following statement is made: "Comments to Docket No. 24394." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commentor.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future notices of proposed rulemaking should also request a copy of Advisory Circular No. 11–2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Synopsis of the Proposal

Under Part 91 of the Federal Aviation Regulations, on or after January 1, 1985, no person may operate a civil subsonic turbojet airplane with maximum weight of more than 75,000 pounds to or from an airport in the United States unless that airplane has been shown to comply with Stage 2 or Stage 3 noise levels under Part 36. This restriction applies to U.S. registered aircraft that have standard airworthiness certificates and foreign registered aircraft that would be required to have a U.S. standard airworthiness certificate in order to conduct the operations intended for the airplane were it registered in the United States. SFAR 47 was adopted February 26, 1985 (50 FR 7751, February 26, 1985) to permit certain noncomplying operations of noise restricted aircraft which would be unlawful without a formal grant of exemption under FAR Part 11. The FAA has determined this process to be very cost beneficial and time efficient to both the government and the private sector. However, SFAR 47 expires on December 31, 1986 and to permit the operation of remaining non-noise compliant airplanes to fly from the U.S., the FAA proposes to extend SFAR 47 for a one year period until December 31, 1987.

Experience gained in the issuance of special flight authorizations indicates that certain changes to the purposes for which SFAR 47 may be utilized, are required. The adoption of these proposed changes would preclude some operations now permitted by SFAR 47. However, applicants seeking authorization for operations not permitted under the proposed rule would still be able to petition for an exemption under FAR Part 11 for those operations.

The FAA proposes to amend Section 2 of SFAR 47 so that operators importing or returning aircraft into the U.S. after export could only obtain special flight authorizations to permit them to deliver the aircraft to be scrapped or for modification to bring the aircraft into compliance with Stage 2 or Stage 3 noise levels. In addition, it is proposed that operations to change storage locations within the U.S. could no longer be authorized under SFAR 47. Aircraft in storage in the U.S. could still be exported, moved to be scrapped or modified to comply with the noise level requirements, but not to another point of storage in the U.S. Requests for all operations not covered by the proposed rule would require an exemption under FAR Part 11.

The FAA also proposes to amend Section 3 of SFAR 47 to require the applicant for a special flight authorization to supply a point of contact and information on the aircraft airworthiness status. Based on experience gained in administering SFAR 47, the provision of this information will reduce or eliminate delays in processing applications for SFAR 47 authorizations.

Paperwork Reduction Act Approval

The reporting requirements contained in this proposal have been submitted to OMB for review. Comments on the requirements should be submitted to the Office of Information and Regulatory Affairs (OMB), New Executive Office Building, Room 3001, Washington, DC 20503; Attention: FAA Desk Officer (Telephone 202–395–7340). A copy should be submitted to the FAA docket.

Economic Impact

This proposal has minimal economic impact. Adoption of the proposal would provide an alternative from the exemption process for certain operations, reducing administrative costs upon operators and the FAA. While the operations are not without some noise costs, these costs can be characterized as trivial, since the number of operations at any one local airport will be extremely low in number.

Even though benefits will exceed costs for this proposal, the FAA finds that the SFAR if adopted, is not likely to have significant economic impact upon a substantial number of small entities. The basis for this is the very low number of requests which FAA foresees as a result of the adoption of this proposal. This number should not exceed fifty over the life of the regulation. Accordingly, preparation of a full regulatory evaluation is not required.

List of Subjects in 14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots, Air traffic control, Pilots, Airspace, Air transportation, Airworthiness directives, and standards.

Environmental Analysis

Pursuant to Department of Transportation "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1D), a Finding of No Significant Impact has been prepared. The changes proposed in this Notice do not significantly affect the quality of the human environment.

The Proposed Amendment

Accordingly, the FAA proposes to amend Part 91 of the Federal Aviation Regulations (14 CFR Part 91) by amending Special Federal Aviation Regulation (SFAR) 47 as follows:

1. The authority citation for Part 91 is revised to read as set forth below:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 21, 1983).

2. Paragraph 2(c) is amended by removing the phrase "the sale, lease, or other disposition of the airplane; and" and substituting the phrase "scrapping the airplane" in its place.

3. Paragraph 2 is amended by removing paragraph (d).

4. Paragraph 3 is amended by adding new paragraphs (h) and (i) to read as follows:

(h) The applicant's name and telephone number.

(i) Whether a special flight permit under FAR Part 21.197 or a special flight authorization under FAR Part 91.28 is required for the proposed flight.

5. Paragraph 5 is amended by removing "1986" and substituting "1987" in its place.

The proposal has minimal economic consequencies. Accordingly, for reasons stated earlier the FAA has determined that: (1) The amendment does not involve a major rule under Executive Order 12291; (2) the amendment is not significant nor does it require a Regulatory Evaluation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) it is certified that under the criteria of the Regulatory Flexibility Act that the amendment 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.

Issued at Washington, DC, on July 10, 1986.

Norman H. Plummer,

Director of Environment and Energy.

[FR Doc. 86-16520 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 601]

San Lucas Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms proposes to establish in Monterey County, California, an American viticultural area to be known by the appellation "San Lucas." This proposal is based on a petition filed by Almaden Vineyards of San Jose, California. Almaden Vineyards is one of several growers having extensive vineyard operations in the vicinity of the Town of San Lucas in southern Monterey County, California.

The use of the name of an approved viticultural area as an appellation of origin in the labeling and advertising of wine allows the proprietor of a winery to designate the area as a locale in which grapes used in the production of a wine are grown and enables the consumer to identify and to differentiate between that wine and other wines offered at retail.

DATE: Written comments must be received by October 17, 1986.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, RE: Notice No., P.O. Box 385, Washington, DC 20044-0385.

Copies of this proposal, the petition, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Ariel Rios Federal Building, Room 4406, 1200 Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Coordinator, FAA, Wine and Beer Branch, Room 6237, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in Title 27, Code of Federal Regulations, Part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of original in the labeling and advertising of wine. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added to Title 27 a new Part 9 providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1) defines an American viticultural area as a delimited grape growing region distinguishable by geographical features. Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as viticultural area. The petition shall include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundary of the proposed viticultural area, based on features which can be found on United States Geoglogical Survey (U.S.G.S.) maps of the largest applicable scale; and,

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundary prominently marked.

Petition

Almaden Vineyards of San Jose, California, filed a petition for the establishment of a viticultural area to be known as "San Lucas" in southern Monterey County, California, in the vicinity of the Town of San Lucas.

The petitioned area consists primarily of bottomland and alluvial fans and terraces in the floodplain of the Salinas River as well as the slopes of rolling hills to the east and west of this 10-mile-long section of the Salinas Valley in Monterey County.

The principal stream that drains the valley is the Salinas River, the largest submerged or "upside-down" river in North America. The bottomlands drained by this river share similar geological history, topographical features, and soils.

The boundary of the proposed viticultural area encompasses approximately 53 square miles or 33,920 acres. The area is approximately 10 miles in length by 5 miles in width and is bisected by State Highway 101 and the Salinas River which flows northwest 155 miles from its souce in San Luis Obispo County through Monterey County into Monterey Bay. At the nothern end of the proposed viticultural area, the elevation of the Salinas River is approximately 340 feet above sea level; at the southern end, the evevation of the Salinas River is approximately 435 feet above sea level.

The "San Lucas" viticultural area as proposed includes the entire San Lucas Land Grant as well as the southern fourth of the San Benito Land Grant and the northern half of the San Bernardo Land Grant.

Within the area there are approximately 5,000 acres devoted to the cultivation of wine grapes. Areas presently planted in wine grapes range from alluvial fans and terraces over 350 feet above sea level to low-lying hills having maximal elevations of 800 feet above sea level. The proposed area is entirely within the established Monterey Viticultural Area.

History

A Spanish navigator landed at Monterey in 1602. Subsequent overland expeditions from Mexico City to Alta California included padres who established 21 missions along the Camino Real in California. In the portion of California which later became Monterey County, missions were established at Carmel, Soledad and San Antonio.

The Spanish imposed rigidly prescribed rules under which land was parceled into pueblos, presidios, missions and ranchos. From 1774 to 1824, Spanish governors in Monterey awarded 34 relatively small parcels of land as ranchos in present-day Monterey County.

With Mexico's independence from Spanish rule in 1824, a succession of Mexican governors ruled California. These governors secularized the extensive landholdings of the missions by bestowing an additional 32 land grants, eight of which were in excess of 10,000 acres. From 1836 to 1842, 28 land grants totaling over a quarter of a million acres wer awarded. The Rancno San Benito (6,671 acres) and the Rancho San Bernardo (13,346 acres) land grants

were awarded in 1841 and the Rancho San Lucas land grant (8,875 acres) was awarded in 1842.

From 1862 to 1890, Alberto Trescony amassed extensive holdings of rangeland consisting of Rancho San Benito and Rancho San Lucas as well as the portion of Rancho San Bernardo north of present-day San Ardo. Trescony grazed large herds of sheep and cattle on the land and rented tracts of land to tenant farmers who raised feed grains, primarily wheat and barley. As the area prospered, a large grain elevator was erected on a site which later became the Town of San Lucas. With the extension of railroad service south to San Lucas in the 1880's, the town continued to thrive and for a while its size elipsed that of King City, its immediate neighbor to the north. The "San Lucas District," comprised of the Town of San Lucas, the San Lucas and San Benito land grants, and the northern half of the San Bernardo land grant, gained a reputation for raising grain, cattle and horses.

The petition includes documentation of the planting of wine grapes in 1970. Today, the area has approximately 5,000 acres devoted to wine grape cultivation. A drive south along State Highway 101 from King City past San Lucas to San Ardo reveals mile after mile of vineyards planted on land extending to the bases of the hills along both sides of the roadway.

Name

"San Lucas" is the name used locally to designate the agricultural district in southern Monterey County in which is located the Town of San Lucas. Because of the history of ownership by Alberto Trescony as well as references to the "San Lucas" agricultural district, ATF believes that the name "San Lucas" applies to the area within the land grant bearing that name as well as to the southern portion of the San Benito Land Grant and to the portion of the San Bernardo land grant lying northwest of San Ardo.

Geography

The proposed San Lucas viticultural area consists of bottomland and alluvial fans and terraces in the floodplain of the Salinas River as well as the slopes of rolling foothills which form the east and west portions of the proposed boundary. Straight lines drawn between the promontories of foothills ranging in elevation from 499 feet to 1,230 feet above sea level form the boundary of the area. The proposed viticultural area is approximately 10 miles in length from north to south and over 5 miles in width from west to east. The area is part of the elongated 84-mile-long Salinas Valley which ranges in width from 10 to 12 miles near the Town of Salinas at its northern end near the Monterey Bay to less than one mile at Bradley at the southern end near the Monterey-San Luis Obsipo county line.

Distinguishing Characteristics

The petitioner states that in addition to history and name the proposed viticultural area is distinguished from adjoining bottomlands to the northwest and southeast by temperature and by climate and is distinguished from highland areas to the east and west by differences in topography, elevation, geology, and soils.

Data from the soil survey of Monterey County support restricting the "San Lucas" appellation to the area as petitioned.

Topography and Elevation

The major physiographic units in Monterey County are the valley lands of the Salinas Valley, the Gabilan and Diablo Ranges to the east of the valley, and the Santa Lucia Range to the west of the valley.

The topography of the proposed viticultural area ranges from bottomland and alluvial fans and terraces in the flood plain of the Salinas River to the gently rolling Cholame Hills in the Diablo Range east of the proposed area and the somewhat steeper slopes along canyons in the foothills of the Santa Lucia Range west of the proposed area.

Elevations of existing grape plantings range from bottomlands at 350 feet to hills at 800 feet above sea level. Lying entirely within the approved Monterey viticultural area, the boundary of the proposed San Lucas viticultural area defines a region well suited for viticulture. The topography of the area ensures adequate ventilation for viticulture.

Geology

The geology of the proposed area varies little from adjoining basin lands to the northwest but does differ significantly from that of the hills and mountains to the east and west. The basin of the Salinas Valley consists of sand and gravel alluivia. The central part of the Santa Lucia Range directly west of the proposed area is composed of diatomaceous shale and massive sandstone. The Cholame Hills in the Diablo Range to the east consist chiefly of calcareous shale. The San Ardo area southeast of the proposed area yields gas and oil.

Soil

The basin of the Salinas River contains a mix of alluvial sand, silt and clay carried downstream over time by tributaries from the mountains and hills surrounding the Salinas Valley. The soil in the vicinity of the Town of San Lucas is mostly Lockwood shaly loam, otherwise known as "Chalk Rock."

Other soil series common to the proposed area are Oceano (loamy sand), Metz complex (loam and sand), Garey (sandy loam), Greenfield (fine sandy loam), and the Snelling-Greenfield complex (loam). All are rapidly draining to well drained, coarse to medium textured soils that formed in alluvium. Slopes are 0 to 30 percent. The natural vegetation consists of annual grasses and forbs. Roots penetrate to a depth of more than 60 inches. Soils of these series are used mostly for dryland grain and range. With the use of irrigation, these soils can be planted to row crops such as grapes.

Climate

The climate of Monterey County ranges from cool and moist along the coast, where fog is common, to hot and dry in inland areas in the southern part of the county.

There are different climatic regions within the county. The transitions between regions are gradual. The regions are the coastal areas and valleys that open to the coast; interior valleys generally surrounded by foothills and mountains; the foothills; and the higher more rugged mountainous areas. There is a great difference between the maximum and minimum temperatures from one region to another.

Temperatures near the coast are uniform throughout the year. However, as distance from water increases, the ranges between seasonal highs and lows and between daytime highs and nighttime lows during the growing season widen.

The mean annual temperature for Monterey County ranges only from 55° to 59 °F. The mean maximum temperature averages about 100 °F near Jolon in the interior (15 miles to the southwest of the Town of San Lucas) but only about 79° on the Monterey Peninsula. The mean minimum temperature for Jolon is 30° and for the Peninsula, about 41°.

Along the coast, the average annual temperature is 57 °F, and freezing temperatures are rare. In the southern part of the county, however, greater extremes in temperature and higher average temperatures prevail. Annual precipitation ranges from about 105

inches along the crest of the Santa Lucia Range to 10 inches in southernmost Salinas Valley.

The climate of Monterey County is strongly affected by the proximity of the Pacific Ocean. Its moderating influence limits the range of daily highs and lows as well as the annual range of temperature, keeping summers cool and winters moderately warm close to water. Coastal areas are very cloudy in summer, especially during the evening, night and morning. Nighttime cloudiness is common throughout the Salinas Valley during much of the summer; however, as the distance from the ocean increases, the clouds are fewer, and they form later in the evening and clear earlier in the morning.

Inland, the pattern of climate becomes more complex as the maritime influence interacts with mountain barriers and inland heating. The coastal mountains in the central and southern parts of the county hold marine air away from the interior, but as the sun heats the middle and southern parts of the Salinas Valley and higher elevations near the adjacent mountains, rising warm air draws cooler marine air from Monterey Bay into the valley. As a result of this sequence of heating and cooling effects of wind and marine fog, daily and annual temperatures in the county's interior range widely.

Average annual temperatures of about 60 °F are characteristic of the Salinas Valley. Temperatures farther inland in the southern Salinas Valley, however, climb fairly high during the day before the sea breeze becomes effective. In summer, the average daily maximum temperature remains in the low 60s along the coast and ranges from the middle 80s to the middle 90s in the southern end of the Salinas Valley and the eastern mountain area. Readings of 115 °F have been made in the southeasternmost inland reaches of the Salinas Valley.

Precipitation, mostly rain, occurs chiefly in winter. As a result of the terrain and the maritime influence, the amount of precipitation varies considerably from point to point. In most areas of the coastal range, the annual amount averages more than 20 inches and is about 80 inches at higher elevations. Most of the Salinas Valley is in the rain shadow of the coastal range and, consequently, the annual total precipitation drops to as little as 10 inches in areas to the south of King City. East of the Salinas Valley, precipitation increases again on the western slopes of the Gabilan and Diablo Ranges with about 20 inches reported at the higher elevations.

Grape growing in the Salinas Valley requires irrigation from May to October. Almost all of the irrigation water is pumped via wells from the large aquifer of the submerged Salinas River. Water released during the summer from the reservoirs of the Nacimiento and San Antonio dams into the Salinas River maintains a steady flow and supply for sprinkler and drip irrigation.

The location of the proposed "San Lucas" viticultural area in the inland southern end of the Salinas Valley allows a distinction on climatological characteristics from the rest of the county in that the area experiences heat and less intrusion of the fog common to those portions of the Salinas Valley which are closer in proximity to the Monterey Bay.

The April through October growing season of the proposed viticultural area is distinctly warmer than that of the portion of the Salinas Valley to the northwest and cooler than that of the portion of the valley to the southeast. The climate of the area is characterized by cold summer night temperatures, dropping as much as 40 degrees below daytime highs.

The petitioner has supplied thermograph readings documenting a 30-degree range between high and low temperatures at Almaden's vineyard situated east of King City and a 40-degree range between high and low temperatures at Almaden's vineyard situated south of San Lucas.

"General Viticulture" by Winkler, Cook, Kliewer and Lider (1974) identifies, in part, winegrowing climatic regions and heat summations, i.e., degree-days above 50° F for the period April 1 through October 31, for the following locations in Monterey, San Joaquin and San Luis Obispo (SLO) counties:

Station	County	Heat summation	Climatic region
Gonzales	Monterey	2350	I
Soledad	Monterey	2880	II
San Luis Obispo	SLO	2620	II
Atascadero	SLO	2870	II
Paso Robles	SLO	3100	III
San Miguel	SLO	3890	IV
Stockton	San Joaquin	4160	V

The heat summations for the five climatic regions are:

Region	Degree-days
I	Less than 2,500.
II	2,501 to 3,000.
III	3,001 to 3,500.
IV	3,501 to 4,000.
V	4,001 or more.

Based on the averages of degree-day records maintained by the petitioner for the vineyards near King City and San Lucas for the 11-year period 1974 to 1984, ATF has calculated the following:

Station	County	Heat summation	Climatic region
King City	Monterey	3389	III
San Lucas	Monterey	3734	IV

Comparing the published data for selected stations in the vicinity of San Lucas with the calculations for the petitioner's vineyards near King City and San Lucas, ATF concludes that there is a difference in climatic regions between San Lucas and King City which is north of San Lucas. King City experiences more of the marine influence due to its proximity to the Monterey Bay.

San Miguel is situated in San Luis Obispo County approximately 30 miles south of the Town of San Lucas. Both San Lucas and San Miguel are classed in Climatic Region IV and both experience long daily periods of high heat and sunlight due to their inland locations and distance from the coast and its marine influence.

Winds and fog generated by high and low pressures between the inland hills and the year-round temperature of 55 degrees Fahrenheit for the waters of the Monterey Bay are an additional cooling factor in summer. These cooling winds are distinguished from those of the San Joaquin Valley to the east. The San Joaquin Valley is classed in Climatic Region V.

Proposed Boundary

The boundary of the proposed San Lucas viticultural area may be found on four United States Geological Survey maps of the 7.5 minute series, scale 1:24,000. The boundary is described in proposed § 9.56.

Compliance with Executive Order 12291

It has been determined that this proposed regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, 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 for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have 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.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Public Participation

ATF requests comments from all interested parties. Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any comment as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Thermograph readings supplied by the petitioner support a "warm" Climatic Region III classification for the petitioner's vineyard east of King City and a "cool" Climatic Region IV classification for the petitioner's vineyard south of San Lucas. Based on this data, ATF has proposed a northern leg of the boundary for the area. Since the transition between the two climatic regions is gradual, however, ATF requests the submission of any additional thermograph readings taken from various points in the extensive vineyards which are situated immediately northwest of the boundary as proposed. Readings recorded over at least the past 10 years would be helpful in delineating the north leg of the boundary.

The Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9-AMERICAN VITICULTURAL AREAS

Paragraph. 1. The authority citation for 27 CFR Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.56 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.
9.56 San Lucas.

Par. 3. Subpart C is amended by adding § 9.56 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.56 San Lucas.

(a) *Name.* The name of the viticultural area described in this section is "San Lucas."

(b) *Approved maps.* The appropriate maps for determining the boundary of San Lucas viticultural area are the following four U.S.G.S. topographical maps of the 7.5 minute series: San Lucas, CA, 1949, photorevised 1979, Nattrass Valley, CA, 1967, San Ardo, CA, 1967, and, Espinosa Canyon, CA, 1949, photorevised 1979.

(c) *Boundary.* The San Lucas viticultural area is located in Monterey County in the State of California. The boundary is as follows: Begnnning on the "San Lucas Quadrangle" map at the northwest corner of section 5 in Township 21 South, Range 9 East, the boundary proceeds northeasterly in a straight line approximately 0.35 mile to the 630-foot promontory in section 32, T. 20 S., R. 9 E.;

(1) Then east southeasterly in a straight line approximately 0.6 mile to the 499-foot promontory in the southwest corner of section 33, T. 20 S., R. 9 E.;

(2) Then east southeasterly in a straight line approximately 1.3 miles to the 847-foot promontory in section 3, T. 21 S., R. 9 E. on the "Nattrass Valley quadrangle" map;

(3) Then south southeasterly in a straight line approximately 2.2 miles to the 828-foot promontory in section 14, T. 21 S., R. 9 E. on the "San Ardo Quadrangle" map;

(4) Then east southeasterly in a straight line approximately 1.3 miles to the 868-foot promontory in section 13, T. 21 S., R. 9 E.;

(5) Then southeasterly in a straight line approximately 0.94 mile to the 911-foot promontory in section 19, T. 21 S., R. 10 E.;

(6) Then easterly in a straight line approximately 1.28 miles to the 1,042-foot promontory in section 20, T. 21 S., R. 10 E.;

(7) Then east northeasterly in a straight line approximately 1.28 miles to the 998-foot promontory in southeast corner of section 16, T. 21 S., R. 10 E.;

(8) Then southerly in a straight line approximately 2.24 miles to the 1,219-foot promontory near the east boundary of section 28, T. 21 S., R. 10 E.;

(9) Then southwesterly in a straight line approximately 1.5 miles to the 937-foot promontory near the North boundary of section 32, T. 21 S., R. 10 E.;

(10) Then southwesterly in a straight line approximately 0.34 mile to the 833-foot promontory in section 32, T. 21 S., R. 10 E.;

(11) Then south southeasterly in a straight line approximately 0.5 mile to the 866-foot "Rosenberg" promontory in section 32, T. 21 S., R. 10 E.;

(12) Then south southeasterly approximately 1.1 mile to the 781-foot promontory in section 5, T. 22 S., R. 10 E.;

(13) Then southeasterly in a straight line approximately 0.7 mile to the 767-foot promontory in section 9, T. 22 S., R. 10 E.;

(14) Then southerly in a straight line approximately 0.5 mile to the 647-foot promontory along the south boundary of section 9, T. 22 S., R. 10 E.;

(15) Then southwesterly in a straight line approximately 2.67 miles to the 835-foot promontory in section 19, T. 22 S., R. 10 E.;

(16) Then west southwesterly in a straight line approximately 1.1 miles to the 1,230-foot promontory in section 24, T. 22 S., R. 9 E.;

(17) Then north northwesterly in a straight line approximately 1.4 miles to the 1,149-foot promontory in section 14, T. 22 S., R. 9 E.;

(18) Then northwesterly in a straight line approximately 0.57 mile to the 1,128-foot promontory in section 11, T. 22 S., R. 9 E.;

(19) Then west southwesterly in a straight line approximately 0.58 mile to the 1,220-foot promontory near the north boundary of section 15, T. 22 S., R. 9 E.;

(20) Then northwesterly in a straight line approximately 1.33 miles to the 1,071-foot promontory in the northwest corner of section 9, T. 22 S., R. 9 E.;

(21) Then northwesterly in a straight line approximately 2.82 miles to the 1,004-foot promontory in section 31, T. 21 S., R. 9 E.; on the "Espinosa Canyon Quadrangle" map;

(22) Then north northwesterly in a straight line approximately 1.32 miles to the 882-foot promontory in section 25, T. 21 S., R. 8 E.;

(23) Then northwesterly in a straight line approximately 1.05 miles to the 788-foot promontory in section 23, T. 21 S., R. 8 E.;

(24) Then northerly in a straight line approximately 1.54 miles to the 601-foot promontory in section 13, T. 21 S., R. 8 E.;

(25) Then northeasterly in a straight line approximately 3.2 miles to the point of beginning.

Signed: August 8, 1986.

W.T. Drake,

Acting Director.

[FR Doc. 86-18580 Filed 8-15-86; 8:45 am]

BILLING CODE 4310-31-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal employment Opportunity in the Federal Government: Complaints of Discrimination

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Equal Employment Opportunity Commission is proposing to revise its regulations on equal employment opportunity in the federal government (29 CFR Part 1613). The regulations in Part 1613 cover the processing of complaints and appeals regarding employment discrimination in the Federal sector. These proposals provide for more efficacious investigations, appeals and compliance with Commission decisions in Federal employment.

DATE: Written comments on the proposed regulations must be received on or before September 17, 1986. The Commission proposes to consider any comments received and thereafter adopt final regulations.

ADDRESS: Comments should be addressed to the Office of the Executive Secretariat, Room 5215, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, DC 20507. Copies of comments submitted by the public will be available for review at the Commission's Library, Room 298, 2401 E Street, NW., Washington, DC 20507, between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, or James Lager, Staff Attorney, at 634-6690.

SUPPLEMENTARY INFORMATION: Pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978) and Executive Order 12106, 44 FR 1053 (December 28, 1978), authority for the administration and enforcement of equal opportunity in federal employment, previously vested in the Civil Service Commission, was transferred to the Equal Employment Opportunity Commission. The Commission is specifically granted the authority to issue rules, regulations, orders and instructions pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-16(b); the Age Discrimination in Employment Act of 1967, 29 U.S.C. 633a(b); the Rehabilitation Act of 1973, 29 U.S.C. 794a(a)(1), and Executive Order 12067.

Pursuant to the foregoing authorities, the Commission is publishing proposed regulations to resolve certain problems in federal sector complaint processing procedures and appeals to the Commission from agency decisions on federal employment discrimination complaints.

I. Proposed Amendments Affecting Investigation And Processing Of Employment Discrimination Complaints In The Federal Sector.

The current regulation § 1613.212 has been misconstrued to suggest that a complainant cannot file a complaint against more than one agency. The proposed amendment removes the requirement that a complainant restrict the scope of the complaint to alleged discrimination by the employing agency. Section 1613.601 would be similarly revised.

The amendment to § 1613.213 addresses the problem of lengthy EEO counseling periods without the aggrieved being informed of the right to file a complaint. The regulation eliminates the 21 day notice and requires the EEO Counselor to issue the notice of final interview not later than the 30th day after the aggrieved person contacted the Counselor. In addition, the proposed regulation requires the EEO Counselor's report to be submitted after a complaint has been filed, rather than when a complaint has been accepted, so that the report may be used to make a decision on the complaint. The proposed § 1613.214 addresses a number of practical problems concerning representatives and employees working swing or night shifts. The proposed regulation explicitly indicates that an agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow a complainant and the representative to confer. The proposed regulation allows official time, however, for all employees otherwise in pay status, if their presence is required or authorized in the investigation, informal adjustment or hearing on a complaint.

Language has been added to proposed § 1613.214(b) to indicate that representatives can be disqualified for conflicts of interest. In addition, the title of this subsection has been changed to reflect more accurately its contents.

Section 1613.215 provides two additional grounds for rejecting or cancelling complaints of discrimination: (1) Where the complainant has filed a civil action in U.S. District Court, and (2) where the complainant fails to accept an agency's offer of full relief in settlement of the complaint. At present agencies are required to continue administrative processing of the complaint, notwithstanding the complainant's election to proceed in the judicial forum. Administrative processing currently is terminated only upon its completion or when the court has entered a final judgment on the complaint. The proposed regulation ends processing of the same complaint in two forums, saving time and resources.

The second new ground for cancellation of a complaint is where the agency has offered a complainant full relief to settle a complaint but the complainant rejects the offer and insists on continued administrative processing of the complaint. A complainant has the right to appeal the adequacy of an agency's offer of full relief to the Commission. In addition, the grounds for rejection or cancellation have been

divided into two sub-paragraphs: the first discretionary and the second mandatory grounds for rejection or cancellation.

Section 1613.216 would be amended to delete the term "alleged discriminating official." The concept of "alleged discriminating official" has caused confusion and problems. Although complants are filed against agencies and it is agencies that are responsible for relief, some persons involved in federal sector complaint processing believe that alleged discriminating officials are the responsible agents, thus confusing the role of the individual as a witness and as an agency representative. The proposal would eliminate the confusing term.

If the agency proposes to take disciplinary action against any individual involved in discrimination, that individual would be entitled to the form of notification, response, and appeal, as governed by appropriate federal personnel regulations. The proposed regulation also permits an agency to select an investigator from any source except where a conflict of interest exists.

Proposed § 1613.217 addresses the problems of nonenforceability of a settlement agreement where there has been a breach and makes clear that any settlement agreement knowingly and voluntarily agreed to is binding upon the parties. There is now no provision for enforcement but only for the reinstatment of the complaint at the point that processing ceased.

The new regulation provides complainants with a forum to adjudicate allegations of agency breaches of settlement agreements and provides for enforcement of settlement agreements where the Commission determines that the agency has breached or recinded the agreement. Complainants are given specific appeal rights to the Commission and the right to request either specific enforcement of the settlement of the complaint for further processing.

Section 1613.218 would be revised to allow the Complaints Examiner to dispense with the hearing in cases where no material facts are at issue. Some cases now come before Complaints Examiners for hearing even through the facts are not in dispute. A summary decision process will conserve significant Commission resources and facilitate more rapid processing for cases that are inappropriate for a decision without a hearing, thus reducing complaint processing costs and timeframes. The Complaints Examiner's powers to compel evidence and enforce rulings were also strengthened. Because of privacy concerns and the investigative nature of hearings, the proposed revision explicity provides for hearings closed to the public.

Current regulation § 1613.219 does not reflect the provision of the Civil Service Reform Act, 5 U.S.C. 7121(d) (1982) that allows allegations of discrimination to be raised in a negotiated grievance procedure if the collective bargaining agreement so provides. The proposed revision incorporates the CSRA provision, while making it clear that an individual must elect either the complaint or the negotiated grievance procedure. The revision also makes clear that allegations of discrimination raised in grievances must be processed under EEOC regulations at 29 CFR Part 1613 where either the agency or employee is not covered by a grievance procedure authorized by 5 U.S.C. 7121(d). The proposed regulation provides that election should not occur until the actual filing of a complaint or grievance and not by contacting an EEO counselor.

The proposed revisions to § 1613.220(d) provides a uniform time limit for issuance of final agency decisions after receipt of the complete complaint file and recommended decision and requires agencies to supply the complaints examiner with a copy of the final agency decision.

The time period for agency acceptance, rejection or modification has been changed to conform to the requirements of *Marizan* v. *Equal Employment Opportunity Commission*, 33 Fair Employ. Prac. Dec. 1833 (D.D.C. 1984). Thus, the 45-day period of subsection (d) runs from the agency's receipt of a recommended decision rather than when received by the appropriate official as in the current regulation.

The proposed revision to § 1613.221 strengthens the complaint process by requiring an agency decision that rejects or modifies the recommended decision to indicate in specific detail the reasons for rejection or modification of the complaints examiner's findings of fact or conclusions of law. In addition, the proposed regulation indicates that final agency decisions are to based on a preponderance of evidence.

The proposed revision to § 1613.222 requires agencies to include proof of the date of receipt of the final agency decision in the complaint file.

The revision of § 1613.231 was made to conform with the procedure for appeals of matters under § 1613.217(b), noncompliance with settlement agreement and failure to implement final agency decision. The title of this subsection was changed to reflect more accurately its contents.

Section 1613.236 was promulgated by the Civil Service Commission to govern the relationship of the discrimination complaint process and the Civil Service appeal system. This subsection is deleted as it no longer has any effect.

Proposed § 1613.240 removes uncertainty as to how time will be computed and provides that documents will be considered filed timely when postmarked or, if there is no postmark, if the document is received within five days of the expiration of the relevant time period. Sections 1613.261, 1613.262 and 1613.607 have been revised to conform clearly to section 704 of Title VII.

The proposed revisions to § 1613.271 incorporate the Commission's Remedies Policy into federal sector remedial regulations by adding a new subsection (a). There is substantial consistency among the remedial principles and most provisions of the federal sector regulations and the EEOC Remedies Policy. The revision incorporates the principles of "The Policy Statement on Remedies and Relief for Individual Cases of Unlawful Discrimination," approved by the Commission on February 5, 1985, which is published here as Appendix A to Part 1613.

The proposed revision also deletes priority consideration as a remedy where the record shows by clear and convincing evidence that the complainant would not have been hired or promoted absent discrimination. In such instances, the appropriate action would be to eliminate the discriminatory practice and to take steps to ensure it does not recur, without providing a direct remedy to the complainant. In addition the proposed regulation notes that two year backpay limitation applies only to Title VII and Rehabilitation Act claims.

The proposed revision to both §§ 1613.283 and 1613.513 provides for termination of the administrative process once a civil action is filed in conformance with the proposed amendment to § 1613.215(b). We have proposed that § 1613.602 be amended so that an employee or applicant must consult an EEO Counselor within 30 days rather than 90 days of the date of the discriminatory event or when the aggrieved knew or should have known of the discrimination. This will ensure that an aggrieved who intends to file class complaint will meet the requirements for filing an individual complaint in case the class complaint is rejected under § 1613.601.

Proposed regulation §§ 1613.604, 1613.609, 1613.610, 1613.631 and 1613.643 include revisions to five sections of the

class complaint regulations to bring them into conformity with the changes made in the individual complaint regulations. Included are the provisions for cancellation when the agent files a civil action in U.S. District Court (§ 1613.604 and 1613.643) and the provisions for the enforceability of settlement agreement (§ 1613.609(e)) and a corresponding provision for appeal (§ 1613.631).

To address the situation where an agency settles a class complaint with the class agent but there are other class members who have been notified of the action and have not opted out, and assure that settlements are fair and reasonable, a procedure has been added to § 1613.609(d) that allows the case to continue after settlement upon substitution of an acceptable class agent. This provision was framed with the fairness provisions of Rule 23(e) of the Federal Rules of Civil Procedure in mind but has been tailored to fit the administrative process.

A minor change was made to § 1613.610 to indicate that a class hearing would be conducted in accordance with § 1613.218 rather than 5 CFR 772.307(c), which was used by the Civil Service Commission but no longer is contained in the Code of Federal Regulations.

II. Proposed Changes in the Appeal and Enforcement of Commission Decisions Concerning Employment Discrimination in the Federal Sector

Pursuant to 29 CFR 1613.231, complainants may appeal agency decisions on complaints of discrimination to the Commission. If the Commission finds on behalf of a complainant, its decision usually requires some from of agency compliance. The nature of compliance may range from processing complaint previously rejected to implementing specified relief such as back pay or reinstatement. Compliance is mandatory and agencies are given thirty (30) days to implement the ordered relief. Decisions on appeal notify complainants of their right to file a civil action in the appropriate federal district court, as provided by section 717(c) of Title VII and the other statutes cited above. In addition the parties to a complaint may request the Commission, under 29 CFR 1613.235, to reopen and reconsider a decision issued under § 1613.234. Decisions issued by the Commission under § 1613.235 may also contain mandatory compliance provisions and must give complainants another notice of their rights to file civil actions. The volume of appeals now processed by the Commission is such that special problems arise with enough frequency to merit refinement and enlargement of current appellate procedures. There is confusion on some vital matters, little accommodation for delays of a legitimate nature, and no formal process for a complainant or the Commission to effect compliance.

These proposed regulations address these problems as follows: *Finality:* Current Commission regulations require the Commission to notify the parties, when a decision is issued that the decision is final and contain a notice of right to file a civil action. 29 CFR 1631. 234. This notice is given whether the decision is on the merits of the complaint or on a procedural matter that neither resolves the merits of the entire complaint nor the underlying complaint on the procedural issues on appeal.

The notice section of the Commission's regulations requires an appellant to proceed to federal court within 30 days of receipt of notification of final action in actions brought pursuant to Title VII of the Civil Rights Act of 1964, and the Rehabilitation Act of 1973. 29 CFR 1613.281. Notification pursuant to this provision in Age Discrimination in Employment Act (ADEA) proceedings is specifically excluded by 29 CFR 1613.514 anbd 521. Therefore, ADEA proceedings are unaffected by the proposed regulation.

This notice requirement has created numerous problems for complainants where the agency's intention with respect to compliance with a decision is unclear or untimely. The thirty (30) day notice from the Commission is identical to the ninety (90) day notice of right to sue in the private sector so that a complainant's right to a civil action is extinguished after 30 days.

The problem is exacerbated by the current, apparently open-ended and cumulative right to request reopening and reconsideration of prior Commission decisions. A complainant exercising that right may lose the right to file a civil action because under the current regulations reopening is discretionary and does not place a time limit on complainants for making such requests.

The new 29 CFR 1613.235 makes clear that only a timely request to reopen defeats the finality of a decision for purposes of commencing a civil action.

Requests to Reopen: The current regulation does not specify how many requests to reopen the Commission would entertain that arise out of the same decision. In the past, the Commission occasionally accepted more than one such request. As a consequence, parties sometimes used the process as a delaying tactic. The new provisions indicates the Commission's intention to consider matters on requests to reopen only once. No further administrative review of a decision issued under § 1613.235 is available to either party. The Commission reserves to itself the right to reopen, on its own motion, any decision issued when circumstances so warrant. The Commission invites comments to address specifically the matter of discretionary reopening.

Compliance and Enforcement of Commission Decisions: Agency compliance with Commission decisions has generally been forthcoming and with a cooperative spirit. Nevertheless, there are occasions that require an administrative enforcement mechanism for complainants to secure Commission attention to a compliance problem. In those instances that it becomes necessary to invoke the procedures, the benefit ultimately is the elimination of duplicative and costly de novo civil actions.

The Commission considers its orders of corrective action mandatory and binding on the affected agency pursuant to section 717 of Title VII and section 15 of the Age Discrimination in Employment Act. Thus, a new section, 29 CFR 1613.238, has been added to place agencies and complainants on notice that once the action ordered has become final, the agency's responsibility in the matter with respect to the affected complainant is purely ministerial. The Commission believes that the procedures proposed in 29 CFR 1613.239(a) will be unnecessary in all but the most extraordinary circumstances. In an effort to resolve policy disputes, however it is appropriate for Commission and agency-head level discussion and resolution of controversies engendered by agency refusal to comply with Commission orders.

The notice to show cause directed to the agency head may request the appearance of the agency head before the Commission to discuss, in a manner consistent with the Privacy Act rights of individual federal employees, the reasons for the agency's noncompliance with the Commission's order.

After completion of reasonable administrative efforts to effect compliance with its orders, the Commission will notify complainants of their option to seek judicial enforcement of the corrective action ordered, *Moore* v. *Devine*, 780 F.2d 1559 (11th Cir. 1986), or commence de novo judicial proceedings. Once it is determined that the corrective action ordered is

acceptable to the complainant, however, nothing in the statutes administered by the Commission dictates that the complainant be compelled to litigate the matter de novo. Finally, unlimited delay works an invidious result of its own and conflicts with congressional and Executive policy to resolve allegations of discrimination expeditiously. Similarly, where discrimination is found by the appropriate authoirty, expeditious corrective action is mandated.

Clarification of Commission Decisions: Independent of compliance issues, agencies and complainants make inquiries seeking clarification of the remedies portion of Commission decisions. Questions from agencies usually are for advice on implementation of the relief granted. The new regulatory provision allows agencies to seek clarification in connection with a timely request to reopen. The time limitation is imposed to ensure expeditious resolution of any outstanding issues and to avoid delays in ultimate compliance.

Although the proposed rules will improve greatly the processing of federal sector complaints, these revisions are not a complete overhaul of the process. The Commission is continuing its consideration of the desirability and feasibility of a comprehensive revision of these regulations, as indicated in the Executive Office of the President, Office of Management and Budget, Regulatory Program of the United States Government (1986), and the Semiannual Regulatory Agenda, 51 FR 14,592 (1986).

These regulations have been coordinated with affected federal agencies pursuant to Executive Order 12067 and have been reviewed by the Office of Management and Budget pursuant to Executive Order 12291. The Commission hereby publishes these proposed rules for public comment. The proposed rules appear below.

Accordingly, it is proposed to amend Part 1613 as follows:

For the Commission.

Clarence Thomas,

Chairman.

Part 1613—[Amended]

1. The authority citation for Part 1613 continues to read as follows:

Authority: 5 U.S.C. 1301, 3301, 3302, 7151–7154, 7301; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 306, E.O. 11478, 3 CFR, 1969 Comp., p. 133, unless otherwise noted.

§ 161.3.212 [Amended]

1a. It is proposed to amend § 1613.212(a) by removing the words "with that agency" from the first sentence.

2. It is proposed to revise § 1613.213 to read as follows:

§ 1613.213 Precomplaint processing.

(a) An agency shall require that aggrieved persons who believes that they have been discriminated against because of race, color, religion, sex, or national origin consult with an Equal Employment Opportunity Counselor to try to resolve the matter. The agency shall require the Equal Employment Opportunity Counselor to make whatever inquiry believed necessary into the matter; to seek a solution of the matter on an informal basis; to counsel the aggrieved person concerning the issues in the matter; to keep a record of the counseling activities so as to brief, periodically, the Equal Employment Opportunity Officer on those activities; and, when advised that a complaint of discrimination has been filed by an aggrieved person, to submit a written report to the Equal Employment Opportunity Officer, with a copy to the aggrieved person, summarizing the counselor's actions and advice both to the agency and the aggrieved person concerning the issues in the matter. The Equal Employment Opportunity Counselor shall conduct the final interview with the aggrieved person not later than 30 calendar days after the date on which the matter was called to the counselor's attention by the aggrieved person. If the matter has not been resolved to the satisfaction of the aggrieved person, that person shall be informed in writing by the Counselor, not later than the thirtieth day after contacting the counselor, of his or her right to file a complaint of discrimination. The notice shall inform the complainant of his or her right to file a discrimination complaint at any time up to 15 calendar days after receipt of the notice, of the appropriate official with whom to file a complaint, and of the complainant's duty to assure that the agency is immediately informed if the complainant retains counsel, or any other representative. The Counselor shall not attempt in any way to restrain the aggrieved person from filing a complaint. The Equal Employment Opportunity Counselor shall not reveal the identity of an aggrieved person who consulted the counselor, except when authorized to do so by the aggrieved person, until the agency has received a complaint of discrimination from that person.

(b) The agency shall assure that full cooperation is provided by all employees to the Equal Employment Opportunity Counselor in the performance of the duties under this section.

3. It is proposed to revise § 1613.214 to read as follows:

§ 1613.214 Filing and processing of complaint.

(a) *Time limits.* (1) An agency shall require that a complaint be submitted in writing by the complainant or representative and be signed by the complainant. The complaint may be delivered in person or submitted by mail. The agency may accept the complaint for processing in accordance with this subpart only if:

(i) The complainant brought to the attention of the Equal Employment Opportunity Counselor the matter causing him/her to believe he/she had been discriminated against within 30 calendar days of the date of the alleged discriminatory event, the effective date of a alleged discriminatory personnel action, or the date that the aggrieved person knew or reasonably should have known of the discriminatory event or personnel action; and

(ii) The complainant or representative submitted the written complaint to an appropriate official within 15 calendar days after the date of receipt of the notice to file a complaint.

(2) The appropriate officials to receive complaints are the head of the agency, the agency's Director of Equal Employment Opportunity, the head of a field installation, and such other officials as the agency may designate for that purpose. Upon receipt of the complaint, the agency official shall transmit it to the Director of Equal Employment Opportunity or appropriate Equal Employment Opportunity Officer who shall acknowledge its receipt in accordance with paragraph (a)(3) of this section.

(3) A complaint shall be deemed filed on the date it is received, if delivered to an appropriate official, or on the date postmarked if addressed to an appropriate official, designated to receive complainst. The agency shall acknowledge, in writing, to the complainant or representative receipt of the compliant and advise the complainant in writing of all administrative rights and of the right to file a civil action as set forth in § 1613.281, including the time limits imposed on the exercise of these rights.

(4) The agency shall extend the time in this section when the complainant shows that he/she was not notified of

the time limits and was not otherwise aware of them, was prevented by circumstances beyond the complainant's control from submitting the matter within the time limits; or for other reasons considered sufficient by the agency.

(b) Representation and official time. (1) At any state in the processing of a complaint, including the counseling stage under § 1613.213, the complainant shall have the right to be accompanied, represented, and advised by a representative of complainant's choice. If the complainant is an employee of the agency, he/she shall have a reasonable amount of official time to present the complaint if otherwise on duty. If the complainant is an employee of the agency and he designates another employee of the agency as his/her representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to present the complaint. The agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the complainant and representative to confer. However, the complainant and representative, if employed by the agency and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the agency or the Commission during the investigation, informal adjustment, or hearing on the complaint.

(2) In cases where the representative of a complainant or agency would have a conflict of interest, the Commission (or the agency if the complaint is at the agency level) may, after giving the representative an opportunity to respond, disqualify the representative.

4. It is proposed to revise § 1613.215 to read as follows:

§ 1613.215 Rejection or cancellation of complaint.

(a) The head of the agency or designee may reject a complaint that was not timely filed and may cancel a complaint because of failure of the complainant to prosecute the complaint. Cancellation may be taken only after the agency has provided the complainant a written request, including notice of proposed cancellation, that the complainant provide certain information or otherwise proceed with the complaint, and the complainant has failed to satisfy the request within 15 calendar days of receipt of the request. The complaint may be cancelled because the complainant refuses to accept an agency offer of complete relief in adjustment of the complaint, provided that the agency's General Counsel or Chief Legal Officer, or a designee reporting directly to such an official, has certified in writing that any written offer of relief made by the agency constitutes such complete relief. To constitute such complete relief for purposes of this section only, an offer must contain an unconditional offer of placement in the position the person would have occupied, elimination of any unlawful employment practice, expunction of records, payment on a make whole basis for any loss of earnings, and payment of attorney's fees or costs.

(b) The head of the agency or designee shall reject those allegations in a complaint that do not state a claim under § 1613.212 or that state the same claims that have been previously decided by the agency. The agency head or designee shall cancel a complaint where a civil action has been filed in the U.S. District Court based on that complaint.

(c) The head of the agency or designee shall transmit the decision to reject or cancel a complaint by leter to the complainant and representative. The decision letter shall inform the complainant of the right to appeal the decision of the agency to the Commission and of the time limit within which the appeal may be submitted and of the right to file a civil action as described in § 1613.281.

5. It is proposed to revise § 1613.216 to read as follows:

§ 1613.216 Investigation.

(a) The Equal Employment Opportunity Officer shall advise the Director of Equal Employment Opportunity of the acceptance of a compliant. The Director of Equal Employment Opportunity shall provide for the prompt investigation of the compliant. The person assigned to investigate the complaint shall not occupy a position in the agency that is directly or indirectly under the jurisdiction of the head of that part of the agency in which the complaint arose. The agency shall authorize the investigator to administer oaths and require that statements of witnesses shall be under oath or affirmation, without a pledge of confidence. The investigation shall include a thorough review of the circumstances under which the alleged discrimination occurred, the threatment of members of the complainant's group identified by his complaint as compared with the treatment of other employees in the organizational segment in which the alleged discrimination occurred, and any policies and practices related to the work situation which may constitute, or appear to constitute, discrimination even though they have not been expressly cited by the complainant. Information needed for an appraisal of the utilization of members of the complainant's group as compared to the utilization of persons outside the complainant's group shall be recorded in statistical form in the investigative file, but specific information as to a person's membership or nonmembership in the complainant's group needed to facilitate an adjustment of the complaint or to make an informed decision on the complaint shall, if available, be recorded by name in the investigative file. (As used in this subpart, the term "investigative file" shall mean the various documents and information acquired during the investigation under this section—including affidavits of the complainant and witnesses, and copies of, or extracts from records, policy statements, or regulations of the agency—organized to show their relevance to the complaint or the general environment out of which the complaint arose.) If necessary, the investigator may obtain information regarding the membership or nonmembership of a person in the complainant's group by asking each person concerned to provide the information voluntarily; he shall not require or coerce an employee to provide this information.

(b) The Director of Equal Employment Opportunity shall arrange to furnish to the person conducting the investigation a written authorization:

(1) To investigate all aspects of complaints of discrimination,

(2) To require all employees of the agency to cooperate with him in the conduct of the investigation, and

(3) To require employees of the agency having any knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidence.

(c) The Commission may assume responsibility for the investigation of any portion or all of an agency's complaints upon the execution of a memorandum of understanding to this effect with the agency. The agency shall reimburse the Commission for all expenses incurred in connection with the investigation. The Commission shall forward to the agency upon completion of the investigation the investigative file and the recommended decision. The agency shall adopt as its proposed disposition of the complaint the Commission's recommended disposition unless within 30 days after the agency receives the investigative file and recommended disposition the complaint

has been informally adjusted in accordance with § 1613.217(a), or the agency has notified the complainant of its own proposed disposition in accordance with § 1613.217(b).

6. It is proposed to revise § 1613.217 to read as follows:

§ 1613.217 Adjustment of complaint and offer of hearing.

(a) The agency shall provide an opportunity for adjustment of the complaint on an informal basis after the complainant has reviewed the investigative file. For this purpose, the agency shall furnish the complainant, or the complainant's representative if there is one, a copy of the investigative file promptly after receiving it from the investigator, and provide opportunity for the complainant to discuss the investigative file with appropriate officials. If an adjustment of the complaint is arrived at, the terms of the adjustment shall be reduced to writing and make part of the complaint file, with a copy of the terms of the adjustment provided the complainant. An informal adjustment of a complaint may include an award of back pay, attorney's fees or other appropriate relief. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney's fees or costs should be awarded or on the amount of attorney's fees or costs, the issue of the award of attorney's fees or costs or the amount which should be awarded may be severed and shall be the subject of a final decision under § 1613.221(d). The decision of whether to award attorney's fees or costs or of the amount to be awarded may be the subject of an appeal to the Commission under the provisions of §§ 1613.231 through 1613.236.

(b) Any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. If the complainant believes that the agency has failed to comply with the terms of a settlement agreement, the complainant shall promptly notify the agency, in writing, of the alleged noncompliance with the settlement agreement. The complainant may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement. Upon receipt of the complainant's written allegation of noncompliance with the settlement agreement, the agency shall have thirty (30) calendar days in which to resolve the matter and to respond to the complainant, in writing, concerning the matter. If, after thirty (30) calendar days from the date of the agency's receipt of the complainant's written allegations of noncompliance with the settlement agreement, the agency has not responded to the complainant, in writing, or if the complainant is not satisfied with the agency's attempt to resolve the matter, the complainant may appeal to the Commission for a determination as to whether the agency has complied with the terms of the settlement agreement. Prior to rendering its determination, the Commission may request that the parties submit whatever additional information or documentation it may deem necessary or it may direct that an investigation or hearing on the matter be conducted, as may be appropriate. If the Commission determines that agreement has not been complied with and the noncompliance is not attributable to acts or conduct of the complainant, it may order such compliance or it may order that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement. Complaints that alleged reprisal or further discrimination violate a settlement agreement shall be processed as individual complaints under § 1613.214 rather than under this section.

(c) If an adjustment of the complaint is not arrived at, the complainant shall be notified in writing:

(1) Of the proposed disposition of the complaint,

(2) Of the right to a hearing and decision by the agency head or designee if he/she notifies the agency in writing within 15 calendar days of the receipt of the notice that he/she desires a hearing, and

(3) Of the right to a decision by the head of the agency or designee without a hearing.

(d) If the complainant fails to notify the agency of his/her wishes within the 15-day period prescribed in paragraph (c) of this section, the appropriate Equal Employment Opportunity Officer may adopt the disposition of the complaint proposed in the notice sent to the complainant under paragraph (c) of this section as the decision of the agency on the complaint when delegated the authority to make a decision for the head of the agency under those circumstances. When this is done, the Equal Employment Opportunity Officer shall transmit the decision by letter to the complainant and the representative which shall inform the complainant of the right of appeal to the Commission and the time limit applicable to such an appeal and of the right to file a civil action as described in § 1613.281. If the Equal Employment Opportunity Officer does not issue a decision under this paragraph, the complaint, together with the complaint file, shall be forwarded to the head of the agency or designee for decision under § 1613.221.

7. It is proposed to revise § 1613.218 to read as follows:

§ 1613.218 Hearing

(a) *Complaints examiner.* The hearing shall be conducted by a Commission complaints examiner, except in instances where the Commission finds it is practical to delegate this responsibility to a Complaints Examiner from another agency who shall not be an employee of the agency in which the complaint arose. (For purposes of this paragraph, the Department of Defense is considered to a be a single agency.) When the Commission does not provide the complaints examiner, it will supply the agency with the name of a complaints examiner from another agency who has been certified by the Commission as qualified to conduct a hearing under this section.

(b) *Arrangements for hearing.* The agency in which the complaint arose shall transmit the complaint file containing all the documents described in § 1613.222 which have been acquired up to that point in the processing of the complaint, including the original copy of the investigative file (which shall be considered by the complaints examiner in making a recommended decision on the complaint), to the complaints examiner who shall review the complaint file to determine whether further investigation is needed before scheduling the hearing. When the complaints examiner determines that further investigation is needed, the examiner shall remand the complaint to the Director of Equal Opportunity for further investigation or arrange for the appearance of witnesses necessary to supply the needed information at the hearing. The requirements of § 1613.216 apply to any further investigation by the agency on the complaint. The complaints examiner shall schedule the hearing for a convenient time and place.

(c) *Conduct of hearing.* (1) Attendance at the hearing is limited to persons determined by the complaints examiner to have a direct connection with the complaint. Hearings are part of the investigative process and are thus closed to the public.

(2) The complaints examiner shall conduct the hearing to as to bring out pertinent facts, including the production of pertinent documents. Rules of

evidence shall not be applied strictly, but the complaints examiner shall exclude irrelevant or unduly repititious evidence. Information having a bearing on the complaint or employment policies or practices relevant to the complaint shall be received in evidence. The complainant, his representative, and the representatives of the agency at the hearing shall be given the opportunity to cross-examine witnesses who appear and testify. Testimony shall be under oath or affirmation.

(d) *Powers of Complaints Examiner.* In addition to the other powers vested in the Complaints Examiner in accordance with this subpart, the Complaints Examiner is authorized to:

(1) Administer oaths or affirmations;

(2) Regulate the course of the hearing;

(3) Rule on offers of proof and receive relevant evidence;

(4) Limit the number of witnesses whose testimony would be unduly repetitious; and

(5) Exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing. In cases of repeated or flagrant contumacious conduct or misbehavior by a representative, the Complaints Examiner may refer the matter to the Commission, and the Commission may, after giving the representative an opportunity to respond to the allegations of misconduct, suspend or disqualify the representative from further representational activity and report the misconduct to other appropriate authorities.

(e) If the complainant or agency fail to respond fully and in timely fashion to requests for documents, records, comparative data, statistics, affidavits, or the attendance of witnesses, such failure may, in appropriate circumstances, cause the Complaints Examiner:

(1) To draw an adverse inference that the requested information would have reflected unfavorably on the party refusing to provide the requested information;

(2) To consider the matters to which the requested information pertains to be established in favor of the opposing party;

(3) To exclude other evidence offered by the party failing to produce the requested information;

(4) To take such other actions as deemed appropriate.

(f) *Witnesses at hearing.* The complaints examiner shall request any agency subject to this subpart to make available as a witness at the hearing an employee requested by the complainant when he/she determines that the testimony of the employee is necessary. The examiner may also request the appearance of an employee of any federal agency whose testimony he determines is necessary to furnish information pertinent to the complaint under consideration. The complaints examiner shall give the complainant his reasons for the denial of a request for the appearance of employees as witnesses and shall insert those reasons in the record of the hearing. An agency to whom a request is made shall make its employees available as witnesses at a hearing on a complaint when requested to do so by the complaints examiner and it is not administratively impracticable to comply with the request. When it is administratively impracticable to comply with the request for a witness, the agency to whom request is made shall provide an explanation to the Complaints Examiner. If the explanation is inadequate, the Complaints Examiner shall so advise the agency and it shall make the employee available as a witness at the hearing. If the explanation is adequate, the Complaints Examiner shall insert it in the record of the hearing, provide a copy to the complainant, and make arrangements to secure testimony from the employee at another time or through written interrogatory. An employee of an agency shall be in a duty status during the time he/she is made available as a witness.

(g) If the Complaints Examiner determines that there are no issues of material fact, the Complaints Examiner may, after notice to the parties, issue a recommended decision without holding a hearing. The recommended decision will conform to § 1613.218(i) in all other aspects.

(h) *Record of hearings.* The hearing shall be recorded and transcribed verbatim. All documents submitted to, and accepted by, the complaints examiner at the hearing shall be made part of the record of the hearing. If the agency submits a document that is accepted, it shall furnish a copy of the document of the complainant. If the complainant submits a document that is accepted, the examiner shall make the documment available to the agency representative for reproduction.

(i) *Findings, analysis, and recommendations.* The Complaints Examiner shall transmit to the head of the agency of designee the complaint file (including the record of the hearing), the findings and analysis of the Complaints Examiner with regard to the matter which gave rise to the complaint and the general environment out of which the complaint arose, and the recommended decision of the complaints examiner on the merits of the complaint, including recommended remedial action, where appropriate, with regard to the matter which gave rise to the complaint and the general environment out of which the complaint arose. The Complaints Examiner shall notify the complainant of the date on which this was done. In addition, the complaints examiner shall transmit, by separate letter to the Director of Equal Employment Opportunity, whatever findings and recommendations he considers appropriate with respect to conditons in the agency which do not bear directly on the matter which gave rise to the complaint or which bear on the general environment out of which the complaint arose.

8. It is proposed to revise § 1613.219 to read as follows:

§ 1613.219 Relationship to grievance procedures.

(a) Allegations of discrimination on grounds of race, color, religion, sex, or national origin may not be raised under a grievance procedure except by employees in agencies that are subject to the provision of 5 U.S.C. 7121(d) and who are covered by a collective bargaining agreement that provides for allegations of discrimination to be raised in the negotiated grievance procedure. Allegations of discrimination by employees not covered by such a negotiated grievance procedure or by employees of agencies not subject to 5 U.S.C. 7121(d) may not be processed under grievance procedures, and any such grievance containing allegations of discrimination shall be processed under this part.

(b) In case where a person is covered by a negotiated grievance procedure permitting allegations of discrimination, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect the forum in which to pursue the matter: either the process described in this part or a negotiated grievance procedure. An aggrieved employee who files a grievance in writing with an agency whose negotiated agreement with an employee organization permits the acceptance of grievances which allege discrimination prohibited by this subpart, may not thereafter file a complaint on the same matter under the provisions of this subpart irrespective of whether the grievance has raised an allegation of discrimination within the negotiated grievance procedure. Any such complaints filed after a grievance has been filed on the same matter shall be rejected without prejudice to the

complainant's rights to proceed through the negotiated grievance process, including the complainant's right to request the Commission to review a final decision as provided in 5 U.S.C. 7121(d) and at § 1613.231(b). The agency decision letter rejecting such a complaint shall advise the complainant of the right to appeal the agency decision to the Commission. Where the discrimination complaint is processed through the negotiated grievance procedure, the agency shall ensure that a record adequate for Commission review is established. An election, pursuant to this paragraph, to proceed under this Part is indicated only by the filing of a formal complaint, in writing. Use of the pre-complaint process as described in § 1613.213 does not constitute an election for the purposes of this section.

9. It is proposed to amend § 1613.220 by removing the word "monthly" in the first sentence of paragraph (c) and to revise paragraphs (b) and (d) to read as follows:

§ 1613.220 Avoidance of delay.

* * * * *

(b) The head of the agency or designee may cancel a complaint if the complainant fails to prosecute the complaint without undue delay by following the procedures for cancelling a complaint under § 1613.215(a).

* * * * *

(d) When the complaints examiner has submitted a recommended decision it shall become a final decision binding on the agency 45 calendar days after the submission of the complete compaint file and the recommended decision to the agency unless the agency has already issued a final decision. In such event, the agency shall so notify the complaintant of the decision and furnish to him a copy of the findings, analysis, and recommended decision of the complaints examiner under § 1613.218(i) and a copy of the hearing record and also shall notify him in writing of the right to appeal to the Commission and the time limits applicable to such an appeal and of the right to file a civil action as described in § 1613.281. The agency shall provide the complaints examiner wiht a copy of its final decision on each complaint on which a recommended decision has been issued.

10. It is proposed to revise § 1613.221 to read as follows:

§ 1613.221 Decision by head of agency or designee.

(a) The head of the agency or designee shall make the decision of the agency on a complaint based on the preponderance of evidence in the complaint file. A person designated to make the decision for the head of the agency shall be one who is fair, impartial, and objective.

(b)(1) The decision of the agency shall be in writing, shall reflect the date of its issuance, and shall be transmitted to the complainant and his or her representative either by certified mail, return receipt requested, or by any other method which enables the agency to show the date of receipt.

(2) When there has been a decision on the complaint by the complaints examiner, the decision letter shall transmit a copy of the findings, analysis, and recommended decision of the complaints examiner under § 1613.218(g) or (i)(3) and a copy of the hearing record if a hearing was held. The decision of the agency shall adopt, reject, or modify the decision recommended by the complaints examiner. If the decision is to reject or modify the recommended decision, the decision letter shall set forth the specific reasons in detail for rejecting or modifying the findings of fact or conclusions of law made by the complaints examiner.

(3) When there has been no hearing and no decision under § 1613.217(d), the decision letter shall set forth the findings, analysis, and decision of the head of the agency or his designee.

(c) The decision of the agency shall require any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy of equal opportunity, whether or not there is a finding of discrimination. When discrimination is found, the agency shall—

(1) Advise the complaintant and his or her representative that any request for attorney's fees or costs must be documented and submitted within 20 calendar days of receipt,

(2) Require remedial action to be taken in accordance with § 1613.271,

(3) Review the matter giving rise to the complaint to determine whether disciplinary action is appropriate and

(4) Record the basis for its decision to take, or not to take, disciplinary action but this decision shall not be recorded in the complaint file.

(d) When the final agency decision provides for an award of attorney's fees or costs, the amount of these awards shall be determined under § 1613.271(c). In the unusual situation in which the agency determines not to award attorney's fees or costs to a prevailing complainant, the agency shall set forth in its decision the specific reasons for denying the award.

(e) The decision letter shall inform the complainant of his or her right to appeal the decision of the agency to the Commission, and shall include the text of § 1613.233(a) or (b), as appropriate. The decision letter shall also inform the complainant of his or her right to file a civil action in accordance with § 1613.281, and of the time limits applicable to such an appeal.

11. It is proposed to revise § 1613.222 to read as follows:

§ 1613.222 Complaint file.

The agency shall establish a complaint file. Except as provided in § 1613.221(c), this file shall contain all documents pertinent to the complaint.

(a) The complaint file shall include copies of:

(1) The notice of the Equal Employment Opportunity Counselor to the aggrieved person under § 1613.213(a);

(2) the written report of the Equal Employment Opportunity Officer on whatever precomplaint counseling efforts were made with regard to the complainant's case;

(3) the complaint;

(4) the investigative file;

(5) if the complaint is withdrawn by the complainant, a written statement of the complainant or representative to that effect;

(6) if adjustment of the complaint is arrived at under § 1613.217, the written record of the terms of the adjustment;

(7) if no adjustment of the complaint is arrived at under § 1613.217, a copy of the letter notifying the complainant of the proposed disposition of the complaint and of the right to a hearing;

(8) if decision is made under § 1613.217(c), a copy of the letter to the complainant transmitting that decision;

(9) if a hearing was held, the record of the hearing, together with the complaints examiner's findings, analysis and recommendations, if any, made to the head of the agency or designee,

(10) if the Director of Equal Employment Opportunity is not the designee, the recommendations, if any, made to the head of the agency or designee;

(11) if decision is made under § 1613.221, a copy of the letter transmitting the decision of the head of the agency or designee; and

(12) proof of the date of receipt of final agency decision, as required under § 1613.221(b)(1).

(b) The complaint file shall not contain any document that has not been made available to the complainant or the complainant's designated physician under 5 CFR 294.401.

12. It is proposed to revise § 1613.231 to read as follows:

§ 1613.231 Right to appeal to the Commission.

(a) A complainant may appeal to the Commission the decision of the head of the agency or designee:

(1) To reject or cancel the complaint or any portion for reasons covered by § 1613.215; or

(2) Under the circumstances set forth in § 1613.217(b); or

(3) On the merits of the complaint, under § 1613.217(d) or § 1613.221, or on the award of attorney's fees or costs.

(b) A complainant may appeal to the Commission on issues of employment discrimination raised in a negotiated grievance procedure, where the agency's negotiated labor-management agreement permit such issues to be raised. A complainant may appeal the decision of the agency head or designee on the grievance; of the arbitrator on the grievance; or of the Federal Labor Relations Authority (FLRA) on exceptions to the arbitrator's award. A complainant may not appeal under this subsection, however, when the matter initially raised in the negotiated grievance procedure is still ongoing in that process, is in arbitration or is before the FLRA. Any appeal prematurely filed in such circumstances shall be dismissed without prejudice.

§ 1613.233 [Amended]

13. It is proposed to amend § 1613.233 by removing the second sentence in paragraph (a).

14. It is proposed to revise § 1613.234 to read as follows:

§ 1613.234 Appellate procedures and finality.

(a) *Procedures.* On behalf of the Commission, the Office of Review and Appeals shall review the complaint file and all relevant written representations submitted be either party. The Office may remand a complaint to the agency for further investigation or a rehearing if it considers that action necessary or have additional investigation conducted by Commission personnel. There is no right to a hearing before the Office or the Commission upon appeal. The Office or the Commission shall issue a written decision setting forth its reasons for the decision and shall send copies to the complainant, the complainant's designated representative, and the agency. When corrective action is ordered, the agency shall report within the time specified to the Office that the corrective action has been taken.

(b) *Finality.* A decision issued under this section is final within the meaning of §§ 1613.281 and 1613.641 unless:

(1) Either party files a timely request to reopen pursuant to § 1613.235, or

(2) The Commission on its own motion reopen the case.

15. It is proposed to revise § 1613.235 to read as follows:

§ 1613.235 Reopening and reconsideration.

(a) The Commission may, in its discretion, reopen and reconsider any decision of the Commission notwithstanding any other provisions of this part.

(b) Parties may request reopening or reconsideration provided that such request is made within 30 days of receipt of a decision issued pursuant to § 1613.234 or within 20 days of receipt of another party's timely request to reopen. Such requests shall be submitted to the Office of Review and Appeals. The request shall contain arguments or evidence which tend to establish that:

(1) New and material evidence is available that was not readily available when the previous decision was issued; or

(2) The previous decision involved an erroneous interpretation of law or regulation or misapplication of established policy; or

(3) The decision is of such exceptional nature as to have effects beyond the actual case at hand.

(c) (1) The party requesting reopening or reconsideration shall submit copies of the request and supporting documents to all other parties and their representatives at the time of the request along with proof of such submission.

(2) Any argument in opposition to the request to reopen or cross request to reopen shall submitted to the Office of Review and Appeals and to the requesting party within 20 days of receipt of the requst to reopen along with proof of such submission.

(d) A decision on a request to reopen by either party is final and there is no further right by either party to request reopening.

16. A new § 1613.237 is proposed to be added to Part 1613 under "Appeal to the Commission" to read as follows:

§ 1613.237 Corrective action.

(a) Corrective action ordered by the Office of Review and Appeals or the Commission is mandatory and binding on the agency except as provided in § 1613.234(b). Failure to implement ordered relief shall be subject to judicial enforcement as specified in § 1613.239(e).

(b) When the agency requests reopening and when the case involves removal, separation, or suspension continuing beyond the date of the request to reopen, and when the decision recommends retroactive restoration, th agency shall comply with the decision only to the extent of the temporary or conditional restoration of the employee to duty status in the position recommended by the Commission, pending the outcome of the agency request for reopening.

(1) Service under the temporary or conditional restoration provisions of this paragraph shall be credited toward the completion of a probationary or trial period, eligibility for a within-grade increase, or the completion of the service requirement for career tenure, provided the Commission

(i) Upholds its decision after reopening the case, or

(ii) Refuses to reopen.

(2) The agency shall notify the Commission and the employee in writing, at the same time it requests reopening, that the remedial action it takes is temporary or conditional.

(c) When no request for reopening is filed within 30 days of receipt of the decision, or when a request to reopen is denied, the agency shall execute the action ordered and there is no further right to delay implementation of the ordered relief. The corrective action shall be completed not later than sixty (60) days after the decision becomes final.

17. A new § 1613.238 is proposed to be added to Part 1613 under "Appeal to the Commission" to read as follows:

§ 1613.238 Enforcement of final decisions.

(a) *Petition for enforcement.* A complainant may petition the Commission for enforcement of a decision issued under the Commission's appellate jurisdiction. The petition shall be submitted to the Office of Review and Appeals. The petition shall specifically set forth the reasons that lead the complainant to believe that the agency is not complying with decision.

(b) *Compliance.* On behalf of the Commission, the Office of Review and Appeals shall take all necessary action to ascertain whether the agency is implementing the decision of the Commission. If the agency is found not to be in compliance with the decision, efforts shall be undertaken to obtain compliance.

(c) *Clarification.* On behalf of the Commission, the Office of Review and Appeals may, on its own motion or in response to a petition for enforcement or in connection with a timely request to reopen, issue a clarification of a prior decision. A clarification cannot change the result of a prior decision or enlarge or diminish the relief ordered but may

further explain the meaning or intent of the prior decision.

(d) *Referral To The Commission.* Where the Director, Office of Review and Appeals, is unable to obtain satisfactory compliance with the final decision, the Director shall submit appropriate findings and recommendations for enforcement to the Commission, or, as directed by the Commission, refer the matter to another appropriate agency.

18. A new § 1613.239 is proposed to be added to Part 1613 under "Appeal to the Commission" to read as follows:

§ 1613.239 Enforcement action by the commission.

(a) *Notice to show cause.* The Commission may issue a notice to the Head of any federal agency that has failed to comply with a decision to show cause why there is noncompliance. Such notice may request the Head of the agency or representative to appear before the Commission or to respond to the notice in writing with adequate evidence of compliance or with compelling reasons why compliance has not been effectuated.

(b) *Certification to the Office of Special Counsel.* Where appropriate and pursuant to the terms of a memorandum of agreement, the Commission may refer the matter to the Office of Special Counsel for action pursuant to 5 U.S.C. 1206.

(c) *Certification to the Comptroller General.* Where appropriate, the Commission may certify an agency's refusal to comply with a decision rendered by the Commission in accordance with the Comptroller General's authority to adjust all claims or demands against the Government pursuant to 31 U.S.C. 71.

(d) *Notification to complainant of completion of administrative efforts.* Where the Commission has determined that an agency is not complying with a prior decision, or where an agency has failed or refused to submit its report of corrective action, the Commission shall notify the complainant of the right to file a civil action for enforcement of the decision pursuant to section 717 of Title VII, section 15 of the Age Discrimination in Employment Act, or section 505 of the Rehabilitation Act, and to see judicial review of the agency's refusal to implement corrective action pursuant to the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*, and the Mandamus Statute, 28 U.S.C. 1361, or commence de novo proceedings pursuant to the appropriate statutes.

19. A new § 1613.240 is proposed to be added to Part 1613 under "Appeal to the Commission" to read as follows:

§ 1613.240 Computation of time.

With respect to time periods specified in this subpart for filing appeals, requests for review, or other documents with the Commission:

(a) The first day counted shall be the day after the event from which the time period begins to run and the last day of the period shall be included, unless it falls on a Saturday, Sunday, or Federal holiday, in which case the period shall be extended to include the next business day; and

(b) A document shall be deemed timely if it is personally delivered or postmarked before the expiration of the applicable filing period, or if, in the absence of a postmark, it is received by mail within five days from the expiration of the applicable filing period.

20. It is proposed to revise § 1613.261 to read as follows:

§ 1613.261 Freedom from restraint, interference, coercion and reprisal.

It is unlawful to restrain, interfere, coerce or discriminate against complainants, their representatives, witnesses, Directors of Equal Employment Opportunity, Equal Employment Opportunity Officers, Investigators, Counselors and other agency officials with responsibility for processing discrimination complaints because of involvment with a discrimination charge during any stage in the presentation and processing of a complaint, including the counseling stage under § 1613.213, or because an individual filed a charge of discrimination, testified, assisted or participated in any manner with an investigation, proceeding or hearing or because of any opposition to an unlawful employment practice under this Part.

21. It is proposed to revise § 1613.262 to read as follows:

§ 1613.262 Review of allegations of reprisal.

(a) An individual who alleges a violation of § 1613.261 may have the allegation reviewed as an individual complaint of discrimination under §§ 1613.211 through 1613.283.

(b) When a complainant alleges a violation of § 1613.261 in connection with the filing of a prior discrimination complaint and the prior complaint is in process at the agency when the allegation is made, the complainant may request the agency to consolidate the reprisal allegation with the prior complaint. If the prior complaint is at the hearing stage of the complaint process under § 1613.218, the complainant may request the Complaints Examiner to consolidate the allegation with the complaint at the hearing. The agency or Complaints Examiner may grant the request. Provided, the that request is made within 30 calendar days of the act that forms the basis of the allegation, the effective date of the alleged discriminatory personnel action, or the date the complainant knew or should reasonably have known that § 1613.261 has been violated. The agency or the Complaints Examiner may exercise discretion and deny the request and require the allegation to be processed under § 1613.262(a).

22. It is proposed to revise § 1613.271 to read as follows:

§ 1613.271 Remedial actions.

(a) When an agency, or the Commission, finds that an applicant or an employee has been discriminated against, the agency shall provide full relief which shall include the following elements in appropriate circumstances:

(1) Notification to all employees of the agency in the affected facility of their right to be free of unlawful discrimination and be assured that the particular types of discrimination found will not recur;

(2) Commitment that corrective, curative or preventive action will be taken, or measures adopted, to ensure that similar found violations of the law will not recur;

(3) An unconditional offer to each identified victim of discrimination of placement in the position the person would have occupied but for the discrimination suffered by the person;

(4) Payment to each identified victim of discrimination on a make whole basis for any loss of earnings the person may have suffered as a result of the discrimination; and

(5) Commitment that the agency shall cease from engaging in the specific unlawful employment practice in the case.

(b) Remedial action involving an applicant.

(1) When an agency, or the Commission, finds that an applicant for employment has been discriminated against, the agency shall offer the applicant employment of the type and grade denied, unless the record contains clear and convincing evidence that the applicant would not have been hired even absent discrimination. The offer shall be made in writing. The individual shall have 15 calendar days from receipt of the offer within which to accept or decline the offer. Failure to notify the agency of this decision within the 15-day period will be considered a declination of the offer, unless the individual can

show that circumstances beyond his control prevented him from responding within the time limit. If the offer is accepted, appointment shall be retroactive to the date the applicant would have been hired. Backpay, computed in the same manner prescribed by 5 CFR 550.805, shall be awarded from the date the individual would have entered on duty until the date the individual actually enters on duty. The individual shall be deemed to have performed service for the agency during this period of retroactivity for all purposes except for meeting service requirements for completion of a probationary or trial period that is required. If the offer of employment is declined, the agency shall award the individual a sum equal to the backpay he would have received, computed in the same manner prescribed by 5 CFR 550.805, from the date he would have been appointed until the date the offer was made, subject to the limitation of paragraph (b)(4) of this section. The agency shall inform the applicant, in its offer of employment, of his right to this award in the event the offer is declined.

(2) When an agency, or the Commission, finds that discrimination existed at the time the applicant was considered for employment but also finds clear and convincing evidence that the applicant would not have been hired even absent discrimination, the agency nevertheless shall take all steps necessary to eliminate the discriminatory practice and ensure it does not recur.

(3) This paragraph shall be cited as the authority under which the above-described appointments or awards of backpay shall be made.

(4) Backpay under this paragraph for complaints under Title VII or the Rehabilitation Act may not extend from a date earlier than 2 years prior to the date on which the complaint was initially filed by the applicant.

(c) Remedial action involving an employee. When an agency, or the Commission, finds that an employee of the agency was discriminated against, the agency shall take remedial actions which shall include one or more of the following, but need not be limited to these actions:

(1) Retroactive promotion, with backpay computed in the same manner prescribed by 5 CFR 550.805, unless the record contains clear and convincing evidence that the employee would not have been promoted or employed at a higher grade, even absent discrimination. The backpay liability under Title VII or the Rehabilitation Act may not accrue from a date earlier than 2 years prior to the date the discrimination compliant was filed, but, in any event, not to exceed the date the employee would have been promoted.

(2) If the record contains clear and convincing evidence that, although discrimination existed at the time selection for promotion was made, the employee would not have been promoted even absent discrimination, the agency shall eliminate any discriminatory practice and ensure it does not recur.

(3) Cancellation of an unwarranted personnel action and restoration of the employee.

(4) Expunction from the agency's records of any reference to or any record of an unwarranted disciplinary action that is not a personnel action.

(5) Full opportunity to participate in the employee benefit denied (e.g. training, preferential work assignments, overtime scheduling).

(d) Attorney's Fees or Costs—(1) Awards of Attorney's Fees or Costs. The provisions of this subpart relating to the award of attorney's fees or costs shall apply to allegations of discrimination or retaliation prohibited by section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–16, except that no award of attorney's fees shall be made with funds appropriated under Pub. L. 95–391, the Legislative Branch Appropriation Act of 1979. In a decision by an agency, under § 1613.217, § 1613.220(d), § 1613.221 or § 1613.612 or by the Commission, under § 1613.220 or § 1613.262 or § 1613.631(a)(3), the agency or Commission may award the applicant or employee reasonable attorney's fees or costs incurred in the processing of the complaint or charge.

(i) A finding of discrimination raises a presumption of entitlement to an award of attorney's fees.

(ii) Any award of attorney's fees or cost shall be paid by the agency.

(iii) Attorney's fees are allowable only for the services of members of the Bar and law clerks, paralegals or law students under the supervision of members of the Bar, except that no award is allowable for the services of any employee of the Federal Government.

(iv) Attorney's fees shall be paid only for services performed after the filing of the complaint required in § 1613.214 and after the complainant has notified the agency that he/she is represented by an attorney, except that fees are allowable for a reasonable period of time prior to the notification of representation for any services performed in reaching a determination to represent the complainant. Written submissions to the agency which are signed by the representative shall be deemed to constitute notice of representation.

(2) Amount of awards. When a decision of the agency, under § 613.217(c), § 1613.220(d), § 1613.221 or § 1613.612 or of the Commission, under § 1613.234, § 1613.262 or § 1613.631(a)(3) provides for an award of attorney's fees or costs, the complainant's attorney shall submit a verified statement of costs, the complainant's attorney shall submit a verified statement of costs and attorney's fees, as appropriate, to the agency within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an affidavit excuted by the attorney of record itemizing the attorney's charges for legal services and both the verified statement and the accompanying affidavit shall be made a part of the complaint file. The amount of attorney's fees or costs to be awarded the complainant shall be determined by agreement between the complainant, the complainant's representative and the agency. Such agreement shall immediately be reduced to writing. If the complainant, the representative and the agency cannot reach an agreement on the amount of attorney's fees or costs within 20 calendar days of receipt of the verified statement and accompanying affidavit, the agency shall issue a decision determining the amount of attorney's fees or costs within 30 calendar days of receipt of the statement and affidavit. Such decision shall include the specific reasons for determining the amount of the award.

(i) The amount of attorney's fees shall be made in accordance with the following standards: The time and labor required, the novelty and difficulty of the questions, the skill requisite to perform the legal service properly, the preclusion of other employment by the attorney due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitations imposed by the client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases.

(ii) The costs which may be awarded are those authorized by 28 U.S.C. 1920 to include fees of the reporter for all or any of the stenographic transcript necessarily obtained for use in the case; fees and disbursements for printing and witnesses; and fees for exemplification and copies of papers necessarily obtained for use in the case. Witness fees shall be awarded in accordance

with the provisions of 28 U.S.C. 1821, except that no award shall be made for a federal employee who is in a duty status when made available as a witness.

23. It is proposed to revise § 1613.283 to read as follows:

§1613.283 Effect on administrative processing.

The filing of a civil action by an employee or applicant terminates agency processing of a complaint or Commission processing of an appeal under this subpart.

24. It is proposed to revise § 1613.513 to read as follows:

§ 1613.513 Effect on Administrative Processing.

The filing of a civil action by an employee or applicant terminates agency processing of a complaint or Commission processing of an appeal under this subpart.

25. It is proposed to revise § 1613.521 to read as follows:

§1613.521 Appeal to the Commission.

Except for the requirements in § 1613.234 that the decision of the Office of Review and Appeals contain a notice of the right to file a civil action in accordance with § 1613.282, §§ 1613.231 through 1613.240 of this part shall apply to this subpart.

26. It is proposed to revise § 1613.601(a) to read as follows:

§ 1613.601 Definitions.

(a) A "class" is a group of agency employees, former agency employees, or applicants for employment with the agency on whose behalf it is alleged that they have been, are being, or may be, adversely affected by a personnel management policy or practice that discriminates against the group on the basis of their common race, color, religion, sex, national origin, or age.

* * * * *

27. It is proposed to revise § 1613.602 (a) and (c) to read as follows:

§ 1613.602 Precomplaint processing.

(a) An employee or applicant who wishes to be an agent and who believes he/she has been discriminated against shall consult with an Equal Employment Opportunity Counselor within 30 calendar days of the matter giving rise to the allegation of individual discrimination, the effective date of a personnel action, or the date that the aggrieved person knew or reasonably should have known of the discriminatory event or personnel action.

* * * * *

(c) The Counselor shall conduct a final interview and terminate counseling with the aggrieved person not later than 30 calendar days after the date on which the allegation of discrimination was called to the attention of the Counselor. During the final interview, the Counselor shall inform the aggrieved person in writing that counseling is terminated, of the right to file a class complaint of discrimination with appropriate officials of the agency, and of the duty to assure that the agency is immediately informed if legal representation is obtained.

* * * * *

28. It is proposed to amend § 1613.603(b)(1) by removing the word "agency" and to revise (c) and (g) to read as follows:

§ 1613.603 Filing and processing of a class complaint.

* * * * *

(c) The complaint must be filed not later than 15 calendar days after the agent's receipt of the notice of the right to file a complaint.

* * * * *

(g) If the agent is an employee in pay status, the agent shall have a reasonable amount of official time to present the complaint. If the agent is an employee of the agency and designates another employee of the agency as the agent's representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to present the complaint. The agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the agent and representative to confer. However, the complainant and representative, if employed by the agency and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the agency or the Commission during the investigation, informal adjustment, or hearing on the complaint. An agency, at its discretion, may permit its own employees to use official time to represent employees of other agencies. If the use of official time is not granted in such cases, employees may be granted, at their request, annual leave or leave without pay.

29. It is proposed to revise § 1613.604 to read as follows:

§ 1613.604 Acceptance, rejection or cancellation.

(a) Within 10 calendar days of an agency's receipt of a complaint, the agency shall forward the complaint, along with a copy of the Counselors' report and any other information pertaining to timeliness or other relevant circumstances related to the complaint, to the Commission. The Commission shall assign the complaint to a Commission Complaints Examiner except in instances where the Commission finds it more practical to delegate this responsibility to a Complaints Examiner from another agency who is not employee of the agency in which the complaint arose.

(b) The Complaints Examiner may recommend that the agency reject the complaint, or a portion thereof, for any of the following reasons:

(1) It was not timely filed;

(2) It consists of an allegation identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency;

(3) Failure to state a claim under this subpart;

(4) The ageny failed to consult a Counselor in timely manner;

(5) It lacks specificity and detail;

(6) It was not submitted in writing or was not signed by the agent;

(7) It does not meet the prerequisites of a class complaint under § 1613.601(b).

(c) If an allegation is not included in the Counselor's report, the Complaints Examiner shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he/she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the Complaints Examiner may recommend that the agency reject the allegation. If the explanation is satisfactory, the Complaints Examiner may refer the allegation to the agency for further counseling of the agent.

(d) If an allegation lacks specificity and detail, the Complaints Examiner shall afford the agent 15 calendar days to provide specific and detailed information. The Complaints Examiner may recommend that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the Complaints Examiner must advise the agent how to proceed on an individual or class basis concerning these allegations.

(e) The Complaints Examiner may recommend that the agency extend the time limits for filing a complaint and for consulting with a Counselor when the agent, or his/her representative, shows that he/she was not notified of the prescribed time limits and was not otherwise aware of them or that he/she was prevented by circumstances beyond his/her control from acting within the time limit.

(f) When appropriate the Complaints Examiner may recommend that a class be divided into subclasses and that each

subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(g) The Complaints Examiner may recommend that the agency cancel a complaint after it has been accepted because of failure of the agent to prosecute the complaint. This action may be taken only after the Complaints Examiner has provided the agent a written request, including notice of proposed cancellation, that he/she provide certain information or otherwise proceed with the complaint, and that agent has failed to satisfy this request within 15 calendar days of receipt of the request.

(h) An agent must be informed by the Complaints Examiner in a request under paragraph (c) or (d) of this section that his/her complaint may be rejected if the information is not provided.

(i) The head of the agency or designee shall cancel a class complaint of discrimination when the agent files a civil action in U.S. district court based on the same allegation of discrimination.

(j) The Complaints Examiner's recommendation to the agency on whether to accept, reject, or cancel a complaint shall be transmitted in writing to the agency, the agent, and the agent's representative. The Complaints Examiner's recommendation to accept, reject or cancel shall become the agency decision unless the agency rejects or modifies the decision within 30 calendar days of the receipt of the decision and complete complaint file. The agency shall notify the agent, the agent's representative, and the Complaints Examiner of its decision to accept, reject, modify or cancel a complaint. Notice of a decision to reject or cancel shall inform the gent of the right to proceed with an individual complaint of discrimination, and to appeal the final agency decision on the matter to the Office of Review and Appeals and of his/her right to file a civil action.

30. It is proposed to revise § 1613.606 to read as follows:

§ 1613.606 Avoidance of delay.

The complaint shall be processed promptly after it has been accepted. To this end, the parties shall proceed with the complaint so that the complaint is proceessed without undue delay.

31. It is proposed to revise § 1613.607(a) to read as follows:

§ 1613.607 Freedom from restraint, interference, coercion and reprisal.

(a) It is unlawful to restrain, interfere, coerce or discriminate against agents, complainants, their representatives, witnesses, Directors of Equal Employment Opportunity, Equal Employment Opportunity Officers, Investigators, Counselors and other agency officials with responsibility for processing discrimination complaints because of involvement with a discrimination charge during any stage in the presentation and processing of a complaint, including the counseling stage under § 1613.602, or because an individual testified, assisted or participated in any manner with an investigation, proceeding or hearing or because the individual opposed an unlawful employment practice under this part.

* * * * *

§ 1613.608 [Amended]

32. It is proposed to revise § 1613.608(b)(2) to read as follows:

* * * * *

(b) * * *

(2) If mutual cooperation files, either party may request the Complaints Examiner to rule on a request to develop evidence. If the agent or agency fail to respond fully and in timely fashion to an Examiner's request for documents, records, comparative data, statistics, affidavits, or the attendance of witnesses, such failure may, in appropriate circumstances, cause the Complaints Examiner:

(i) To draw an adverse inference that the requested information would have reflected unfavorably in the party refusing to provide the requested information;

(ii) To consider the matters to which the requested information pertains to be established in favor of the opposing party;

(iii) To exclude other evidence offered by the party failing to produce the requested information;

(iv) To take such other actions as the Examiner deems appropriate.

* * * * *

33. It is proposed to revise § 1613.609 to read as follows:

§ 1613.609 Opportunities for resolution of the complaint.

(a) The Complaints Examiner shall furnish the agent or his/her representative and the representative of the agency a copy of all materials obtained concerning the complaint and provide opportunity for the agent to discuss materials with the agency representative and attempt resolution of the complaint.

(b) At any time after acceptance of a complaint, the complaint may be resolved by agreement of the agency and the agent as long as the agreement is fair and reasonable.

(c) If resolution of the complaint is arrived at, the terms of the resolution shall be reduced to writing, and signed by the agent and the agency head or designee. A resolution may include a finding on the issue of discrimination, an award of attorney's fees or costs, and must include any corrective action agreed upon. Corrective action in the resolution must be consistent with law, Executive order, and Civil Service regulations, rules, and instructions. A copy of the resolution shall be provided to the agent.

(d) Notice of the resolution shall be given to all class members in the same manner as notification of the acceptance of the class complaint and shall state the terms of corrective action, if any, to be granted by the agency. A resolution shall bind all members of the class except in cases where the resolution benefits only the class agent or is otherwise alleged to be unfair or unreasonable, in which case any member of the class may petition the agency within 30 calendar days of the date of the notice of resolution to replace the class agent. Such a petition will be processed according to § 1613.604, and it it is found that the resolution did not comply with § 1613.609(b) and that the petitioner satisifed the requirements § 1613.604(b)(7) (iii) and (iv), the petitioner will replace the original class agent and act for the class during processing of the class complaint. Acceptance of a petition under this subsection vacates any agreement between the former class agent and the agency. An agency decision on such a petition shall inform the agent and the petitioner of the right to appeal the decision to the Office of Review and Appeals.

(e) Any settlement agreement reached at any stage of the complaint process shall be binding on both parties. If the agent believes that the agency has failed to comply with the terms of a settlement agreement for reasons not attributable to acts or conduct of the agent, his/her representative or class members, the agent shall promptly notify the agency, in writing, of the alleged noncompliance with the settlement agreement. The agent may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement. Upon receipt of the agent's written allegation of noncompliance

with the settlement agreement, the agency shall have thirty (30) calendar days in which to resolve the matter and to respond to the agent, in writing, concerning the matter. If, after thirty (30) calendar days from the date of the agency's receipt of the agent's written allegations of noncompliance with the settlement agreement, the agency has not responded to the agent, in writing, or if the agent is not satisfied with the agency's attempt to resolve the matter, the agent may petition the Commission's Office of Review and Appeals for a determination as to whether the agency has complied with the terms of the settlement agreement. Prior to rendering its determination, the Commission may request that the parties submit whatever additional information or documentation it may deem necessary and may direct that an investigation or hearing on the matter be conducted, as may be appropriate. If the Commission determines that the agreement has not been complied with, it may order such compliance or it may order that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement.

34. It is proposed to revise § 1613.610 to read as follows:

§ 1613.610 Hearing.

On the expiration of the period allowed for preparation of the case, the Complaints Examiner shall set a date for a hearing. The hearing shall be conducted in accordance with § 1613.218.

§ 1613.614 [Amended]

35. It is proposed to amend § 1613.614(e) by removing the reference to 5 CFR 772.307(c) and inserting § 1613.218 in its place.

36. It is proposed to revise § 1613.631 to read as follows:

§ 1613.631 Appeal to the Office of Review and Appeals.

(a) An agent may appeal to the Office of Reveiw and Appeals the decision of the head of the agency or designee:

(1) To reject or cancel a complaint, or a portion thereof, for reasons covered by § 1613.604

(2) Under the circumstances set forth in § 1613.609(d) or (e);

(3) On the merits of the complaint;

(4) On the issue of attorney's fees and costs and corrective action; or

(5) The failure of an agency to implement its final agency decision.

(b) A claimant may appeal to the Office of Review and Appeals from a decision of the head of the agency or designee:

(1) To cancel or reject a claim for individual relief in accordance with § 1613.614 (f) and (g); and

(2) On the merits of the claim for individual relief including attorney's fees or costs.

(c) An appeal may be filed at any time after receipt of the agency's final decision, but not later than 20 calendar days after receipt of that decision except when the appellant shows that neither the appellant nor the appellant's representative was notified of the prescribed time limit and was not otherwise aware of it, or that the appellant or the appellant's representative was prevented by circumstances beyond the appellant's or representative's contol from appealing within the prescribed time limit.

(d) An appeal shall be deemed timely if it is personally delivered or postmarked before the expiration of the filing period, or if, in the absence of a postmark, it is received by the Commission by mail within five days of the expiration of the filing period. The Office of Review and Appeal's review will be made upon the existing record to determine if the agency decision is in accord with applicable law, Executive order, or Civil Service regulations, rules, and instructions and is supported by substantial evidence.

37. It is proposed to revise § 1613.632 to read as follows;

§ 1613.632 Reopening and reconsideration by the Commissioners.

The Commissioners may reopen and reconsider any previous decision of a Commission office on their own motion or at the request of either party in accordance with provisions of § 1613.235.

38. It is proposed to revise § 1613.643 to read as follows:

§ 1613.643 Effect on administrative processing.

The filing of a civil action by an agent terminates agency processing of a complaint or Office of Review and Appeals processing of an appeal based on the same complaint under this subpart. The filing of a civil action by a claimant terminates agency processing of a claim or Office of Review and Appeals processing of an appeal based on the same claim under this subpart.

39. It is proposed to add the following as Appendix A to Part 1613.

Appendix A to Part 1613—Policy Statement on Remedies and Relief for Individual Cases of Unlawful Discrimination

On September 11, 1984, the Equal Employment Opportunity Commission announced its intent to achieve certainty and predictability of enforcement in those situations where the agency has reason to believe that a law it enforces has been violated. In keeping with this goal, the Commission recognizes that the basic effectiveness of the agency's law enforcement program is dependent upon securing prompt, comprehensive and complete relief for all individuals directly affected by violations of the statutes which the agency enforces. The Commission also recognizes that, in appropriate circumstances, remedial measures need to be designed to prevent the recurrence of similar unlawful employment practices. Predictable enforcement and full, corrective, remedial and preventive relief are the principal components of the method with which the Commission intends to pursue this agency's mission of eradicating discrimination in the workplace. Henceforth, in negotiating settlements, in drafting prayers for relief in litigation pleadings or in issuing Commission Decisions or Orders, obtaining full remedial, corrective and preventive relief is the standard by which the agency is to be guided.

The Commission believes that a full remedy must be sought in each case where a District Director concludes the case has merit and has, or is prepared to, issue a letter of violation or a letter finding reasonable cause to believe that one of the statutes the agency enforces has been violated. The remedy must be fashioned from the wide range of remedial measures available to this law enforcement agency which has broad authority under the statutes it enforces to seek appropriate forms of legal and equitable relief. The remedy must also be tailored, where possible, to cure the specific situation which gave rise to the violation of the statute involved.

Accordingly, all remedies and relief sought in court, agreed upon in conciliation, or ordered in Federal sector decisions should contain the following elements in appropriate circumstances:

(1) A requirement that all employees of respondent in the affected facility be notified of their right to be free of unlawful discrimination and be assured that the particular types of discrimination found or conciliated will not recur;

(2) A requirement that corrective, curative or preventive action be taken, or measures adopted, to ensure that similar found or conciliated violations of the law will not recur;

(3) A requirement that each identified victim of discrimination be unconditionally offered placement in the position the person would have occupied but for the discrimination suffered by that person;

(4) A requirement that each identified victim of discrimination be made whole for any loss of earnings the person may have suffered as a result of the discrimination; and

(5) A requirement that the respondent cease from engaging in the specific unlawful employment practice found or conciliated in the case.

The components of these remedial elements are as follows:

(1) Notice Requirement

All respondents should be required to sign and conspicuously post, for a period of time, a notice to all employees in the affected facility (or to union members if respondent is a labor organization), prepared by the agency on E.E.O.C. forms, specifically advising respondent's employees or members of the following:

(a) That the notice is being posted as part of the remedy agreed to pursuant to a conciliation agreement with the agency or pursuant to an order of a particular Federal court or pursuant to a decision and order in a Federal sector case.

(b) That Federal law requires that there be no discrimination against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin or age (between 40 and 70) with respect to hiring, firing, compensation, or other terms, conditions or privileges of employment (Federal sector notices will include handicap as an unlawful basis of discrimination).

(c) That respondent supports and will comply with such Federal law in all respects and will not take any action against employees because they have exercised their rights under the law.

(d) That respondent will not engage in the specific unlawful conduct which the District Director believes has occurred or is conciliating, or which the Commission or a court has found to have occurred.[1]

(e) That respondent will, or has, taken the remedial action required by the conciliation agreement or the order of the Commission or Court.[2]

(2) Corrective, Curative or Preventive Provisions

In appropriate circumstances, a remedy must provide that the respondent take corrective, curative or preventive action designed to ensure that similar violations of the law will not recur. Similarly, corrective, curative or preventive measures may also be adopted in those situations where those measures are likely to prevent future similar violations.

Thus, where a policy or practice is discriminatory, the policy or practice must be changed. Similarly, if a particular supervisor or other agent of the respondent is identified as knowingly or intentionally being responsible for the discrimination that occurred, the respondent must be required to take corrective action so that the discriminatee or similarly situated employees not be subjected to similar discriminatory conduct. This corrective action may be accomplished, for example, by insulating employees from that individual for a period of time, or by requiring the respondent to discipline or remove the offending individual from personnel authority, or by requiring the respondent to educate the offender and other supervisors so that they may overcome their individual prejudices.

These and any other appropriate measures, or any combination thereof, designed to meet this goal should be considered when negotiating settlements or drafting prayers for relief. This type of relief is not to be designed for punitive purposes. Rather, this relief is to be tailored to cure or correct the particular source of the identified discrimination and to minimize the chance of its recurrence.

In addition, the respondent must be required to take all other appropriate steps to eradicate the discrimination and its effects, such as the expunging of adverse materials relating to the unlawful employment practice from the discriminatee's personnel files.

(e) Nondiscriminatory Placement

Each identified victim of discrimination is entitled to an immediate and unconditional offer of placement in the respondent's workforce, to the position the discriminatee would have occupied absent discrimination, or to a substantially equivalent position, even if the placement of the discriminatee results in the displacement of another of respondent's employees ("Nondiscriminatory Placement"). The Nondiscriminnatory Placement may take place by initial employment, reinstatement, promotion, transfer or reassignment and must occur without any prejudice to, or loss of, any employment—related rights or privileges the discriminatee would have otherwise acquired had the discrimination not occurred.

If a Nondiscriminatory Placement position that the discriminatee should occupy no longer exists, then employment for which the discriminatee is qaulified must be offered to the discriminatee in other areas of the respondent's operation. Finally, if none of the foregoing positions exist in which the discriminatee may be placed, then the respondent must make whole the discriminatee until a Nondiscriminatory Placement can be accomplished.

It is essential that victims of discrimination not suffer further and that respondents not gain by their misconduct. Accordingly, the contention by a respondent that a discriminatee is no longer suitable for Nondiscriminatory Placement due to a loss of skills, a change in job content or some other reason is not an acceptable excuse for a respondent's failure to accomplish a Nondiscriminatory Placement of a discriminatee. The burden is upon the respondent to demonstrate that the inability of the discriminatee to accept Nondiscriminatory Placement is unrelated to the respondent's discrimination such that the victim, rather than the respondent, should bear the loss. Similarly, the burden is also on the respondent to demonstrate a contention that postdiscrimination conduct by a discriminatee renders the discriminatee unworthy of Nondiscriminatory Placement.

In certain circumstances, the Nondiscriminatory Placement of a victim of discrimination may require the job displacement of another of the respondent's employees. If displacement of an incumbent employee in order to accomplish Nondiscriminatory Placement on behalf of a discriminatee is clearly inappropriate in a particular setting or is unavailable as a remedy in a particular jurisdiction, then the respondent must make whole the discriminatee until a Nondiscriminatory Placement can be accomplished.

(4) Backpay

Each identified victim of discrimination is entitled to be made whole for any loss of earnings the discriminatee may have suffered by reason of the discrimination. Each individual discriminatee must receive a sum of money equal to what would have been earned by the discriminatee in the employment lost through discrimination ("Gross Backpay") less what was actually earned from other employment during the period, after normal expenses incurred in seeking and holding the interim employment have been deducted ("Net Interim Earnings"). The difference between Gross Backpay and Net Interim Earnings is Net Backpay Due. Interest should be computed on all Net Backpay Due. Net Backpay Due accrues from the date of discrimination, except where the statutes limit the recovery, until the discrimination against the individual has been remedied.

Gross Backpay includes all forms of compensation such as wages, bonuses, vacation pay, and all other elements of reimbursement and fringe benefits such as pension and health insurance. Gross Backpay must also reflect fluctuations in working time, overtime rates, changing rates of pay, transfers, promotions, and other prerequisites of employment that the discriminatee would have enjoyed but for the discrimination. In appropriate circumstances under the Equal Pay Act and the Age Discrimination in Employment Act liquidated damages based on backpay will also be available.

(5) Cessation Provisions

All respondents must agree or be ordered to cease from engaging in the specific unlawful employment practices involved in the case. For example, a respondent should agree to cease discriminating on the unlawful basis and in the specific manner alleged or a respondent might be required to cease giving effect to certain specific discriminatory policies, practices or rules. In circumstances where a particular respondent has committe or has conciliated several unlawful employment practices, consideration must be

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[1] For example, the following type of assurances could be required of a respondent which committed several types of unlawful employment practices in a particular case:

"XYZ, Inc. will not refuse to hire employees on the basis of their sex;

"XYZ, Inc. will not refuse to promote employees on the basis of their sex or their race; and

"XYZ, Inc. will not threaten to fire employees because they have filed charges with the Equal Employment Opportunity Commission."

[2] For example, employees could be notified of the relief obtained in the following way:

XYZ, Inc. will promote and make whole the employees affected by our conduct for any losses they suffered as a result of the discrimination against them. Specifically, Mary Jones and Susan Smith will be promoted to the position of shift supervisor and will be made whole for any loss in pay or benefits they may have suffered since the time that we failed to promote them to that position.

"XYZ, Inc. has adopted an equal employment opportunity policy and will ensure that all supervisors in making selections for promotions abide by the requirements of that policy that employees not be discriminated against on the basis of their sex or race."

given to including broad cessation language in an agreement or order which is designed to order the cessation of any further unlawful employment practices.

The Commission does not believe that the statutory requirement of conciliation requires the agency to abdicate its principal law enforcement responsibility. Thus, conciliation should not result in inadequate remedies. The possibility of pre-litigation conciliation does not constitute cause for unwarranted or underserved concessions by a law enforcement agency when one of the laws it enforces has been violated. Rather, the concept of settlement constitutes recognition of the fact that there may be reasonable differences as to a suitable remedy between the maximum which may be reasonably demanded by the agency and the minimum which in good faith may be fairly argued for the respondent. With this scape conciliation must actively pursued by the agency. In this regard, in all cases in which the District Director believes that one of the statutes the agency enforces has been violated or in which litigation has been authorized, full remedies containing the appropriate elements as set forth in this memorandum should be sought. In conciliation efforts, reasonable compromises or counterproposals to the full range of remedies described in this policy may be considered if those compromises or counter-proposals, address fully the remedial concepts described in this policy. Conciliation should be pursued with the goal of obtaining substantially complete relief through the conciliation process. Any divergence from this goal must be justified by the relevant facts and the law.

[FR Doc. 86-18367 Filed 8-15-86; 8:45 am]
BILLING CODE 6570-06-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2603

Examination and Copying of Pension Benefit Guaranty Corporation Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation which implements the Freedom of Information Act. The amendment revises the Pension Benefit Guaranty Corporation's fee schedule for document search and duplication. The search and copying fees have not been increased since the regulation was first promulgated. The amendment is needed to reflect salary scales and copying costs as they exist in today's workplace. The effect of the amendment is to increase the fees to levels that more accurately reflect current costs.

DATE: Comments must be received on or before September 17, 1986.

ADDRESSES: Send comments to the Legal Department, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the same address, on weekdays between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: John R. Jacobs, Attorney, Legal Department, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, (202) 956-5023, or E. William FitzGerald, PBGC Disclosure Officer, Communication and Public Affairs Department, Code 38000, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, (202) 956-5039 ((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, 29 U.S.C. 1001 *et seq.* (1976), *as amended,* which provides for a comprehensive pension plan insurance program, established a Federal Government agency, the Pension Benefit Guaranty Corporation ("PBGC"), to administer that program.

The Freedom of Information Act (5 U.S.C. 552) provides, among other things, for public access to information from records of Government corporations, such as the PBGC. Under section 552(a)(4), each agency must promulgate regulations specifying a uniform schedule of fees for document search and duplication. The PBGC's Examination and Copying of Pension Benefit Guaranty Corporation Records regulation, which implements the Freedom of Information Act, is set forth in 29 CFR Part 2603. The regulation prescribes the PBGC's fee schedule for document search and duplication. Currently, under § 2603.52(a)(1), the fee that is charged for ordinary searches by custodial or clerical personnel is $1.25 for each quarter-hour after the first quarter-hour. Searches requiring services of professional or supervisory personnel to locate the requested record cost $2.50 for each quarter-hour after the first quarter-hour. Under § 2603.52(b)(1), the standard fee payable for obtaining requested copies of records made available for inspection under the Freedom of Information Act is $0.10 for each page.

The PBGC has determined that the fee schedules for search and copying set forth in the regulation no longer reflect current salary scales or copying costs. The fees need to be increased to levels that more accurately reflect actual salary scales and copying costs as they exist in today's workplace. This determination is partly based upon information developed by the Department of Justice in a survey of 80 federal agencies' fees and fee schedules. Accordingly, this amendment revises the current regulation to effectuate this change. Under this amendment, the current search fee for ordinary research by custodial or clerical personnel will be increased from $1.25 to $1.75 for each quarter-hour. The fee to be charged for searches requiring services of professional or supervisory personnel will be increased from $2.50 to $4.00 for each quarter-hour, or fraction thereof, after the first quarter-hour. Finally, the standard fee payable for obtaining requested copies of records made available for inspection will be increased from $0.1. to $0.15 for each page.

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

The total amount of search and copying charges assessed by the PBGC for calendar year 1985 was $11,051.00. The PBGC sees no reason why the number of search and copying requests for future calendar years should significantly change. If it is assumed that the amount of requests for the calendar year 1986 will be equivalent to the amount received for 1985, the proposed increase in fees set forth above will result in an increase in assessments of approximately 50%, or $5,000, for calendar year 1986. Accordingly, the PBGC certifies pursuant to Section 605 of the Regulatory Flexibility Act that this regulation will not have a significant economic impact on a substantial number of small entities. In light of this certification, compliance with Section 603 and 604 is waived.

List of Subjects in 29 CFR Part 2603

Freedom of information.

In consideration of the foregoing, the Pension Benefit Guaranty Corporation proposes to amend Chapter XXVI of Title 29, Code of Federal Regulations, as follows:

PART 2603—[AMENDED]

1. The authority for Part 2603 is revised to read as follows:

Authority: 5 U.S.C. 552; sec. 4002(b)(3), Pub. L. 93-406, 88 Stat. 829, 1004, as amended by sec. 403(l), Pub. L. 96-364, 94 Stat. 1208, 1302 (29 U.S.C. 1302(b)(3)).

2. In § 2603.52, paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 2603.52 Search and copying charges.

(a) * * *

(1) *Search time.* (i) Ordinary search by custodial or clerical personnel, $1.75 for each one-quarter hour or fraction thereof of employee worktime in excess of the first quarter-hour required to reach or obtain the records to be searched and to make the necessary search; and (ii) Search requiring services of professional or supervisory personnel to locate requested record, $4.00 for each such quarter-hour or fraction thereof of such services required in excess of the first quarter-hour required.

* * * * *

(b) * *

(1) *Standard copying fee.* $0.15 for each page of record copies furnished. This standard fee is also applicable to the furnishing of copies of available computer printouts as stated in § 2603.53.

* * * * *

Issued in Washington, DC, this 13th day of August, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR. Doc. 86-18601 Filed 8-15-86; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Jean Lafitte National Historical Park; Crawfishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This rulemaking pertains to the taking (non-commercial fishing) of crawfish (*Procambaru clarkii*) within the Barataria Marsh Unit, Jean Lafitte National Historical Park, Louisiana. The park's enabling legislation (Pub. L. 95-625) provided for the continuation of hunting, fishing and trapping activities in accordance with applicable Federal and State Laws. The Service published an Interim Final Rule in the **Federal Register** on April 30, 1984 (49 FR 18450), establishing a generalized rule for the crawfishing activities within the Barataria Marsh Unit. After an analysis of the crawfishing activities and National Park Service rules and regulations, the Service is now proposing to define more precisely the specific controls and circumstances under which the crawfishing activities may continue. This proposed control is intended to increase the protection of the resources, promote visitor safety, enhance the aesthetic value and contribute to sound management of the variety of visitor activities within the Barataria Marsh Unit, Jean Lafitte National Historical Park.

DATES: Written comments will be accepted through September 17, 1986.

ADDRESS: Comments should be addressed to:

Superintendent, Jean Lafitte National Historical Park, 423 Canal Street—Room 206, New Orleans, Louisiana 70130-2341.

For further information contact: James L. Isenogle, Superintendent, 423 Canal Street—Room 206, New Orleans, Louisiana 70130-2341, Telephone: (504) 589-3882.

SUPPLEMENTARY INFORMATION:

Background

Public Law 95-625, section 905, permitted the continuation of hunting, fishing (including commercial fishing) and trapping activities in accordance with applicable Federal and State laws within the Barataria Marsh Unit. This legislation rendered many provisions of 36 CFR unusable. After the revisions of 36 CFR, the Service published in the **Federal Register** special regulations codified as 36 CFR 7.37 to conform with the provisions of Pub. L. 95-625.

The crawfishing activities authorized by section 905, of Pub. L. 95-625 and the special regulations (36 CFR 7.37) are consistent with the purpose for which the Unit was established and will not be detrimental to other park wildlife or the reproductive potential of the species to be taken. If properly managed by the National Park Service (NPS), these activities will not have an adverse effect on the park ecosystem.

Based on the authority in section 905 of the park's enabling legislation, the NPS has allowed traditional crawfishing activities to continue in the Barataria Marsh Unit. These activities are usually carried out in roadside ditches, ponds, canals and sometimes in swamps. However, participants often create individual trails or trail networks to gain access to areas away from roads, often causing significant and unsightly damage to vegetation and generating serious litter removal problems in those areas as well. There have also been numerous cases of participants killing reptiles and amphibians in areas away from road access. The NPS has also documented a number of complaints pertaining to conflicts between visitors using interpretive trails and individuals engaging in crawfishing activities along those trails. In other areas, the parking of participants' vehicles along the park road has resulted in traffic congestion and public safety problems.

Neither the state of Louisiana nor Jefferson Parish has laws or ordinances addressing crawfishing activities. This rulemaking is an effort on the part of the NPS to allow the continuation of this traditional activity while imposing some minimal restrictions in the interest of protecting park resources, enhancing public safety and avoiding visitor use conflicts. By restricting crawfishing activities to roadside areas and other areas designated by the superintendent, this rulemaking will allow the superintendent the necessary flexibility to manage crawfishing activities without adversely affecting the opportunity or ability of the public to engage in those activities.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the address noted at the beginning of this rulemaking.

Drafting Information

The principal author of this rulemaking is G.E. Neusaenger, Chief, Division of Resource Management, Jean Lafitte National Historical Park, New Orleans, Louisiana 70130-2341.

Paperwork Reduction Act

The information collection requirement contained in this rulemaking has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024-0026.

Compliance with Other Laws

An Environmental Assessment and Finding of No Significant Impact have been prepared on the imposition of the crawfishing regulations. The revised regulations are within the scope of the alternatives discussed, and do not constitute a deviation from the original proposed action, but rather define the specific control more fully. Copies of these documents are available at the address noted at the beginning of this

rulemaking. The Service has determined that it is not necessary to prepare any additional documents concerning these regulations in order to comply with the National Environmental Policy Act. (42, U.S.C. 4321 *et seq.*)

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291, and certifies that this document will not have significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The rule will not affect small businesses. Establishing the crawfishing regulations will enhance the management of the Barataria Marsh Unit, promote visitor safety and provide for the protection of the environment; therefore the net effects are positive, economically, aesthetically and environmentally.

List of Subjects in 36 CFR Part 7

National Parks.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

2. By revising paragraphs (a) (2), (3) and (4) of § 7.37 as follows:

§ 7.37 Jean Lafitte National Historical Park.

(a) *Fishing.*

* * * * *

(2) The taking of crawfish in the Barataria Marsh Unit for recreational purposes is allowed from March 1 through June 30 under the following conditions:

(i) The taking of crawfish is limited to roadsides, except for backcountry areas designated by the Superintendent where the taking of crawfish is allowed pursuant to the terms and conditions of a permit issued by the Superintendent in accordance with the criteria and procedures of § 1.6 of this chapter;

(ii) A person may take crawfish only by using baited lift type mesh nets or baited wire traps, not to exceed a total of ten nets or traps, or a combination of both, per person; and

(iii) A person using nets or traps shall keep them closely attended.

(3) Violation of established conditions or designations for the taking of crawfish is prohibited.

(4) The information collection requirement contained in this section has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0026. The information is being collected in order to provide the Superintendent data necessary to issue permits. The information will be used to grant administrative benefits. Response is required in order to obtain a benefit.

* * * * *

Dated: July 28, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–18594 Filed 8–15–86; 8:45 pm]

BILLING CODE 4310–10–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[EN–FRL 3065–5]

Preliminary Approaches to Implementing the Recommendations of the Domestic Sewage Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meetings: advance notice of proposed rulemaking (ANPR) on the recommendations of the domestic sewage study.

SUMMARY: EPA is today announcing three public meetings to discuss its Advance Notice of Proposed Rulemaking (ANPR) on the recommendations of the Domestic Sewage Study. The Domestic Sewage Study was submitted by the Agency to Congress on February 7, 1986, in response to section 3018(a) of the Resource Conservation and Recovery Act (RCRA). The Study examined the impacts of hazardous wastes discharged to publicly owned treatment works (POTWs) and evaluated the effectiveness of existing Federal and local pretreatment programs in dealing with such discharges. The Study also presented recommendations on improving these and other EPA programs to better control hazardous wastes entering POTWs.

To implement the recommendations of the Domestic Sewage Study, section 3018(b) of RCRA requires the Administrator to revise existing regulations and to promulgate any necessary additional regulations to assure adequate control of hazardous wastes discharged to POTWs. EPA will shortly publish an ANPR which will be the first step towards promulgating the required regulations.

In order to obtain public suggestions on the tentative proposals discussed in the ANPR, EPA is today announcing three four-hour public meetings. At each meeting, EPA will discuss the approaches presented in the ANPR, and open the floor to public comment on these approaches and any alternative suggestions. These comments will be evaluated for use in developing specific proposed rules. Attendees of the public meetings may register upon arrival.

DATES: Public meetings will take place as follows:

9:30 AM—September 11, 1986
Hall of States, Skyline Inn, 10 I. St. SW., Washington, DC 20024

9:30 AM—September 17, 1986
Grand Ballroom North, Sheraton International at O'Hare, 6810 North Mannheim Rd., Rosemont, Illinois 60018

10:00 AM—September 18, 1986
Continental Parlor, San Francisco Hilton & Tower, 333 O'Farrell Street, San Francisco, California 94102

ADDRESS: Send comments to Ms. Katharine Wilson, Permits Division, (EN–336), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, (202) 475–9535.

FOR FURTHER INFORMATION CONTACT: Ms. Katharine Wilson, Permits Division, (EN–336), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, (202) 475–9535.

Dated: August 8, 1986.

James R. Elder,

Director, Office of Water Enforcement & Permits.

[FR Doc. 86–18566 Filed 8–15–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 716

[OPTS–84022; FRL–3058–1]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies on Certain Substances

Correction.

In FR Doc. 86–17352 beginning on page 27562 in the issue of Friday, August 1, 1986, make the following corrections:

1. On page 27564, in the first column, in the table, in CAS No. 75–34–3, the Chemical name "Methane" should read "Ethane".

2. On the same page, in the second column, in CAS No. 101–20–2, the second and third lines should read," *N'*-(3,4-dichlorophenyl)-".

3. Also in second column, in CAS No. 120–12–7, transfer "OSW" from under "Chemical name" to "Requesting office."

4. In the same column, in CAS No. 135–98–8, after "1", insert "-".

5. In the same column, CAS No. 1200–71–6 should read "1300–71–6".

6. In the same column, in CAS No. 1331–47–1, in the Chemical Name, before "4", delete "/" and insert "-".

7. In the third column, in CAS No. 10347–54–3, in the Chemical Name, after '4" delete "/" and Insert "-". Also, the Requesting Office should read "OTS".

8. In the same column, in CAS No. 10436–39–2, in the Chemical name, after "3", delete "/" and insert "-".

9. In the same column, in CAS No. 75790–84–0, in the Chemical Name, after the "2" delete "/" and add "-".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6709]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 51 FR 15926–27 on April 29, 1986. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for Lee County, Virginia.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in Lee County, Virginia, previously published at 51 FR 15926–27 on April 29, 1986, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

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

Source of flooding and location	National geodetic vertical datum. [Elevation in feet]
Straight Creek:	
At confluence with North Fork Powell River	*1,435
At State Route 352	*1,471
At second downstream Southern Railroad crossing	*1,477
Downstream corporate limit of Town of St. Charles	*1,521
Upstream corporate limit of Town of St. Charles	*1,538
At confluence of Gin Creek	*1,586
At downstream side of first upstream Southern Railway crossing	*1,668
Approximately 900' upstream of confluence of Miller Cove Creek	*1,750
Gin Creek:	
At confluence with Straight Creek	*1,586
At downstream County Road	*1,615
At State Route 635	*1,630
Approximately 400' upstream of upstream County Road	*1,736
Big Branch:	
At confluence with Straight Creek	*1,520
At State Route 628	*1,592
Approximately 0.41 mile upstream of State Route 628	*1,636
Baileys Trace:	
At corporate limit of Town of St. Charles	*1,538
At confluence of Fawn Branch	*1,571
Approximately 50' upstream of State Route 717	*1,635
Approximately 0.29 mile upstream of State Route 717	*1,661
Dry Creek:	
At confluence with Wallen Creek	*1,614
Upstream side of U.S. Routes 58 and 421	*1,640
Upstream side of State Route 738	*1,745
Approximately 0.25 mile upstream of State Route 738	*1,779
North Fork Clinch River:	
At County Boundary	*1,484
Upstream side of State Route 611	*1,515
At Southern Railway	*1,535
Mud Creek:	
At State Route 708	*1,461
Upstream side of State Route 622	*1,471
Approximately 0.3 mile upstream of State Route 622	*1,476
Powell River:	
Approximately 1,000' southeast from 621 and 845 State Route Junction	*1,413
At Alternate U.S. Route 58	*1,405
Approximately 0.61 mile downstream of Alternate U.S. Route 58	*1,398
At State Route 619	*1,391
Approximately 1 mile upstream of U.S. Route 421	*1,348
At U.S. Route 421 upstream side	*1,344
Approximately 0.9 mile downstream of U.S. Route 421	*1,339
Poor Valley Branch:	
At confluence with Martin Creek	*1,393
Approximately 525' downstream of Louisville and Nashville Railroad	*1,406
Indian Creek:	
Approximately 750' downstream of U.S. Route 58	*1,309
At confluence with Dry Branch	*1,321
Downstream side of State Route 684	*1,327
Upstream side of Mill Dam at State Route 690	*1,346
Upstream side of Mill Dam at State Route 698	*1,365
Upstream side of State Route 687	*1,373
At confluence with Roaring Branch	*1,389
Approximately 630' upstream of Louisville and Nashville Railroad	*1,400
Cane Creek:	
At corporate limits of Town of Pennington Gap	*1,369
Downstream side of State Route 643	*1,391
Approximately 1 mile upstream of first downstream crossing of U.S. Alternate Route 58	*1,411
Approximately 0.5 mile downstream of State Route 644	*1,430
At State Route 644 and U.S. Alternate 58	*1,455
Approximately 350' upstream of U.S. Alternate Route 58	*1,466
North Fork Powell River:	
Confluence with Powell River	*1,345
At State Route 633	*1,352
Downstream corporate limits of Town of Pennington Gap	*1,353
Second downstream corporate limits of Town of Pennington Gap	*1,355
Approximately 1,000' southeast from State Route 621 on State Route 633	*1,358
At State Route 621 (new)	*1,376
At Southern Railway	*1,401
Approximately 200' downstream of confluence of Bobs Branch	*1,435
Fawn Branch:	
At confluence with Baileys Trace	*1,571
Upstream side of County Road	*1,618
Upstream side of State Route 637	*1,646
Approximately 0.57 mile upstream of State Route 637	*1,756
Poor Valley Creek:	
At confluence with North Fork Powell River	*1,371
Farm Road upstream side	*1,429
Approximately 0.24 mile upstream of second crossing of State Route 621	*1,600

Issued: August 11, 1986.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86–18549 Filed 8–15–86; 8:45 am]

BILLING CODE 6718-03-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1180

Institute of Museum Services; Conservation Grants to Museums; Museum Assessment Program

AGENCY: Institute of Museum Services, NFAH.

ACTION: Proposed guidelines and standards.

SUMMARY: The Institute of Museum Services issues proposed amendments to its guidelines relating to a program of Federal financial assistance for conservation projects in museums and an amendment to its regulations for the Museum Assessment Program. The guidelines and regulations implement the Museum Services Act. They state eligibility conditions and other terms for the administration of the museum conservation and assessment programs.

DATE: Comments must be received on or before October 1, 1986.

ADDRESS: Comments should be addressed to Lois Burke Shepard, Institute of Museum Services, Room 510, 1100 Pennsylvania Ave., N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Ruth Weant. Telephone: (202) 786–0539.

SUPPLEMENTARY INFORMATION:

General Background

The Museum Services Act ("the Act") which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended in 1980, 1982, 1984, and 1985. The purpose of the Act is stated in section 202 as follows:

> It is the purpose of the Museum Services Act to encourage and assist museums in their educational role in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of non-formal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museums Services Board and a Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museum disciplines, including those relating to science, history, technology, art, zoos, and botanical gardens; of the curatorial, educational, and cultural resources of the United States; and of the general public. The Board has the responsibility for establishing the general policies of the Institute. The Director is authorized, subject to the policy direction of the Board, to make grants under the Act to museums.

IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation). Pub. L. 97–100, December 23, 1981, Pub. L. 97–394, December 30, 1982, Museum Services Act, section 203, as amended. The Act lists a number of illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public. Assisting museums to carry out conservation activities is expressly authorized in the Act.

The Need for These Amendments

During Fiscal Year 1986 IMS operated a program of assistance for conservation projects pursuant to the Department of Interior and Related Agencies Appropriations Act, 1986, Pub. L. 99–190 (Dec. 19, 1985). IMS issued guidelines and standards for the operation of this program. 50 FR 27584 (July 5, 1985). The guidelines and standards pertain to such matters as eligibility, use of funds, funding criteria and post-award conditions. They were developed by the Board and were published in the **Federal Register** after opportunity for public comment. *See* 50 FR 4237 (Jan. 30, 1985). Similarly, the Institute's regulations contain provisions relating to the Institute's Museum Assessment Program (MAP) which has been conducted since fiscal year 1981. (45 CFR 1180.70–1180.76).

Amendments to Conservation Guidelines

Experience with the administration of the conservation program indicates the need for greater focus with regard to certain types of projects in order to use Federal funds most efficiently and effectively. In particular, the Board finds that it may be appropriate in a fiscal year to target all or part of the funds available for conservation on one or more types of projects (such as projects involving training, surveys, or establishment or maintenance of optimum environmental conditions) rather than to distribute funds on the basis of applications covering the broadest range of projects. Accordingly, IMS proposes to amend its conservation guidelines to provide that such a priority for a particular fiscal year could be established by simple notice in the **Federal Register** without a formal amendment of the regulations. The proposed revision of § 1120.20(g) is designed to achieve this end. Under this section as amended, a priority could be established for a type of project; then applications for projects within the priority would be evaluated ahead of other applications to determine if they warranted funding. An amendment to § 1180.20(e) would clarify the types of projects which may be funded for the purpose of priority setting.

Similarly, in order to best carry out such priorities, greater flexibility would be provided in the guidelines to make conservation grants in excess of $25,000. An amendment is proposed to § 1120.20(f) to achieve this objective.

Finally, an amendment is made to § 1120.20(g) to permit the Director to require, where appropriate, that an applicant for a project to conserve particular objects (45 CFR 1120.20(e)(6)) must conduct a survey of its needs and priorities before applying. The amendment would also clarify the Director's authority to obtain additional information, material, or undertakings from an applicant for a particular category of conservation projects in accordance with instructions in the application package.

Amendment to MAP Regulations

An amendment is made to the regulations for the Museum Assessment Program (45 CFR 1180.70) specifically to provide for the use of funds for assessments relating to museum security. Recent events have indicated the critical importance of museum security, and it is believed that the opportunity to benefit from particular assessments regarding this area, in the context of the MAP program, will be of great assistance in maintaining and improving the quality of museum services.

Executive Order 12291

These amendments have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Director certifies that these amendments will not have a significant economic impact on a substantial number of small entities.

To the extent that they affect States and State agencies they will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act.

These amendments will affect certain museums receiving Federal financial assistance under the Museum Services Act. However, they will not have significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or require unnecessary Federal supervision. They impose minimal requirements to ensure the proper expenditure of grant funds.

Paperwork Reduction Act

The information collection requirements in these proposed guidelines and standards will be sent to Office of Management and Budget (OMB) for review under provisions of section 3504[H] of the Paperwork Reduction Act of 1980. Comments concerning information collection requirements only should be addressed to the Office of Information and Regulatory Affairs, OMB, NEDS, Rm: 3208, 17th & Penn. Avenue, NW., Washington, DC 20503 Attn: Desk Officer for IMS. All other comments regarding these proposed guidelines and standards should be sent to IMS at

address given at the beginning of these proposed guidelines and standards.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed amendments. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before October 1, 1986 will be considered before final regulations are issued.

All comments submitted in response to these proposed amendments will be available for public inspection, during and after the comment period, at the Institute of Museum Services, Room 510, 1100 Pennsylvania Ave, NW., Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 45 CFR Part 1180

Museums, National boards.

(Catalog of Federal Domestic Assistance No. 43.301, Museum Services Program)

Lois Burke Shepard,

Director, Institute of Museum Services.

The Institute of Museum Services proposes to amend Subchapter E of Chapter XI of Title 45 of the Code of Federal Regulations as set forth below:

1. The authority citation for Part 1180 is revised to read as follows:

Authority: 20 U.S.C. 961 et seq.

2. 45 CFR 1180.20(e), (f) and (g) are revised to read as set forth below.

§ 1180.20 Guidelines and standards for conservation projects.

* * * * *

(e) *Types of conservation projects funded.* IMS considers applications to carry out conservation projects such as:

(1) Projects to conduct or obtain training in conservation (including training of persons for careers as professional conservators; training or upgrading of practicing conservators and conservation technicians in the use of new materials and techniques; and training of persons to become conservation technicians).

(2) Projects to conduct research in conservation (including developmental and basic research).

(3) Projects to develop improved or less costly methods of conservation, or to maintain or improve conservation with respect to one or more collections, including---

(i) Projects involving surveys of conservation needs and

(ii) Projects to establish or maintain optimum environmental conditions.

(4) Projects related to museum conservation needs not regularly addressed by other Federal funding agencies.

(5) Projects to meet the conservation needs of museums which are unable to maintain their own individual conservation facilities, such as the use of regional conservation centers or mobile conservation facilities. Because grants are made only to museums, organizations which operate regional conservation centers but which are not museums are ineligible for a direct grant. However, a museum or a group of museums may use a grant to obtain services from a center.

(6) Projects to conserve particular objects in a museum's collection (including plants and animals) or to meet the conservation needs of a particular museum (through such activities as the employment of conservators and the procurement of conservation services or equipment).

(f) *Limits on Federal funding.* (1) IMS normally makes a conservation grant which obligates no more than $25,000 in Federal funds. Unless otherwise provided by law, if the Director determines that exceptional circumstances warrant, the Director, with the advice of the Board, may award a conservation grant which obligates in excess of $25,000 in Federal funds. The Director may make such a determination with respect to a category of conservation grants by notice published in the **Federal Register.**

(2) A conservation grant is not included in the maximum amount which a museum may expect to receive from IMS for a fiscal year, as set forth pursuant to § 1180.9 of the regulations. Therefore, a museum may receive, for example, a General Operating Support grant for the amount specified pursuant to that section and an additional amount for a conservation grant in a fiscal year.

(3) IMS makes conservation grants only on a matching basis. This means that at least 50 per cent of the costs of a conservation project must be met from non-federal funds. Principles in applicable OMB circulars regarding cost sharing or matching apply. See, e.g., OMB Circular A–102, Attachment F.

(g) *Application requirements; priorities; survey required in certain cases.—*

(1) *Application requirements.* Application requirements in § 1180.11(a), (b), and (c) apply. An application shall describe when, during the term of the grant, the applicant plans to complete each objective or phase of the project. Where appropriate, IMS may require an applicant to submit a dissemination plan.

(2) The Board, by notice published in the **Federal Register,** may establish priorities among the types of projects specified in paragraph (e) of this section. If the Board establishes one or more types of projects as a priority for a fiscal year, applications proposing projects of that type (or types) are evaluated and ranked, and (if recommended for funding) approved before applications proposing other types of projects.

(3) The Director may, to the extent appropriate, require (by instructions in the application materials) that an applicant which proposes a project to conserve particular objects (as provided in paragraph (e)(6) of this section) must show that, prior to the submission of the application, it has carried out a survey of its conservation needs and priorities in the specific area of focus and that the project in question is consistent with such survey. The Director may also (through such instructions) require an applicant for a conservation project to submit additional information, material, or undertakings to carry out the purposes of this part.

* * * * *

2. 45 CFR 1180.70 is revised to read as set forth below.

§ 1180.70 Purpose of program.

The Director of the Institute of Museum Services makes grants under this subpart to assist museums in carrying out institutional assessments. The grants enable museums to obtain technical assistance in order to evaluate their programs and operations by generally accepted professional standards. The Director may make grants for separate categories of assessment activities and establish conditions for receipt of assistance for such separate categories. Such categories may include assessment activities relating to—

(a) General operations;

(b) Collections;

(c) Museum security, and

(d) Other aspects of museum services, as specified by the Board.

[FR Doc. 86–18589 Filed 8–15–86; 8:45 am]

BILLING CODE 7036–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 175

[Docket No. HM-184D; Notice No. 86-5]

Implementation of the ICAO Technical Instructions

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to 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 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.

DATE: Comments must be received by October 17, 1986.

ADDRESS: Address comments to Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Branch is located in Room 8426, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

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

SUPPLEMENTARY INFORMATION: On December 2, 1985, the Research and Special Programs Administration (RSPA) published amendments to the Hazardous Materials Regulations [50 FR 49393] which authorize under certain conditions, and with certain limitations, hazardous materials packaged, marked, labeled, classified and described and certified on shipping papers as provided in the 1986 edition of the ICAO Technical Instructions to be offered, accepted and transported by aircraft within the United States and aboard aircraft of United States registry anywhere in air commerce. In addition, amendments were published to Part 175 of the HMR to align the exceptions for aircraft parts and supplies aboard aircraft with those in the 1986 edition of the ICAO Technical Instructions. It was necessary that these amendments be published in order to provide consistency between the Hazardous Materials Regulations and the ICAO Technical Instructions because the ICAO Technical Instructions have become the basic standard applied to the transport of hazardous materials by aircraft worldwide. A more detailed explanation of the reasons for this action was provided in the Notice of Proposed Rulemaking published under Docket No. HM-184 on August 2, 1982 [47 FR 33295].

Since publication of the final rule under Docket No. HM-184C, ICAO has developed a number of amendments to the ICAO Technical Instructions. These amendments have been incorporated in the 1987 edition of the ICAO Technical Instructions which will become effective on January 1, 1987. In order to continue to fulfill the intent of the amendments published under Docket Nos. HM-184, HM-184A, HM-184B, and HM-184C (i.e., to facilitate the international transportation of hazardous materials by aircraft by insuring a basic consistency between the HMR and the ICAO Technical Instructions), the RSPA believes it necessary to amend certain provisions of the HMR to reflect changes introduced in the 1987 edition of the ICAO Technical Instructions. The purpose of this rulemaking action is to propose these necessary amendments to the HMR.

The following is an analysis of this proposal which provides the background behind the proposed changes:

Section 171.7. The reference to the 1986 edition of the ICAO Technical Instructions in the matter incorporated by reference would be updated to refer to the 1987 edition. A copy of the Report of the Tenth Meeting of the ICAO Dangerous Goods Panel, indicating all changes introduced into the 1987 edition of the ICAO Technical Instructions, is on file in the public dockets.

Section 175.10. The exceptions for medicinal and toilet articles in subparagraph (a)(4), and for alcoholic beverages, perfumes, and colognes in subparagraph (a)(15), which is currently aligned with the corresponding text of the 1986 edition of the ICAO Technical Instructions, would be amended to reflect the changes incorporated in the 1987 edition of the ICAO Technical Instructions, which will become effective January 1, 1987. ICAO has developed a number of amendments to the ICAO Technical Instructions since publication of Docket No. HM-184C (Implementation of the ICAO Technical Instructions), making it necessary to amend to HMR to incorporate these amendments. Part 1, Section 2.3.1. of the ICAO Technical Instructions has been amended to permit certain liquefied gas lighters to be carried aboard passenger aircraft by the aircraft operator for use or sale. It is proposed to amend 49 CFR 175.10(a)(15) to provided a comparable exception, subject to approval of the liquefied gas lighters by the Director, Office of Hazardous Materials Transportation. Part 1, Section 2.4.2, paragraph (b) of the ICAO Technical Instructions has been amended to restrict exceptions for medicinal and toilet articles to articles which are not radioactive and to provide an additional exception for certain aerosols carried in checked baggage. Subparagraph (a)(4) of 49 CFR 175.10 would be amended to provide similar provisions.

Section 175.30. With regard to overpacks and the packages they contain, the operator, with regard to accepting, handling and loading of dangerous goods, must take all reasonable steps to establish that the overpacks does not contain packages bearing the "Cargo Aircraft Only" label unless the exceptions specified in ICAO Technical Instructions, Part 5 Section 1.1.2. are met. Part 5, Section 1.1.2 of the ICAO Technical Instructions has been amended to permit use of an overpack for a package labeled "Cargo Aircraft Only" if not more than one package is overpacked. Subparagraph (e)(1)(iii) would be added to 49 CFR 175.30 to provide a similar exception.

Administrative Notices

A. Executive Order 12291.

The RSPA has determined that the effect of this regulatory proposal would not meet the criteria specified in section 1(b) of Excutive 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 affected, I certify that this notice will not, as promulgated, have a significant economic impact on a substantial number of small entities under the criterial 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 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. The authority citation for Part 171 would be 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) would be revised to read:

§ 171.1 Matter incorporated by reference.

* * * * *

(b) * * *

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

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

3. The authority citation for Part 175 would be 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) would be revised, and paragraph (a)(15) would be revised to read as follows:

§ 175.10 Exceptions

(a) * * *

(4) Non-radioactive medicinal and toilet articles carried by a crewmember of 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, paragraph (e)(1)(iii) would be 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 August 12, 1986.

Sherwood C. Chu,

Deputy Director, Office of Hazardous Materials Transportation.

[FR Doc. 86–18595 Filed 8–15–66; 8:45 am]

BILLING CODE 4910-60-M

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49 CFR Part 192

[Docket No. PS–84; Notice 3]

Transportation of Natural and Other Gas by Pipeline; Confirmation or Revision of Maximum Allowable Operating Pressure Near Certain Occupied Buildings and Outside Areas

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to change the standard classification pipelines located near certain buildings and outside areas that are occupied infrequently. The existing classification has proven to be unreasonably burdensome in applying requirements for confirmation or revision of maximum allowable operating pressure (MOPA) where a change in classification has occurred because of the construction of such a building or outside area.

DATE: Interested persons are invited to submit written comments on this proposal before November 17, 1986. Late filed comments will be considered as far as is practicable. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESS: Comments should be sent to the Dockets Branch, DHM–53, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Please identify the docket and notice numbers. All comments and docket materials will be available in Room 8426 for inspection and copying between the hours of 8:30 a.m. and 5:00 p.m. each working day. Non-Federal employee visitors are admitted to the DOT headquarters building through the southwest quadrant at Seventh and E Streets.

FOR FURTHER INFORMATION CONTACT: Robert F. Langley, (202) 366–4562, regarding the contents of this notice, or the Dockets Branch, (202) 366–4453, regarding copies of the notice or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

Under § 192.611, the MAOP of gas pipelines must be confirmed or revised according to maximum hoop stress levels that correspond to population densities. In general, as the population near a gas pipeline increases (to levels set by a classification scheme in § 192.5), the maximum hoop stress level decreases (varying from 72 percent of specified minimum yield strength (SMYS) in remote Class 1 areas to 40 percent in densely populated Class 4 areas) and the pipeline's MAOP must be confirmed or decreased accordingly. In an area of increased population, an operator who wishes to maintain the MAOP of a pipeline operating at a high hoop stress relative to SMYS usually must replace the pipeline, using either a higher strength material or the same material with a greater wall thickness. Replacement can be costly, depending on the length of line section involved, Section 192.611 does, however, allow pipelines that have experienced a single jump in class location (e.g., Class 1 to Class 2) to maintain their existing MAOP if they were previously pressure tested to 90 percent of SMYS for at least 8 hours or are tested in accordance with Subpart J after the class change occurs.

The purpose of re-evaluating the operating hoop stress level of gas pipelines on a population basis is to combat their susceptibility to long-running fractures. Fracture propagation of this type, which is caused by the high energy levels of compressed gas, can be catastrophic in highly populated areas. Under the theory of the gas regulations, the risk of such an event is reduced by increasing, in relation to population density, the margin between the operating hoop stress and the stress at which yield would occur. The larger the margin, the larger the fault or the accidential overloading a pipeline can withstand before failure, thus reducing the chance that a long-running fracture will occur.

Under § 192.5(d)(2) a Class 3 location is an area where the pipeline lies within 100 yards of any of the following:

(i) A building that is occupied by 20 or more persons during normal use.

(ii) A small, well-defined outisde area that is occupied by 20 or more persons during normal use, such as a playground, recreation area, outdoor theater, or other place of public assembly.

Developments of the type characterized by § 192.5(d)(2) run the gamut from rural churches used a few hours a week or hunting lodges used seasonally to nursing homes or schools. They often are contructed in the vicinity of existing pipelines, with little, if any, notice to the operator. Such unanticipated developments, which raise the class location of the affected pipeline segments to Class 3, can have major cost impacts under § 192.611. The impact is greatest on pipelines which had been designed and constructed to rural Class 1 standards—in the millions of dollars when considering the costs of replacements and gas lost.

Because of the high costs of meeting § 192.611, several operators in § 192.5(d)(2) situations have requested relief from either § 192.5(d)(2) or § 192.611 for pipeline segments no more than 600-feet long. Besides the high costs of replacing short segments, the reasons for their requests centered on the small number of building occupants or the infrequency of occupancy, such as once or twice a week, or a combination of the two. The requests were not granted, however, because change in local conditions is the intended trigger for § 192.611 and the operators were unable to clearly demonstrate that public safety would not be adversely affected if the MAOP of the pipeline segment involved were not confirmed or revised as required by § 192.611.

Nevertheless, RSPA has remained sympathetic to the plight of these and similarly situated operators who are faced with high compliance costs to achieve uncertain safety benefits. The potential benefits are uncertain because even assuming the existance of a defect in a pipeline, the likelihood that a long-running fracture will occur at all in a gas pipeline is remote, even for pipelines operating at 72 percent of SMYS. In addition to the small likelihood of a long-running fracture occuring, the potential benefits of applying § 192.611 in § 192.5(d)(2) areas are further reduced when the number of people exposed to risk is small on the length of their exposure is brief, or both. For example, the risk to a hunting lodge used seasonally on weekends in much less than to an equally populated nursing home where people are constantly in attendance. Yet, the cost to meet § 192.611 could be the same.

This analysis leads to the conclusion that § 192.5(d)(2) may be more conservative in application under § 192.611 than called for by the needs for safety. In the absence of data to further define the need for or benefits of meeting § 192.611 in areas defined by § 192.5(d)(2), RSPA published an Advance Notice of Proposed Rulemaking (ANPRM) (50 FR 36116), seeking more information. Public comment was invited on the issue of whether it is necessary for safety to confirm or revise the MAOP of gas pipelines in the vicinity of isolated buildings or outdoor places of assembly where 20 or more people gather during normal use. At the request of the Interstate Natural Gas Association of America (INGAA), the comment period on the poposed rule was extended to January 3, 1986, by Notice 2 (50 FR 45845), which resulted in interested parties having a total of 4 months for comment.

A total of 41 commenters responded to the ANPRM. Basically, the comments came from gas transmission pipeline operators, but some comments came from State regulatory agencies and a few pipeline trade associations. The comments have been helpful in enabling RSPA to arrive at the course to follow for this NPRM, since the majority of the commenters responded to the alternative solutions and to the questions asked in the ANPRM. Especially helpful have been the responses to the request in the ANPRM for actual costs involved in complyng with the confirmation or revision rule for pipelines in areas defined by § 192.5(d)(2).

Discussion of Comments on the Questions and the Alternatives

1. Are the requirements of § 192.611 needed for the safety of pipelines in general? If so, are they needed for pipelines in Class 3 areas defined by § 192.5(d)(2)?

Of the respondents to this question, 64 percent believed that some sort of regulation was needed to provide extra protection for the areas defined. However, several of the commenters felt that the goal could be accomplished by adopting the latest amendment to American Society of Mechanical Engineers' (ASME) B31.8. This amendment to B31.8 substitutes the word "infrequently" for the term "normal use."

2. If the requirements of § 192.611 are needed for safety in general or in § 192.5(d)(2) areas, what safety problem does compliance with § 192.611 help to resolve, and are there any alternative less costly solutions to that problem?

The commenters that answered this question in a direct manner believed that present regulations led to reduced stress on the pipeline. The RSPA continues to believe that reducing the maximum allowable operating pressure to reduce the hoop stress offers increased protection to the public. To date, however, after reviewing all comments, we question whether this protection is justified in § 192.5(d)(2) situations. Four commenters stated that: "The requirements of § 192.611 cause an operator to verify the integrity of a pipeline and to provide for increased surveillance of the pipeline in the area involved. The increased surveillance would reduce the possibility of damage to the pipeline from outside activities, the major cause of pipeline incidents." Continuing surveillance is required under Part 192 by § 192.613, not § 192.611. As far as external damage caused by construction activity, § 192.614, "Damage prevention program," was designed to help prevent that form occurring.

3. If the rules were modified under any alternative above, should other safety requirements be proposed to maintain safety in the vicinity of the isolated building or outside area as defined in § 192.5(d)(2)? If so, what should they be and why? If not, why not?

Fifty percent of the commenters, in answering this, felt that it would not be necessary to set forth other rules if the present rules wer modified as discussed in the ANPRM. They felt that a modification could be found to relieve the present burden and still continue to maintain a high level of safety.

4. What data can be provided from experience or studies about degree of risks associated with a pipeline in proximity to the § 192.5(d)(2) types locations? In this regard, is an isolated pocket of population within 100 yards of a pipeline a factor in the occurrence of a pipeline accident? What data can you provide about such adjacent population density in relationship to the severity of (or hazardous results from) a pipeline accident?

To expand on the statement made in the discussion to question number 2, 100 percent of the persons replying to this question, representing 34 percent of the commenters, did not provide any data showing that any accidents had

occurred at these isolated locations and if they had, had caused any damage. (However, two accidents were reported in answer to question 7.)

5. Is "20 or more persons" the appropriate size group on which to base this class location criteria? Cite any research, experience, or safety studies.

Forty-four percent of the commenters answered this question. All of the commenters said that 20 was too small a number. (Refer to the discussion of comments to Alternative No. 2). The reason given for increasing the number was that Class 2 allows for a greater number of occupants per mile, as indicated by the Bureau of Census figures quoted in the ANPRM. It is difficult, however, to compare the risk exposure in Class 2 areas, possibly spread over a mile long segment 440 yards wider, to that in isolated buildings or outdoor areas with no upper limit on occupants and very near to the pipeline.

6. Can a better criteria be developed from research, study, or risk analysis upon which to base possible exposure of the public to hazard than "normal use?" What is it and what is the basis for your recommendation?

Thirty-six of the commenters responded to this question, and they felt that a better criteria could be developed for "normal use" with the majority offering "frequent" or "frequently. (See also the discussion under Alternative No 3.)

7. What data are available from research or experience concerning any relationship between the stress level in a gas pipeline and the cause of a pipeline accident or the magnitude of accident consequences? Do accidents on higher stress level pipelines normally result in greater damages than lower stress level pipelines, given the same population density and mixture?

This question is related to question number 4 and the discussion of question number 2. Thirty-seven percent of the commenters replied to this question. With the exception of two of these, all answered that they could not supply any data. The two that could supply data stated that several years ago they had incidents caused by outside force damage near § 192.5(d)(2) locations. The only damages, however, were to the pipeline.

8. If change is not provided in the regulation from the effects of the criteria in § 192.5(d)(2) on the MAOP resulting from such class location changes, what are the estimated costs to comply for an operator's impacted pipelines? For upgrading? Moving the pipeline? Reducing MAOP, Give estimated number of locations with size and length of each.

Ten of the commenters provided excellent detailed data of the breakdowns of costs, including locations, lengths and diameters of pipeline involved, and whether or not the costs involved replacement of the pipeline, relocation of the pipeline, or the encroachment involved, or the losses caused by reducing pressure. Individual costs per location ranged from $4,000 to $500,000. One major pipeline has spent over $7.5 million and another over $8 million in compliance.

Docket No. PS–84's ANPRM offered six alternatives for the commenters. The alternatives and the responses follow:

1. Continue present rules §§ 192.5(d)(2) and 192.611 unchanged.

Negative responses to this alternative indicated that 85 percent favored some sort of amendment. The Department of Public Service of the State of New York favored continuing with waivers rather than change the rule. RSPA feels, however, that the potential problems are too widespread to continue to deal with on a waiver basis.

2. Modify § 192.5(d)(2) by changing number of persons to some number greater than 20, possibly the range of numbers in the other Class 3 location using Census data.

There were 65 percent of the responses that did not believe that changing the number from 20 to some other number would help. The other 35 percent offered numbers ranging from 50 to 100. One commenter favored adopting the revised version of the ASME's Gas Distribution and Transmission System Piping Code (B31.8a) which states "no fewer than 20." The comments presented no basis, however, for increasing the occupancy level above 20.

3. Quantify the term "normal use." This could be on the basis of days of use per year or percentage of time used.

Although less than 50 percent of the commenters responded to this alternative, 75 percent of those that responded in favor of a change suggested that the word "frequently" be substituted for "normal use." This, no doubt, was derived from the revised version of ASME B31.8 which states in 840.3(b) "If the facility is used infrequently the requirements of (b) below need not be applied . . ." Adopting the concept of frequent use would alleviate some costs of § 192.611 associated with the apparently low risk facilities like buildings occupied once a week. However, quantification is needed for clarity of the rule.

4. Place the criteria presently in § 192.5(d)(2) under § 192.5(c), thus making such a location a Class 2 location.

A total of 51 percent of the commenters responded to this proposal and 52 percent of those discussing the proposal were in favor of it. This proposal, if adopted, would have a broad effect throughout Part 192 whenever Class 3 is mentioned. Some of the comments perceived and discussed these effects. The effect may be more than needed to resolve the immediate problem.

5. Revise § 192.611 to increase the MAOP allowed for those pipelines impacted by the criteria of § 192.5(d)(2) to that allowed for pipelines in Class 2 locations.

Forty-four percent discussed this alternative but 89 percent of those favored this solution. Pacific Gas and Electric Company suggested, in agreeing with Alternative No. 5, that there should still be some requirement that the operator evaluate each individual situation. Also, this commenter said the operator should be required to verify that an adequate level of cathodic protection is being maintained on the segment of pipe, and to install additional markers and conduct additional surveillance for construction activity.

The INGAA, an association of interstate operators, stated its preference for Alternative No. 5. Basically, Alternative No. 5 is a narrow version of Alternative No. 4, with the class location shift limited to § 192.611. The commenters favoring this alternative did not satisfactorily explain why there would be no loss in safety from this broad change to § 192.611. The commenters did indicate, however, some concern about the safety impact.

6. Except the § 192.5(d)(2) defined Class 3 locations from § 192.611.

The final alternative presented for comment received comments from 43 percent of the commenters. Thirty-three percent of these favored this type of change whereas 67 percent did not favor it. The INGAA, representing gas transmission pipeline operators, was

one of the dissenters on this alternative. Their reasons for rejecting Alternative No. 6 was that if § 192.611 were changed for pipelines coming under the criteria of § 192.5(d)(2), there would be "the possibility of placing a high number of persons at risk." RSPA agrees with INGAA. Adoption of Alternative No. 6 would have a sweeping effect without any indication that there would be no adverse safety impact.

At the Technical Pipeline Safety Standards Committee meeting held December 10, 1985, the Committee discussed the alternatives and questions presented in the ANPRM. Although the Committee did not vote officially on any one of the alternatives, the Committee's official report on the meeting stated:

> There was no clear sense of the committee based on the discussion, in fact comments ran the full spectrum from support for the current regulations to concern over whether the current regulation in 192.611 causes more of a hazard than it protects against one. Certainly, reliable data to indicate whether the existing regulations increase safety, by how much, and at what cost would assist the committee and the DOT staff in developing an opinion.

The needs for safety and the costs of attaining it were brought forth by the ANPRM. The great majority of commenters favored some sort of change for either § 192.5(d)(2) or § 192.611 but recognized that § 192.5(d)(2) represents places of added risk in otherwise low risk areas. In considering the comments, it became obvious that total elimination or exception of § 192.5(d)(2) as it now applies under § 192.611 (Alternative No. 6) would significantly detract from the protection of the public by the rule. Further, there appeared to be no safety basis to support changing § 192.5(d)(2) from Class 3 to Class 2 either overall (Alternative No. 4) or just in § 192.611 (Alternative No. 5).

Of the remaining alternatives, RSPA believes the best balance between safety and cost would be achieved by Alternative No. 3, modify the term "normal use" in § 192.5(d)(2). Many commenters favored the use of "frequently," derived from the ASME B31.8 Code, Amendment C, instead of the term "normal use." In an interpretation of § 192.5(d)(2), RSPA has stated "the frequency of normal use is a factor to consider in determining whether the use of a building or outside area creates a risk . . . to warrant application of Class 3 standards." While the concept of frequent use to trigger Class 3 is useful, for enforceability RSPA is proposing to adopt a specific use rate instead of "frequently" as a substitute for "normal use." There is precedent for quantifying terms within § 192.5, since the entire class location scheme is based on house counts within specific measured areas. This quantified approach has proved to be easily enforceable and uniformly understood.

The frequency of use that RSPA believes appropriate for § 192.5(d)(2) is use throughout the week for a substantial part of the year, and not just on weekends or isolated periods during the year. This is the use received, for example, by an office, school, store or factory. One commenter suggested a 150 day minimum use limit, to exclude from Class 3, pipelines near buildings or places infrequently used, such as those used only on weekends. This commenter also suggested a 4–hour minimum use during each of the 150 days to include in Class 3, buildings with half-day use, as may be associated with nursery schools or other such facilities. Other frequencies suggested were as low as 1 day a week througout the year or daily for 12 weeks a year to cover the summer season. However, such infrequent use would not appreciable change the burdensome effect of the existing rule.

The frequency RSPA proposes is used "at least five days a week during at least 26 weeks a year". Neither the days nor weeks would have to run consecutively. We believe this frequency would continue to maintain an acceptable level of safety for schools, hospitals, restaurants, etc., in § 191.5(d)(2) situations throughout Part 192 and including § 192.611. At the same time, it would eliminate the burden of the occasional county fair, church, and hunting lodge that § 192.5(d)(2) presents under § 192.611. An hourly use rate, as suggested by one commenter, was considered too impractical to apply and not needed to achieve the purpose of the proposed rule change. Interested persons are particularly urged to comment on the proposed number of weeks and number of days per week, and on the benefit or the burden of any alternative frequencies they may suggest.

Costs

Some costs to relocate pipelines were discussed in the ANPRM. In the June 1984 issue of "Pipeline Digest," average current construction costs for typical pipe sizes (12 inch through 30 inch O.D.) and for the average length of the pipeline operators to comply with pipeline safety regulations because of the criteria of § 192.5(d)(2). This figure appears now to be on the conservative side. In question number 8 (discussed above) that appeared in the ANPRM, costs to pipeline operators caused by the criteria of § 192.5(d)(2) were asked for. Costs to only two operators were in excess of $15 million with many more listing costs of a million dollars or more. The net result of such high replacement costs for pipelines could lead to increases in gas prices or a reduced gas supply. However, in some situations, operators would have to incur some of these costs at a later date when and if the area becomes more densely populated.

Classification

This proposed amendment constitutes a reduction in burden on the regulated industry by modifying a regulation in a manner that serves public safety and reduces costs. It is considered to be nonmajor under Executive Order 12291 and nonsignificant under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The net economic impact has been found to be a reduction in costs since at least a $24 million average annual savings to the industry and consumers, based on responses to the question on costs in the ANPRM, will result.

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires a review of certain rules proposed after January 1, 1981, for their effects on small businesses, organizations, and governmental bodies. Based on the facts available concerning the impact of this rulemaking action, I certify that the action will not, if adopted as final, have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 192

Pipeline safety, Natural gas, Class locations, Maximum allowable operating pressure.

PART 192—[AMENDED]

In view of the foregoing, RSPA proposes to amend 49 CFR Part 192 as follows:

1. The authority citation for Part 192 continues to read as follows:

> Authority. 49 U.S.C. 1672; U.S.C. 1804; 49 CFR 1.53, and Appendix A of Part 1.

2. In § 192.5, paragraphs (d)(2)(i) and (d)(2)(ii) would be revised as follows:

§ 192.5 Class locations.

* * * * *

(d) * * *

(2) * * *

(i) A building that is occupied by 20 or more persons on at least 5 days a week during at least 26 weeks a year.

(ii) A small, well-defined outside area that is occupied by 20 or more persons on at least 5 days a week during at least 26 weeks a year, such as a playground,

recreation area, outdoor theater, or other place of public assembly.

* * * * *

Issued in Washington, DC, on August 13, 1986, under authority delegated by 49 CFR Part 106, Appendix A.

James C. Thomas,

Acting Director, Office of Pipeline Safety.

[FR Doc. 86-18600 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661 and 663

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California, and Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) will hold hearings to receive public comments on (1) an amendment to the fishery management plan for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California; and (2) an amendment to the Pacific coast groundfish plan. The amendment documents will be available at the hearing locations and the Council office. These hearings are being held in accordance with section 302(h)(3) of the Magnuson Fishery Conservation and Management Act.

DATE: See **"SUPPLEMENTARY INFORMATION"** for dates and locations of the hearings. All hearings will begin at 7:00 p.m. Written comments are invited through September 9, 1986.

ADDRESSES: See **"SUPPLEMENTARY INFORMATION"** for locations of the hearings. Written comments should be sent to the Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201. Copies of both salmon and groundfish amendments will be available at this address beginning August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 503-221-6352.

SUPPLEMENTARY INFORMATION: The amendment to the salmon fishery management plan consists of three issues: (1) Oregon coastal natural coho escapement goal, (2) in season management actions and procedures, and (3) allocation of allowable ocean harvest of coho south of Cape Falcon.

The amendment to the groundfish fishery management plan addresses four issues: (1) Provision for shoreside sorting of prohibited species in the midwater trawl fishery for Pacific whiting, (2) deleting the sablefish optimum yield in the Monterey Bay subarea, (3) gear regulation flexibility, and (4) marking requirements for setnets and commercial hook-and-line gear.

The hearings are scheduled as follows:

August 27, 1986—

Sheraton-Renton Inn, Cedar/Spruce/Fir Rooms, 800 Ranier, South, Renton, WA 98055

Thunderbird Motor Inn, North and South Umpqua Rooms, 1313 North Bayshore Drive, Coos Bay, OR 97420

State Office Building, Auditorium, Room 1194, 350 McAllister Street, San Francisco, CA 94102

August 28, 1986—

Astoria Middle School, Cafeteria, 1100 Klaskanine Avenue, Astoria, OR 97103

Red Lion Inn, Redwood Ballroom, 1929 Fourth Street, Eureka, CA 95501

Dated: August 13, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18563 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 159
Monday, August 18, 1986

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

DEPARTMENT OF AGRICULTURE

Agribusiness Promotion Council, Committee on Investment Climate and Finance; Meeting

Notice is hereby given that the Committee on Investment Climate and Finance of USDA's Agribusiness Promotion Council, advisory group to the Secretary of Agriculture on matters pertaining to the Caribbean Basin, will meet on September 5, 1986 from 2:00 to 3:15 PM at the Convention Center in San Juan, Puerto Rico. The Committee meeting will be held in conjunction with USDA's Agribusiness Development Workshop hosted by the Economic Development Administration of Puerto Rico. The agenda will consist of discussions on different financial and insurance mechanisms and their applicability in the Caribbean Region, and planning committee activities. The meeting will be open to the public. Written statements may be submitted to Joan S. Wallace, Administrator, USDA/OICD Room 3047—South Building, Washington, DC 20250–4300, until September 1, 1986.

Howard S. Marks,

Associate Administrator.

[FR Doc. 86–18587 Filed 8–15–86; 8:45 am]

BILLING CODE 3410-DP-M

COMMISSION ON CIVIL RIGHTS

Pennsylvania Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission previously scheduled for August 21, 1986, convening at 10:30 a.m. and adjourning at 5:00 p.m., at the William J. Green Federal Building, Room 6306, 600 Arch Street, Philadelphia, Pennsylvania (FR Doc. 86–17194, Page 27434), has new convening and adjourning times.

The meeting date and location will remain the same. The times will change to 9:30 a.m. to 2:30 p.m.

Dated at Washington, DC, August 13, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–18569 Filed 8–15–86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

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

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

Agency: Bureau of the Census
Title: 1986 Post Enumeration Survey Followup of East Central Mississippi
Form Number: Agency—DC–1301–R; OMB—NA
BURDEN: 900 respondents; 180 reporting hours
Needs and uses: The survey is needed to determine whether people were counted in the 1986 census of East Central Mississippi. The results will be used to complete the match of the Post Enumeration Survey and the Census for the estimates of coverage.
Affected public: Individuals or households
Frequency: One time
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census
Title: 1986 Preenumeration Survey Followup Form
Form Number: Agency—DC–1351–U; OMB—NA
Type of request: New Collection
Burden: 1,000 respondents; 350 reporting hours
Needs and uses: This survey is needed to test for a more operationally feasible alternative to the Post-Enumeration Survey. The results of the survey will be used to test whether a preenumeration survey is a viable means of evaluating a census.
Affected public: Individuals or households
Frequency: One time
Respondent obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 13,1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division.

[FR Doc. 86–18576 Filed 8–15–86; 8:45am]

BILLING CODE 3510-07-M

International Trade Administration

[Case No. OEE–3–86]

Order Temporarily Denying Export Privileges; Betriebs und Finanzierungs und Beratungs GmbH et al.

In the Matter of: Betriebs Und Finanzierungs Und Beratungs GmbH, Schulz Strassnitzki Gasse 8, 1090 Vienna, Austria; Bollinger GmbH, Roseggergasse 34, 1160 Vienna, Austria; Karl Heinz Riedel, Marc Aurel Strasse #7, 1010 Vienna, Austria; Leopold Hrobsky, c/o Betriebs und Finanzierungs und Beratungs GmbH, Schulz Strassnitzki Gasse 8, 1090 Vienna, Austria; Dietmar Ulrichshofer, with addresses at Kirchenstrasse 1, 3061 Ollersbach, Austria; c/o Betriebs und Finanzierungs und Beratungs GmbH, Schulz Strassnitzki Gasse 8, 1090 Vienna, Austria; and, c/o Bollinger GmbH, Roseggergasse 34, 1160 Vienna, Austria; and, Vrablicz and Company, Steinergasse 11, 1170 Vienna, Austria Respondents.

Order Temporarily Denying Export Privileges

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of section 388.19 of the Export Administration Regulations, 15 CFR Parts 368–399 (1986) (the Regulations), issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. Sections 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) (the Act), has

asked the Deputy Assistant secretary for Export Enforcement to issue an order temporarily denying all United States export privileges to Betriebs und Finanzierungs und Beratungs GmbH; its owners, Karl Heinz Riedel, Leopold Hrobsky and Dietmar Ulrichshofer; Bollinger GmbH, which is also owned by Dietmar Ulrichshofer, and Vrablicz and Company (hereinafter collectively referred to as respondents). Ulrichshofer resides in Ollersbach, Austria; all of the other respondents reside in Vienna, Austria.

The Department states that, as a result of an ongoing investigation, it has reason to believe that respondents have conspired and acted in concert to violate the Act and the Regulations. The Department has reason to believe that the purpose of the conspiracy is to obtain U.S.-origin goods from third countries for ultimate destination in proscribed countries, without obtaining the required authorization from the Department for such shipments. The Department has reason to believe that respondents have participated in the unauthorized reexport of U.S.-origin commodities, including computer equipment and peripherals, from Austria to proscribed destinations, without authorization from the Department. The Department further states that respondents currently have in their possession and control in Vienna, Austria, additional U.S.-origin equipment which requires authorization from the Department to permit its reexport from Austria. The Department states that there is a presumption of denial for any request seeking authorization to reexport this U.S.-origin equipment to proscribed destinations and, in any event, no such authorization has been requested. Nevertheless, the Department has reason to believe that respondents may attempt to reexport these U.S.-origin goods to proscribed destinations.

The Department states that the investigation gives it reason to believe that the violations under investigation were deliberate and covert. Further, since the respondents currently have possession and control of U.S.-origin goods subject to the Act and the Regulations, the Department states that violations are likely to occur again. The Department submits that a temporary denial order naming respondents is necessary in order to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations.

Therefore, based on the showing made by the Department, I find that an order temporarily denying export privileges to respondents is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the substantial likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations. This order is issued on an *ex parte* basis without a hearing based on the Department's showing that expedited action is required.

Accordingly, it is hereby

Ordered

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

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

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of Administrative Law Judges, U.S. Department of Commerce, Room H–6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order is effective immediately and shall remain in effect for 60 days.

VII. In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose any request to renew this temporary denial order by filing a written submission with the Deputy Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order and of Parts 387 and 388 of the Regulations shall be served upon each respondent and published in the **Federal Register.**

Dated: August 12, 1986.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 86-18577 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-25-M

New England Fishery Management Council; Intent and Scoping Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The New England Fishery Management Council (Council) announces a scoping meeting for the purpose of discussing the preparation of a new fishery management plan (FMP) for Atlantic salmon. This scoping meeting is part of the Council process for determining the significant issues which need to be addressed in preparation of an environmental impact statement (EIS) associated with the development of a new management plan for Atlantic salmon. This scoping process is initiated in conformity to CEQ regulations (40 CFR 1501) implementing the National Environmental Policy Act (43 CFR 55978). This notice is intended to satisfy the requirement for a Notice of Intent (NOI) to prepare an EIS.

DATE: The scoping meeting will be held on August 27, 1986, at 10:00 a.m.

ADDRESS: The meeting will take place at the New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council Suntaug Office Park, 5 Broadway, Saugus, Massachusetts 01906, 617-231-0422.

SUPPLEMENTARY INFORMATION: The Council embarked on the development of this FMP to address a deficiency existing within United States management and regulation of its Atlantic Salmon resource in the North Atlantic. The United States joined with other North Atlantic nations in 1982 to form the North Atlantic Salmon Conservation Organization (NASCO) for the purpose of managing salmon through a cooperative program of conservation, restoration, and enhancement of North Atlantic stocks. The principal means for achieving those goals under NASCO is through a system for controlling the exploitation by one member nation of salmon which originated within the territory of another member nation. The NASCO Convention of 1982 defines territorial seas as being the 0-12 mile zone contiguous to the coastline of the signatory nation (excepting the 0-40 mile zone recognized in the case of Greenland). Contrastingly, the United States recognizes only a 0-3 mile zone for its own territorial sea. By virtue of this disparity, the 3-12 mile zone off the United States coastline is explicitly not under the management authority of NASCO nor is it under the explicit management authority of the coastal states of the United States. Thus, all management programs for U.S.-origin Atlantic salmon may be potentially compromised by unregulated exploitation of salmon resources within the zone. This deficiency in U.S. management of Atlantic salmon poses a threat to the salmon restoration efforts in the Northeast and weakens the U.S. position with regard to initiatives placed before NASCO and the U.S. expectations for responsive salmon management under NASCO.

The Council proposes to establish a management program for Atlantic Salmon in the 3-12 mile zone contiguous to the U.S. territorial sea to complement existing State management programs in inland and coastal waters and U.S. regulation of salmon of domestic origin on the high seas beyond 12 miles conferred as a signatory nation to NASCO.

The Council intends to prepare a Draft Environmental Impact Statement (DEIS) on the new FMP and will conduct public hearings on the DEIS before preparation of the Final EIS and final FMP. The availability of the DEIS and dates and address of the public hearings will be announced in the **Federal Register.**

The Council invites all interested Federal, State, and local agencies, sportfishing industry organizations, fishermen, environmental organizations, and any other interested persons to participate in the development of the new plan. Public participation in the development of the DEIS for the new plan will begin with the scoping meeting on August 27, 1986.

Dated: August 13, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18564 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration

Marine Mammals; Proposed Permit Modification; Corrections

In **Federal Register** Volume 51, Number 148, published August 1, 1986, page 27576, column 1, "Marine Mammals; Proposed Permit Modification; Northwest and Alaska Fisheries Center, National Marine Fisheries Service," the second paragraph reads:

The Permit Holder is requesting to incidentally entangle up to 300 fur seals (*Callorhinus ursinus*) in association with research on interactions between large fragments of marine debris and fur seals.

It should read:

The Permit Holder is requesting to incidentally entangle up to 60 fur seals (*Callorhinus ursinus*) in association with research on interactions between large fragments of marine debris and fur seals.

Dated: August 11, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-18562 Filed 8-15-86; 8:45 am]

BILLING CODE 3410-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limits for Certain Cotton and Man-Man Fiber Textile Products Produced or Manufactured in Thailand

August 13, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 on March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 19, 1986. For further information contact Kathy Davis, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive (as amended), establishing import limits for specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1986, was published in the **Federal Register** on December 26, 1985 (50 FR 52825). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27

and August 8, 1983, as amended and extended, between the Governments of the United States and Thailand, the restraint limits for Categories 313, 314, 315, 317, 320, 604 and 613 are being increased by the application of carryforward for the agreement year which began January 1, 1986. Carryforward is an amount borrowed from the category limit from the succeeding agreement year and, to the extent used, is deducted from that limit in the succeeding year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 13, 1986

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 26, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during 1986.

Effective on August 19, 1986, the directive of December 26, 1985 is hereby further amended to increase the previously established restraint limit for the following Categories under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended and extended, between the Governments of the United States and Thailand: [1]

Category	Adjusted 12-month limit[1]
313	14,644,733 square yards.
314	10,731,054 square yards.
315	21,462,108 square yards.
317	7,322,367 square yards.
320	12,498,521 square yards.
604	883,734 pounds.
613	17,359,058 square yardss.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston, III,

Chairman, Committee for the Implementation of Textile Agreements.

FR Doc. 86-18573 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-DR-M

Establishing an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Thailand

August 13, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 19, 1986. For further information contact Kathy Davis, International Trade Specialist (202) 377-4212.

Background

On March 12, 1986, the Government of the United States, on the basis of the bilateral agreement of July 27 and August 8, 1983, requested consultations with the Government of Thailand with respect to cotton yarns in Category 300/301pt. (all TSUSA numbers in Category 301 except 300.6026 and 300.6028). Agreement has been reached in consultations concerning this category, and the U.S. Government has decided to control imports in Category 300/301 pt., exported during the period which began on March 12, 1986 and extends through the end of the agreement year, December 31, 1986, at the agreed level of 3,240,731 pounds. In the directive which follows this notice, the Chairman of CITA directs the Commissioner of Customs to prohibit entry into the United States for consumption of combed and carded cotton yarns in Category 300/301 pt. in excess of the designated level.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 13, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 19, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 300/301pt.[1] produced or manufactured in Thailand and exported during the period which began on March 12, 1986 and extends through December 31, 1986, in excess of 3,240,731 pounds.[2]

Textile products in Category 300/301pt. which have been exported to the United States prior to March 12, 1986 shall not be subject to this directive.

Textile products in Category 300/301pt. which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

[1] The Agreement provides in part, that: (1) Under certain specified conditions, certain specific limits or sub-limits may be exceeded by not more than 7 percent for cotton and man-made fiber and 1 percent for wool products, provided that the amount of the increase is compensated for by an equal square yards equivalent decrease in another specific limit in the same group. (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[1] In Catergory 301, all TSUSA numbers except 300.6026 and 300.6028.

[2] The limit has not been adjusted to account for any imports exported after March 11, 1986.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18574 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-DR-M

Establishing Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China; Correction

August 12, 1986.

On July 23, 1986 a notice was published in the **Federal Register** (51 FR 26459) announcing, among other things, staged entry amounts for man-made fiber textile products in Category 642, produced or manufactured in China and exported during the ninety-day period which began on April 25, 1986 and extended through July 23, 1986. Footnote one in the letter to the Commissioner of Customs which followed that notice should be corrected to read as follows:

[1] The levels have not been adjusted to account for any imports exported after April 24, 1986. Charges amounting to 15,057 dozen should be made to the thirty-day period beginning on July 24, 1986 and extending through August 22, 1986 to account for goods exported during the ninety-day period which began on April 25, 1986 and imported during the period, April 25, 1986 through May 19, 1986.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18572 Filed 8-15-86; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

August 12, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 18, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377-4212.

Background

During consultations held June 6, 1986, the Governments of the United States and the Republic of Turkey agreed to amend and extend through June 30, 1988 their Bilateral Cotton and Man-Made Fiber Textile Agreement of October 18, 1985. The agreement, as amended and extended, establishes import restraint limits for cotton and man-made fiber textiles and textile products in Categories 300/301, 317, 319, 335, 339, 340/640, 341, 348, 361, 369 pt. (only TSUSA number 366.2840), and 604 pt. (all TSUSA numbers in the category except 310.5049), produced or manufactured in Turkey and exported during the twelve-month period which began on July 1, 1986 and extends through June 30, 1987. It was also agreed that cotton textile products in Categories 335, 339, 340 and 348, exported before June 1, 1986 in excess of previously established restraint levels, will not be charged to the limits of the agreement, as amended and extended; however, such goods, exported on and after June 1, 1986, will be charged to the limits established for the twelve-month period beginning on July 1, 1986 and extending through June 30, 1987.

Accordingly, in the following letter the Chairman of CITA directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of the aforementioned cotton and man-made fiber textiles and textile products in excess of the amended restraint limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 Fr 26622), July 16, 1984 (49 Fr 28754), November 9, 1984 (49 Fr 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreement.

Committee for The Implementation of Textile Agreements

August 12, 1986

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directives of December 18 and 19, 1985 which directed you to prohibit entry of certain cotton textile products in Categories 348 and 361, produced or manufactured in Turkey, in excess of the designated levels.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of October 18, 1985, as amended and extended, between the Governments of the United States and the Republic of Turkey; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 18, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textiles and textile products in Categories 300/301, 317, 319, 335, 339, 340/640, 341, 348, 361, 369pt., and 604pt., produced or manufactured in Turkey and exported during the twelve-month period which began on July 1, 1986 and extends through June 30, 1987, in excess of the following limits

Category	12 month restraint limit [1]
300/301	5,500,000 pounds.
317	12,500,000 square yards of which not more than 2,000,000 square yards shall be in TSUS items 320.—through 331.—with statistical suffixes 50, 87, and 93.
319	11,000,000 square yards.
335	73,500 dozen.
339	460,000 dozen.
340/640	450,000 dozen of which not more than 225,000 dozen shall be in TSUSA numbers 381.0522, 381.3132, 381.3142, 381.3152, 381.5500, 381.5610, 381.5625, 381.5637, 381.5660, 381.9535, 381.9547 and 381.9550.
341	435,000 dozen of which 180,000 dozen shall be in TSUSA numbers 384.4608, 384.4610, 384.4612.
348	550,000 dozen of which not more than 275,000 dozen shall be in TSUSA numbers 384.0015, 384.0262, 384.0263, 384.0265, 384.0266, 384.0267, 384.0269, 384.0608, 384.0612, 384.0614, 384.0618, 384.0711, 384.0712, 384.0722, 384.0724, 384.0726, 384.0729, 384.0731, 384.0733, 384.0734, 384.0736, 384.0965, 384.0986, 384.2706, 384.2744, 384.3026, 384.3027, 384.3029, 384.3035, 384.3038, 384.3042, 384.3044, 384.3466, 384.3480, 384.4647, 384.4648, 384.4651, 384.4652, 384.4735, 384.4740, 384.4746, 384.4747, 384.4750, 384.4755, 384.4763, 384.4764, 384.4765, 384.4770, 384.4774, 384.4776, 384.5275, 384.5297, 384.5422, 384.5526, 384.7716, 384.7815, 384.9527.
361	380,000 numbers.
369pt.[2]	1,450,000 pounds.
604pt.[3]	850,000 pounds.

[1] The levels have not been adjusted to reflect any imports exported after June 30, 1986.
[2] In Category 369, only TSUSA number 366.2840.
[3] In Category 604, all TSUSA numbers in the Category except 310.5049.

Textile products in the foregoing categories, except Categories 335, 340 and 348, which have been exported to the United States before July 1, 1986, shall not be subject to this directive. Cotton textile products in

Categories 335, 339, 340 and 348, exported before June 1, 1986 which are in excess of the restraint levels established for them in previous directives dated August 30, September 5, and December 19, 1985 shall not be subject to this directive; however, cotton textile products in Categories 335, 339, 340 and 348, exported on and after June 1, 1986, shall be subject to this directive. Charges for these excess amounts will be provided by separate letter.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The restraint limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 18, 1985, as amended and extended, which provide, in part, that: (1) Specific limits may be increased by 7 percent swing during an agreement period and (2) specific limits may be increased by caryover and carryforward up to 11 percent of the applicable category limit. Any appropriate adjustments under the provisions of the bilateral agreement referred to in this paragraph will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86 18575 Filed 8–15–86; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Technical Study Group Meeting

AGENCY: Interagency Committee on Cigarette and Little Cigar Fire Safety.

ACTION: Notice of meeting.

SUMMARY: The Technical Study Group on Cigarette and Little Cigar Fire Safety will meet on September 8 and 9, 1986, in Washington, DC, to review the status of major projects undertaken to implement the Cigarette Safety Act of 1984.

DATE: The meeting will be on September 8 and 9, 1986, from 9:30 a.m. to 5:00 p.m.

ADDRESS: The meeting will be in Room 703–A of the Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Terri Buggs, Office of Program Management, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6554.

SUPPLEMENTARY INFORMATION: The Cigarette Safety Act of 1984 (Pub. L. 98–567, 98 Stat. 2925, October 30, 1984) created the Technical Study Group on Cigarette and Little Cigar Fire Safety to prepare a final technical report to Congress within 30 months concerning the technical and commercial feasibility of developing cigarettes and little cigars with minimum propensity to ignite upholstered furniture and mattresses.

The Technical Study Group will meet on September 8 and 9, 1986, to review the status of major projects undertaken to implement the Cigarette Safety Act.

The meeting will be open to observation by members of the public, but only members of the Technical Study Group may participate in the discussion.

Dated: August 12, 1986.

Colin B. Church,

Federal Employee Designated by the Interagency Committee on Cigarette and Little Cigar Fire Safety.

[FR Doc. 86–18547 Filed 8–15–86; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent to Grant a Limited Exclusive Patent License to Figgie International Inc.

The Department of the Army announces its intention to grant Figgie International Inc., a corporation of the State of Ohio, on behalf of its Scott Aviation Division, a limited exclusive license under Canadian Patent Application Serial No. 466,024, filed October 22, 1984, entitled "Protective Mask for Airborne Toxic Substances", by C. J. Shoemaker, et al.

The proposed limited exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and the Department of Commerce's regulations at 37 CFR Part 404. The proposed licensee may be granted unless, within 60 days from the date of this notice, the Department of the Army receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest. All comments and materials must be submitted to the Chief, Patents, Copyrights, and Trademarks Division, U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041–5013.

For further information concerning this notice, contact: Lieutenant Colonel Francis A. Cooch, USALSA (JALS–PC), Nassif Bldg.—Room 332A, Falls Church, VA 22041–5013, Telephone No. (Area Code 202) 756–2434/2435.

Brenda K. Hagstrom,

Department of the Army, Alternate Liaison Officer with the Federal Register.

[FR Doc. 86–18548 Filed 8–15–86; 8:45 am]

BILLING CODE 3710–08–M

Defense Communications Agency

Membership of the Defense Communications Agency SES Performance Review Board

AGENCY: Defense Communications Agency, DOD.

ACTION: Notice of Membership of the Defense Communications Agency SES Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the SES Performance Review Board (PRB) of the Defense Communications Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance and performance awards to the Director, Defense Communications Agency.

EFFECTIVE DATE: August 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Painter, Personnel Management Services Branch, Deputy Director for Personnel and Administration, Defense Communications Agency (703) 692–2794.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the SES Performance Review Board. They will serve a one-year renewable term, effective August 1, 1986.

Paulson, Allan G., Rear Admiral, USN, Vice Director, Defense Communications Agency

Helms, Robert W., Deputy Director, Resource Management

Israel, David R., Chief Engineer
Morriss, Benham E., Deputy Manager, National Communications System
Renzi, Eugene C., Brigadier General, USA, Director, Defense Communications System Organization
Signori Jr., David T., Director, Center for Command and Control, and Communications Systems
Stevener, Glenwood M., Director, Joint Data Systems Support Center

A.G. Paulson,

Rear Admiral, USN, Vice Director.

[FR Doc. 86-18535 Filed 8-15-86; 8:45 am]

BILLING CODE 3610-05-M

Department of the Navy

Notice of Performance Review Board Membership

Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DON) announces the appointment of members to the DON's numerous Senior Executive Service (SES) Performance Review Boards. The purpose of the Boards is to provide fair and impartial the Senior Executive Service performance appraisals prepared by the senior executive's immediate and second level supervisors; to make recommendations to the Secretary of the Navy regarding acceptance or modification of the performance rating, transfer, reassignment, or removal from the SES of any senior whose performance is considered to be unsatisfactory; and to make nominations for financial performance awards. Composition of the particular Boards will be determined on an ad hoc basis from among individuals listed below:

Department of The Navy—Nominees for Performance Review Board Membership

Dr. J.E. Andrews
Mr. E.P Angrist
Mr. O.R. Ashe
Mr. R.J. Barnett
RADM J.R. Batzler, USN
Dr. E.A. Berman
Mr. J.J. Bettino
Mr. I. Blickstein
Mr. F.J. Burchfield
Mr. R. Burow
Mr. G Cammack
Mr. C.H. Clark
Dr. T. Coffey
CAPT W.G. Clautice, USN
The Honorable R.H. Conn
Mr. S. Cropsey
Mr. A. DePrete
Mr. A.R. DiTrapani
Mr. H.L. Dixson
Mr. R.E. Doak
RADM W.J. Finneran, USN
RADM H. Fiske, USN
Mr. F.B. Ford
Mr. A.G. Forssell
RADM R.D. Friichtenicht, USN
Mr. R.G. Garant
Mr. C. Geiger
Mr. J. Genovese
Mr. C.V. Gorsey
RADM R.J. Grich, USN
Mr. A.B. Grimes
Mr. R.L. Haas
Mr. R.A. Hallex
Mr. G.R. Hamilton
Ms. M.H. Harris
Mr. W.R. Hattabaugh
Mr. T.J. Haycock
Mr. M.L. Higgins
Mr. G.C. Hoffman
Mr. P.M. Hitch
RADM W.J. Holland, Jr., USN
RADM L.J. Holloway, USN
RADM R.B. Horne, USN
Mr. W.R. Hunt
Mr. A.E. Johnson
Mr. R.V. Johnson
BGEN J.J. Joy, USMC
Mr. T.A. Kallmeyer
Mr. G. Keightley
RADM F.G. Kelley, CEC, USN
Mr. E.T. Kenney
Mr. R. Kiss
Mr. L.R. Klein
Dr. R.A. Lefande
Mr. R.J. Lundegard
Mr. J.A. Macmillan
Mr. J. Marsh
Mr. D.A. Matteo
Mr. D.F. May
Mr. M.K. McElhaney
RADM G.W. McKay, USN
Ms. D.M. Meletzke
Mr. E.L. Messere
RADM J.B. Monney, Jr., USN
Mr. R.P. Moore
Dr. M.K. Moss
Mr. P.M. Murphy
Mr. H.J. Nathan
Mr. C.P. Nemfakos
Mr. J.J. O'Connor
CAPT J.P. O'Donovan, USN
CAPT R.P. Onorati, USN
Mr. H. O'Neill
Ms. M.A. Olsen
The Honorable M.R. Paisley
Mr. P.M. Palermo
Mr. F.A. Phelps
RADM R.A. Phillips, USN
RADM S. Platt, USN
Dr. J.H. Probus
Mr. A.S. Prince
The Honorable E.A. Pyatt
Mr. F. Quarto
Mr. W.G. Rae
BGEN G.M. Reals, USMC
RADM D.P. Roane, USN
Dr. B.B. Robinson
Mr. R.R. Rojas
Mr. R.L. Rumpf
Dr. F.E. Saalfeld
Mr. P.R. Sacilotto
Mr. H.R. Saldivar
Mr. W. Sansone
Mr. P.A. Schneider
Dr. P.A. Selwyn
Mr. R.L. Shaffer
Mr. F.L. Sheridan
Mr. J.N. Shrader
Dr. W.H. Smith
Mr. W.T. Skallerup, Jr.
RADM J.F. Smith, Jr., USN
Mr. M.D. Stafford
Mr. F.S. Sterns
Mr. F.W. Swofford
Mr. W.A. Tarbell
Mr. J.K. Taussig, Jr.
RADM J.D. Taylor, USN
Mr. R.O. Thomas
RADM R.L. Topping, USN
Mr. C.J. Turnquist
The Honorable C.G. Untermeyer
Dr. B. Wald
Mr. H. Wang
Mr. A.R. Weiss
Mr. H.J. Wilcox
Mr. W.N. Williams
Mr. W. Willoughby
Mr. F.E. Wyant

FOR FURTHER INFORMATION CONTACT:
Mr. Vincent J. Prantl, Special Assistant for Executive Personnel, Office of Civilian Personnel Management, Department of the Navy, Washington, DC 20350, Telephone: (202) 694-5760.

Dated: August 11, 1986.

Harold Stoller, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 86-18546 Filed 8-15-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee on U.S. Oil and Gas Outlook; Meeting

Notice is hereby given that the Coordinating Subcommittee on U.S. Oil and Gas Outlook will meet in September 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Coordinating Subcommittee on U.S. Oil and Gas Outlook will be addressing the current activities of all task groups and providing guidance for future studies. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Coordinating Subcommittee on U.S. Oil and Gas Outlook will hold its fourth meeting on Tuesday, September 9, 1986, starting at 9:00 a.m., in the Conference Room of the National

Petroleum Council, 1625 K Street, NW., Washington, DC.

The tentative agenda for the Coordinating Subcommittee on U.S. Oil and Gas Outlook meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee on U.S. Oil and Gas Outlook is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee on U.S. Oil and Gas Outlook will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Advanced Fuels, Technology, Extraction and Environmental Controls, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 11, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-18560 Filed 8-15-86; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Future Supply/Demand Factors Task Group; Meeting

Notice is hereby given that the Future Supply/Demand Factors Task Group will meet in September 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Future Supply/Demand Factors Task Group's activities will be to identify the major factors that will affect the U.S.'s future supply and demand of oil and gas and to evaluate the influence such factors could have on the vulnerability of the U.S. to future energy crises.

The Future Supply/Demand Factors Task Group will hold its fifth meeting on Tuesday, September 16, 1986, starting at 9:00 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, DC.

The tentative agenda for the Future Supply/Demand Factors Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Future Supply/Demand Factors Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Future Supply/Demand Factors Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Advanced Fuels, Technology, Extraction and Environmental Controls, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 11, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-18561 Filed 8-15-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3066-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382-2740 or FTS 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standard (NSPS) for Industrial Surface Coating of Large Appliances (Subpart SS)—Information Requirements (EPA ICR #0659). (This is an extension of a currently approved ICR. The only change is an increase in the number of hours requested, an adjustment due to a more accurate estimate of the number of sources.)

Abstract: Owners or operators of large appliance surface coating facilities must notify EPA of construction, modifications, startups, shutdowns, malfunctions, and results of performance tests. They must also record all data and calculations from monthly performance tests used to determine VOC emissions, and identify and record excess emissions, data from daily incinerator temperatures, and amount of solvent recovered. Finally, they shall record any periods of insufficient temperature over three hours.

Respondents: Owners and operators of industrial surface coating facilities.

Title: Environmental Radiation Ambient Monitoring Systems (ERAMS) (EPA ICR #0877). (This is a revision of a currently approved ICR.)

Abstract: ERAMS is a system of 268 stations operated by State and some local governments which provides data for estimating ambient levels of radioactive pollutants in the environment, realizing trends in environmental levels, and assessing the impact of fallout and other intrusions of radioactive materials.

Respondents: State or local governments.

Agency PRA Clearance Request Completed By OMB

EPA ICR #1241, Silvex/2,4,5-T Products: Claim for Indemnification, Request for Federal Disposal, was approved 7/29/86 (OMB #2070-0071; expires 5/31/87).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223),

Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Wayne Leiss, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503

Dated: August 12, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86-18567 Filed 8-15-86; 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.: 202-000093-036.

Title: North Europe-U.S. Pacific Freight Conference.

Parities: Blue Star Line, Limited, Compagnie Generale Maritime, Hapag-Lloyd AG, International Transport (ICT) B.V., A/S Det Ostasiatiske Kompagnie, Johnson Line AB, Sea-Land Service, Inc., Trans Freight Lines.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202-008493-017.

Title: Trans-Pacific American Flag Berth Operators Agreement.

Parties: American President Lines, Ltd., Sea-Land Services, Inc., United States Lines, Inc.

Synopsis: The proposed amendment would modify the independent action (IA) provisions of the agreement to require 10 calendar days' notice of IA to the Agreement Secretary and to provide that such IA will be effective 10 calendar days after receipt of the notice.

Agreement No.: 202-010636-017.

Title: U.S. Atlantic-North Europe Conference.

Parties: Atlantic Container Line (G.I.E.), Dart-ML Limited, Hapag-Lloyd AG, Sea-Land Service, Inc., United States Lines, Inc., Trans Freight Lines, Compagnie Generale Maritime (CGM), Nedlloyd Lijnen, B.V., Gulf Container Line (GCL), B.V.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Dated: August 13, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-18578 Filed 8-15-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

AmSouth Bancorporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 8, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *AmSouth Bancorporation,* Birmingham, Alabama; to acquire 100 percent of the voting shares of AmSouth Bank of Walker County, Jasper, Alabama, a *de novo* bank.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Lincoln Financial Corporation,* Fort Wayne, Indiana; to acquire 100 percent of the voting shares of CNB Financial Corp., Auburn, Indiana, and thereby indirectly acquire The City National Bank of Auburn, Auburn, Indiana.

2. *The Marine Corporation,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Community State Agency, Inc., Bloomington, Minnesota, and thereby indirectly acquire Community State Bank of Bloomington, Minneapolis, Minnesota.

3. *MBT Bancorp,* West Harrison, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Merchant's Bank and Trust Company, West Harrison, Indiana.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Limestone Bancshares, Inc.,* Sand Springs, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Limestone National Bank, Sand Springs, Oklahoma. Comments on this application must be received by September 5, 1986.

2. *Stroud Bancorp, Inc.,* Stroud, Oklahoma; to become a bank holding company by acquiring 96.67 percent of the voting shares of Stroud National Bank, Stroud, Oklahoma.

Board of Governors of the Federal Reserve System, August 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18525 Filed 8-15-86; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corp.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) 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 commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity. The proposed activity will be conducted throughout the World.

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 September 5, 1986.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation,* Los Angeles, California; to engage *de novo* through its subsidiary, Security Pacific Asia Futures, Inc., Singapore, ("SPAFI"), a Delaware corporation having its principal place of business in Singapore, in the execution and clearance on a major commodity exchange of stock index futures contracts. SPAFI is a clearing member of the Singapore International Monetary Exchange ("SIMEX"), and proposes to execute and clear for affiliated and nonaffiliated persons the Nikkei Stock Average futures contract to be traded on SIMEX.

Board of Governors of the Federal Reserve System, August 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18526 Filed 8-15-86; 8:45 am]

BILLING CODE 6210-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. September 11 and 12, 9 a.m., Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, September 11, 9 a.m. to 10 a.m.; open committee discussion, September 11, 10 a.m. to 5 p.m.; September 12, 9 a.m. to 12 m.; A.T. Gregoire, Center for Drugs and Biologics (HFN-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1869.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. On September 11, the committee will discuss Alredase NDA 19-540 and Dinitrophenol for the treatment of obesity and on September 12, the committee will discuss Ucephan NDA 19-530.

Radiopharmaceutical Drugs Advisory Committee

Date, time, and place. September 26, 9 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m. to 12 m.; open public hearing, 1 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 4:15 p.m.; David F. Hersey, Center for Drugs and Biologics (HFN-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee intends to discuss: (1) Clinical applications of ultrashort-lived radiopharmaceuticals for positron emission tomography (PET); (2) Research and development of a paramagnetic contrast agent for magnetic resonance imaging (MRI); (3) Investigational new drug development—strategy for facilitating new drug application review and approval; (4) Nuclear Regulatory Commission update; (5) Overview of the organization and activities in the Division of Oncology and Radiopharmaceutical Drug Products; and (6) "Guidelines for the Clinical Evaluation of Radiopharmaceutical Drugs."

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. September 29 and 30, 9 a.m., Auditorium, Lister Hill Center, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, September 29, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, September 29, 10 a.m. to 5 p.m.; September 30, 9 a.m. to 5 p.m.; Joan C. Standaert, Center for Drugs and Biologics (HFN-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss Esmolol (Brevibloc) (NDA 19386), American Critical Care, for use for supraventricular tachycardia and control of blood pressure and pulse rate during anesthesia; Quinibid (NDA 19549), Schering Plough, new dosage form; Nicardipine (NDA 19488), Syntex Corp., for angina; Methyldopa (NDA 19-499), Elan Corp., new sustained release formulation.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion; (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: August 11, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-18532 Filed 8-15-86; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee Meeting; Filing of Annual Reports

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings.

ADDRESS: Copies are available from the Dockets Management Branch (HFA-305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1751.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period July 1, 1985, through June 30, 1986:

Center for Drugs and Biologics:
- Allergenic Products Advisory Committee,
- Blood Products Advisory Committee,
- Vaccines and Related Biological Products Advisory Committee.

Center for Devices and Radiological Health:
- Anesthesiology and Respiratory Therapy Devices Panel,
- Circulatory System Devices Panel,
- Immunology Devices Panel,
- Ophthalmic Devices Panel,
- Radiologic Devices Panel.

Annual reports are available for public inspection at: (1) The Library of Congress, Newspaper and Current Periodical Reading Room, Rm. 1026, Thomas Jefferson Bldg., 2nd and Independence Ave. SE., Washington, DC, (2) the Department of Health and Human Services Library, Rm. 1436, 330 Independence Ave. SW., Washington, DC, on weekdays between 9 a.m. and 4:30 p.m., and (3) the Dockets Management Branch (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4:30 p.m., Monday through Friday.

Dated: August 11, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-18531 Filed 8-15-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86D-0303]

Pesticides; Revocation of Action Level for Fenthion

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of its action level for residues of the pesticide fenthion in ground red pepper. FDA has taken this action because it has concluded that the action level is no longer appropriate or necessary. Accordingly, Attachment G, which listed the action level, has been deleted from FDA's Compliance Policy Guide 7120.23.

DATE: Written comments by October 17, 1986.

ADDRESS: Written comments concerning the revocation of FDA's action level for fenthion residues in ground red pepper, Compliance Policy Guide 7120.23, Attachment G, should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0175.

SUPPLEMENTARY INFORMATION: In 1974, FDA encountered shipments of imported ground red pepper with residues of fenthion and concluded that an action level was necessary to control the

problem. Consequently, in response to FDA's request, the Environmental Protection Agency (EPA) recommended that a level of 0.3 part per million (ppm) fenthion residues in ground red pepper would be a safe and appropriate limit. On the basis of this recommendation, FDA established 0.3 ppm as the action level for fenthion residues in ground red pepper. The action level was subsequently listed in Attachment G in FDA's Compliance Policy Guide 7120.23.

FDA recently reviewed the action level for fenthion residues in ground red pepper and concluded that maintaining the action level is no longer necessary. In arriving at this conclusion, the agency was guided by 21 CFR 109.6(c), which specifies the criteria that must be met for establishing an action level. One of the criteria is that the contaminating substance cannot be avoided by good manufacturing practice. The occurrence of fenthion residues in ground red pepper in 1974 was determined to be an isolated incident of food contamination. Because fenthion is not an environmentally persistent pesticide, FDA would not expect fenthion residues to continue to occur in ground red pepper from environmental or other sources of unavoidable contamination. For this reason, the agency believes that the action level is no longer necessary. FDA has, therefore, revoked the action level of 0.3 ppm for fenthion residues in ground red pepper and has deleted Attachment G from Compliance Policy Guide 7120.23. In taking this action, FDA consulted with EPA. EPA stated that it has no objection to FDA revoking the action level.

Copies of the FDA and EPA correspondence concerning the revocation of the action level and copies of the FDA memorandum to FDA Regional and District Offices concerning this action are on file in the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this document.

Interested persons may submit written comments, data, and information regarding this action level to the Dockets Management Branch. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Comments must be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 11, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-18528 Filed 8-15-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M-0230]

CTL, Inc.; Premarket Approval of CustomEyes ™-70 L (Lidofilcon A) and CustomEyes ™-79 L (Lidofilcon B) Tinted Hydrophilic Contact Lenses

Correction

In FR Doc. 86-14739, beginning on page 23835, in the issue of Tuesday, July 1, 1986, make the following corrections:

On page 23835, third column, in the heading, the Docket Number should read as set forth above.

BILLING CODE 1505-01-M

[Docket No. 86M-0324]

CooperVision, Inc.; Premarket Approval of Mirasoak™ Rinsing, Disinfecting & Storage Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by CooperVision, Inc., Mountain View, CA, for premarket approval, under the Medical Device Amendments of 1976, of MiraSoak ™ Rinsing, Disinfecting & Storage Solution. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by September 17, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On August 24, 1982, CooperVision, Inc., Mountain View, CA 94043, submitted to CDRH an application for premarket approval of MiraSoak ™ Rinsing, Disinfecting & Storage Solution. MiraSoak ™ Rinsing, Disinfecting & Storage Solution is indicated for use in the rinsing, chemical disinfection and storage of daily wear and extended wear polymacon soft (hydrophilic) contact lenses.

On January 28, 1983, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 17, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of MiraSoak ™ Rinsing, Disinfecting & Storage Solution states that the solution is indicated for use in the rinsing, chemical disinfection, and storage of daily wear and extended wear polymacon soft (hydrophilic) contact lenses. Manufacturers of clear (untinted) polymacon soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the Federal Register of the approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens or PMA holder shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for resonsideration under § 10.33(b) (21 CFR 10.33 (b)). A petitioner shall identify the form of review

requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 17, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 11, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–18529 Filed 8–15–86; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[BERC–355–CN]

Medicare Program; Schedule of Limits on Home Health Agency Costs per Visit for Cost Reporting Periods Beginning on or After July 1, 1986, but Before July 1, 1987

Correction

In FR Doc. 86–17810 beginning on page 28439 in the issue of Thursday, August 7, 1986, make the following corrections:

1. In the heading, the agency BERC number was incorrect and is set out correctly above.

2. On page 28439, in the third column, sixth line from the bottom, the second wage index value should read "1.2616".

BILLING CODE 1505–01–M

Health Resources and Services Administration

Application Announcement, Funding Preferences and Grant Orientation Conferences for the Health Careers Opportunity Program

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1987 Health Careers Opportunity Program (HCOP) grants are now being accepted under the authority of section 787 of the Public Health Service Act, as amended by Pub. L. 99–129.

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, and podiatry, public and nonprofit private schools which offer graduate programs in clinical psychology, and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. The assistance authorized by this section includes: recruitment, preliminary education, retention in health and allied health professions schools, counseling and advice on financial aid.

The Administration's budget request for Fiscal Year 1987 does not include funding for this program. This notice regarding applications does not reflect any change in this policy. However, should funds become available unexpectedly for this purpose, this contingency action will assure that grants can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year.

The statute requires that not less than 80 percent of the funds appropriated in any fiscal year must be obligated for grants or contracts to institutions of higher education. Also, not more than five percent of such funds may be obligated for grants and contracts having the primary purpose of informing individuals about the existence and general nature of health careers.

To receive support, applicants must meet the requirements of the program regulations which are located at 42 CFR Part 57, Subpart S.

Requests for grant application materials and questions regarding grants policy should be directed to: Grants Management Officer (D18), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857.

The standard application form and specific instructions for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The application deadline date is November 3, 1986. Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before the deadline date; or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is listed at 13.822 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Funding Preferences

The following funding preferences will govern the distribution of grant awards to approved HCOP grant applicants for Fiscal Year 1987. These preferences were published in a **Federal Register** notice dated September 12, 1983 (48 FR 40958).

An applicant may request consideration in one of the following five funding preferences:

(1) Health professions school(s) which have Educational Assistance Agreement(s) (EAA) with no more than five undergraduate institutions that separately or collectively satisfy the definition of a feeder institution and who are requesting HCOP support only for:

a. The feeder institution(s) or equivalent to provide individuals from disadvantaged backgrounds with preliminary education; and

b. Either the health professions school or the feeder institution to facilitate the entry of individuals from disadvantaged backgrounds into health professions schools; and

c. The health professions school(s) to provide individuals from disadvantaged backgrounds who are enrolled in their institution(s) with counseling or other retention services.

(2) A feeder institution requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(3) A health professions school requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into its health professions school; and

b. Providing the students who are individuals from disadvantaged backgrounds with counseling or other retention services.

(4) A joint application from two to five institutions of higher education, which, as a group: (1) Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; (2) Has 20 or more graduates annually (as averaged over the last three years) who are disadvantaged individuals and who are accepted into health professions schools; and (3) Is requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(5) A training center for allied health professions requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into allied health training centers; and

b. Providing its students who are individuals from disadvantaged backgrounds with counseling or other retention services.

Greatest weight will be given to applicants in funding preference Number 1 decreasing, respectively, to funding preference Number 5.

The five preferences do not preclude funding of other eligible approved applications. Accordingly, entities which do not qualify for the preferences are encouraged to submit applications.

The applicant *must indicate on the upper right-hand corner of page one of the application* the funding preference in which the applicant wishes consideration. However, the final determination of the category of funding preference will be based on a staff assessment of the contents of the proposal. An applicant may apply for consideration under only one preference. A feeder institution which is identified in an EAA may not apply as a primary grantee to support the same type of HCOP activities. Consideration will be given to assure that funded projects represent a reasonable proportion of the health professions specified in the legislation. However, full consideration will also be given to ensure that final funding decisions include appropriate support of proposals and students representative of the targeted populations served by HCOP.

Definitions

As used in this notice:

"Educational Assistance Agreement (EAA)" means a formal agreement between the grantee and another school or entity to assure continuity of training through health or allied health professions schools.

"Feeder Institution" means an institution of higher education meeting the requirements of section 435 of the Higher Education Act, as amended, Pub.L. 89–239 (20 U.S.C. 1085(b)), which:

a. Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; and

b. Had ten or more graduates annually (as averaged over the last three years) who are disadvantaged and who are accepted into health professions schools.

"Health Professions Schools" means schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, public health, chiropractic or graduate programs in health administration, as defined in section 701(4) of the Public Health Service Act.

"Individual from a Disadvantaged Background" means an individual who (a) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills and abilities required to enroll in and graduate from a health professions school or from a program providing education or training in an allied health profession or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low income family for purposes of these Health Careers Opportunity Program grants for Fiscal Year 1987:

Size of parents' family: [1]	Income level [2]
1	7,200
2	9,400
3	11,100
4	14,300
5	16,800
6 or more	18,900

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1985, rounded to $100.

"Training Center for Allied Health Professions" means a junior college, or college, or university, as defined in section 795 of the Public Health Service Act, which:

(a) provides educational programs leading to an associate, baccalaureate, or higher degree needed to practice as one of the following:

Doctoral Degree:
- Clinical Psychologist

Master's Degree:
- Speech Pathologist/Audiologist

Bachelor's Degree:
- Dental Hygienist
- Dietitian (Coordinated undergraduate program)
- Community Health Educator
- Health Services Administrator
- Medical Records Administrator
- Medical Technologist
- Occupational Therapist
- Physical Therapist
- Primary Care Physician Assistant
- Sanitarian (Environmental Health)

Associate Degree:
- Clinical Dietetic Technician
- Cytotechnologist
- Dental Assistant
- Dental Hygienist
- Dental Laboratory Technician
- Medical Assistant
- Medical Laboratory Technician
- Medical Records Technician
- Occupational Therapy Assistant
- Ophthalmic Medical Assistant
- Optometric Technician
- Physical Therapy Assistant
- Radiologic Technologist
- Respiratory Therapist
- Sanitarian Technician

(b) provides training for no fewer than 20 persons in the substantive health portion, including clinical experience as required for employment, in three or more of the disciplines listed in paragraph (a) of this definition and has a minimum of six full-time students in that portion of each curriculum by October 15 of the fiscal year of application.

(c) has a teaching hospital as part of the grantee institution or is affiliated with a teaching hospital by means of a formal written agreement. The term "teaching hospital" includes other settings which provide clinical or other health services if they fulfill the requirement for clinical experience specified in an allied health curriculum.

Grant Orientation Conferences

Grant applications and program information for the Health Careers Opportunity Program also will be provided through four program technical assistance conferences. The conferences, scheduled during

September 1986, are for the benefit of potential applicants and current grantees.

Each of the four conferences will be two days in length and at the following locations:

September 4–5, 1986, Rockville, Maryland
Holiday Inn Crowne Plaza Hotel, 1750 Rockville Pike, Rockville, Maryland 20852

September 8–9, 1986, Kansas City, Missouri
The Hyatt Regency, 2345 McGee Street, Kansas City, Missouri 64108

September 11–12, 1986, Atlanta, Georgia
The Westin Peachtree Plaza, 210 Peachtree Street, Atlanta, Georgia 30324

September 15–16, 1986, Los Angeles, California
Westin Bonaventure, 404 South Figueroa Street, Los Angeles, California 90071

Expenses incurred by the attendees will not be supported by the Federal Government.

Agenda items will include: Status of the legislation; application requirements; and grants management information. There will be small work groups to critique specific points in development of applications including evaluation considerations which arise in the review process. Significant focus of the conferences will be directed toward: program activities of current grantees; the relative merit of strategies employed to facilitate entry of disadvantaged students into health professions schools; and both current and projected academic issues affecting disadvantaged students in health professions schools.

Participation in the technical assistance meetings does not insure approval and funding of prospective applications.

To obtain specific information regarding the conferences and programmatic aspects of this grant program, direct inquiries to: Mr. William J. Holland, Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, HRSA, Parklawn Building, Room 8–20, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–4493.

Dated: August 8, 1986.

John H. Kelso,

Acting Administrator.

[FR Doc. 86–18527 Filed 8–15–86; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial Number AA–59055]

Sale of Public Land in Nondalton, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, FLPMA section 203 sale.

SUMMARY: The following described tract of land has been examined and through land use planning, identified as suitable for disposal by non-competitive sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976.

Lot 5, Amended U.S. Survey No. 3876, Alaska, situated in the village of Nondalton, containing 6.06 acres.

This notice of realty action proposes the sale of land, under the jurisdiction of the Bureau of Land Management, to the City of Nondalton for community expansion purposes and to facilitate land use planning in the area. The subject tract is isolated from other public lands and is difficult to manage. Retention of these lands would not serve any Federal purpose.

This disposal action is a non-competitive offering at fair market value estimated to be $24,000.

The patent, if and when issued, will contain the following reservations to the United States:

1. A right-of-way for ditches, canals, telephone and telegraph lines;

2. All mineral rights.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507, or call Don Hinrichsen at (907) 267–1308.

For a period of 45 days from the date of publication of this Notice, interested parties may submit comments at the above address. Any adverse comments will be evaluated by the Anchorage District Manager who may cancel or modify this action and issue a final determination. In the absence of any adverse action by the Anchorage District Manager, this will become the final determination of the Department of the Interior.

Donald L. Hinrichsen,

Peninsula Resource Area Manager.

[FR Doc. 86–18557 Filed 8–15–86; 8:45 am]

BILLING CODE 4310–JA–M

[WY–010–06–4212–11:W–0318463]

Wyoming; Notice of Realty Action, Lease of Public Land for Recreation and Public Purposes in Hot Springs County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Lease of Public Land for Recreation and Public Purposes in Hot Springs, County.

SUMMARY: The following described public lands near the community of Hamilton Dome, Wyoming have been examined and identified as suitable for lease for public purposes. The lands will be classified for lease under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et. seq.)

Sixth Principal Meridian, Wyoming

T. 44 N., R. 98 W.,
Sec. 23: S½S½SE¼NE¼NE¼NE¼, N½NE¼SE¼NE¼NE¼.

The area described contains 1.875 acres.

Hot Springs County School District No. 1, Hot Springs County, Wyoming, has applied to add 1.875 acres to their existing Recreation and Public Purposes Lease W–0318463 which authorizes the Hamilton Dome School Facility on Public Lands. These lands are valuable for public purposes as contemplated by 43 CFR 2430.4(a) and may properly be classified for lease under the recreation and Public Purposes Act as stated in 43 CFR 2430.4(c). This classification is consistent with the criteria of 43 CFR 2410.1(a) and (d).

Upon publication of this notice in the **Federal Register**, the above-described land will be segregated from all appropriations except the mineral leasing laws and the Recreation and Public Purposes Act. The lease issued will be subject to valid existing rights which include:

1. Wyo-Ben Inc. Placer Mining Claim Dome No. 5. Wyo-Ben and Wind River Partnership have agreed to the use for which this lease is proposed, only for the 1.875 acres occupied by the existing frame school residence, for the remaining term of Recreation and Public Purposes Lease W–0318463, expiring January 31, 1992.

2. Wyoming State Highway 170 Right-of-Way.

3. W–58063—Tri-County Telephone Right-of-Way.

4. C–058729—Oil and Gas Lease.

Comments: For a period of 45 days from the date of Publication of this Notice in the **Federal Register**, interested parties may submit comments in writing to the District Manager, Bureau of Land Management, P.O. Box 119, Worland,

Wyoming 82401. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this notice will become affective 60 days from the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Chester E. Conard, District Manager, Worland District, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401.

Dated: August 5, 1986.

Chester E. Conard,

District Manager, Worland, Wyoming.

[FR Doc. 86-18554 Filed 8-15-86; 8:45 am]

BILLING CODE 4310-22-M

[WY-060-06-4212-14]

Realty Action; Competitive Sale of Public Lands in Goshen County, WY

Correction

In FR Doc. 86-16931 appearing on page 27090 in the issue of Tuesday, July 29, 1986, make the following correction: In the table that appears between the first and second columns, in the second line of text, in the second column, "SEWN" should read "SENW".

BILLING CODE 1505-01-M

[WY-060-06-4212-14]

Realty Action Modified Competitive Sale of Public Lands in Platte and Goshen Counties, WY

Correction

In FR Doc. 86-16933 appearing on page 27091 in the issue of Tuesday, July 29, 1986, make the following correction: In the table that appears between the second and third columns, in the second line of text, in the second column, "SW¼SW¼" should read "SW¼ NW¼".

BILLING CODE 1505-01-M

Minerals Management Service

Royalty Management Advisory Committee, Gas Valuation Regulation Review Working Panel; Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS), Royalty Management Program, hereby gives notice that the Gas Valuation Regulations Review Working Panel, established by the Royalty Management Advisory Committee, will meet in Golden, Colorado, at the location and on the dates indicated below.

On February 5, 1986, MMS published an advance notice of proposed rulemaking in the **Federal Register** making available for public comment draft regulations pertaining to the valuation of gas and associated products as well as gas processing allowances and transportation allowances. All public comments were made available to the Royalty Management Advisory Committee and the Gas Valuation Regulations Review Working Panel. The Panel is reviewing the draft regulations and making recommendations as necessary. The Panel held their last meeting on July 17 and 18, 1986.

Location and Dates: The Gas Valuation Regulations Review Working Panel will conduct three meetings during August and September 1986 at the Marriott Denver West Hotel, 1719 Denver West Parkway, Golden, Colorado. The meeting dates are August 26 and 27, 1986; September 11 and 12, 1986; and September 29 and 30, 1986.

The Panel will meet from 9 a.m. to 5 p.m. on the first day of each meeting session and from 8 a.m. to 3 p.m. on the second day. The conference room will be available for an evening session on the first day should the panel elect to hold such a session.

The public is invited to attend these meetings and make oral or written comments. A time will be set aside by the Panel chairperson during which the public will be invited to make oral comments. Written comments should be submitted within 14 calendar days from the last day of each session except the third session. Written comments for the third session are due to the Panel by 3 p.m. on September 30, 1986. Written comments shall be submitted to the address listed below.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225, telephone number (303) 231-3360, (FTS) 326-3360.

SUPPLEMENTARY INFORMATION: The Gas Valuation Regulations Review Working Panel is one of six working panels established by the Royalty Management Advisory Committee. The panels are composed of both Advisory Committee members and non-Committee members, and were established to provide the Advisory Committee with analyses of specific issues and proposed recommendations. Panel recommendations will be reviewed by the Advisory Committee, which will then decide what advice and recommendations to give to the Department of the Interior (DOI) and the MMS. Although the panels may meet with DOI or MMS staff members to obtain information they require in conducting their analyses, advice and recommendations of the panels will be made to the Advisory Committee and not to the DOI or the MMS.

Dated: August 11, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-18538 Filed 8-15-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Illinois and Michigan Canal National Heritage Corridor; Insignia; Prescription

I hereby prescribe the Illinois and Michigan Canal National Heritage Corridor "I&M CANAL" symbol, which is depicted below, as the official insignia of the Illinois and Michigan Canal National Heritage Corridor, an affiliated unit of the National Park System, United States Department of the Interior.

In making this prescription, I gave notice that, under section 701 of Title 18 of the United States Code, whoever manufacturers, sells, or possesses any badge, identification card, or other insignia of the design herein prescribed, or any colorable imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving photograph, print, or impression in the likeness of any such badge, identification card, or other insignia or any colorable imitation thereof except as authorized under regulations made pursuant to law, shall be fined not more than $250 or imprisoned not more than six months, or both.

Notice is hereby given that in order to prevent proliferation of the distinctive "I&M CANAL" insignia, and to assure against its use for purposes other than indentifying heritage corridor buildings, marking interpretive exhibits, and informational literature for heritage corridor visitors, and those purposes which, in the determination of the Illinois and Michigan Canal National Heritage Corridor Commission, are consistent with the purpose for which the national heritage corridor was established, the commission will proceed to secure trademark registration under section 1115 of Title 15 of the United States Code for the Illinois and

Michigan Canal National Hertitage Corridor "I&M CANAL" insignia.

Dated: August 1, 1986.

Charles H. Odegaard,

Regional Director, Midwest Region.

I&M CANAL NATIONAL HERITAGE CORRIDOR

[FR Doc. 18591 Filed 8-15-86 8:45 am]

BILLING CODE 4310-70-M

San Antonio Missions Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will be held at 1:00 p.m., Tuesday, September 9, 1986, at the park headquarters, located at 2202 Roosevelt, San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Pub. L. 95-629, Title II, November 10, 1978. The purpose of the Commission is to advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park

Matters to be discussed include:

—Minutes of previous meeting
—Park Operations Update
—Los Compadres Update
—Archdiocesan Report
—City Report
—County Report
—Open Discussion
—Recognition of 4 outgoing members

The meeting will be open to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent, 2202 Roosevelt Avenue, San Antonio, Texas 78210 (512) 229-5701.

Minutes of the meeting will be available for public review approximately four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: August 7, 1986.

Donald A. Dayton,

Acting Regional Director, Southwest Region.

[FR Doc. 86-18592 Filed 8-15-86; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree in Clean Air Act Enforcement Action; State of Florida (Department of Health and Rehabilitative Services)

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States v. State of Florida (Department of Health and Rehabilitative Services)* was lodged with the United States District Court for the Northern District of Florida on August 1, 1986. The proposed consent decree requires the State to comply with applicable Clean Air Act requirements governing the demolition or renovation of facilities that contain friable asbestos materials, send two of its maintenance supervisors to asbestos abatement seminars, and pay a civil penalty of $28,000.

The Department of Justice will receive for thirty (30) days from the publication date of this notice, written comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and refer to *United States v. State of Florida (Department of Health and Rehabilitative Services)*, 90-5-2-1-887.

The consent decree can be examined at the office of the United States Attorney, 227 N. Bronough Street, Room 4014, Tallahassee, Florida 32301, the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia, and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, (Room 1515), Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the consent decree can be obtained in person or by mail from the Environmental Enforcement Section at the above address.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-18556 Filed 8-15-86; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Executive Committee of the Advisory Committee on Preservation; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Executive Committee of the Advisory Committee on Preservation will meet on September 26, 1986. The meeting will be open to the public.

DATES: The meeting will be held from 10 a.m. to 4 p.m. on Friday, September 26, 1986.

ADDRESSES: Location of the meeting is room 105 of the National Archives Building, 8th and Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alan Calmes, 202-523-5496.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will be:

1. Preservation studies sponsored by the National Archives and Records Administration (NARA) (studies prepared by NARA staff and contractor studies).
2. Related studies by other institutions.

Notice of the meeting is made in accordance with the Federal Advisory Committee Act.

Dated: August 12, 1986.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 86-18533 Filed 8-15-86; 8:45 am]

BILLING CODE 7515-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

Arkansas Power and Light Co.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the withdrawal of an application dated October 31, 1980, filed by Arkansas Power and Light Company (the licensee). The application requested amendment to Facility Operating

License No. DPR–51 for the operation of Arkansas Nuclear One, Unit 1, located in Pope County, Arkansas. The proposed amendment would have revised the provisions in the Technical Specifications for the operational setpoint of the electromatic relief valve and the special reporting requirements for the electromatic relief valve. The Commission issued a Notice of Consideration of Issuance of Amendment in the **Federal Register** on August 23, 1983 (48 FR 38387). By letter dated June 30, 1986, the licensee requested withdrawal of the application for the proposed amendment. The Commission has considered the licensee's June 30, 1986, letter and has determined that permission to withdraw the October 31, 1980, application for amendment should be granted.

For further details with respect to this action, see (1) the application for amendment dated October 31, 1980; (2) the licensee's letter dated June 30, 1986, requesting withdrawal of the application for license amendment, and (3) the Commission's letter to the licensee dated July 29, 1986.

All of the above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Dated at Bethesda, Maryland, this 29th day of July, 1986.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate No. 6, Division of PWR Licensing-B.

[FR Doc. 86–18585 Filed 8–15–86; 8:45 am]

BILLING CODE 7590-01-M

Docket No. 50–213

Connecticut Yankee Atomic Power Co. (Haddam Neck Plan); Correction to Order Confirming Licensee Commitments on Emergency Response Capability

I.

Connecticut Yankee Atomic Power Company (CYAPCO) holds Facility Operating License No. DPR–61 which authorizes the operation of the Haddam Neck at steady-state power levels not in excess of 1825 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Middlesex County, Connecticut.

II.

On July 2, 1986, the Commission issued an Order, published in the **Federal Register** at 51 FR 24766 (July 8, 1986), confirming the Licensee's additional commitments to comply with post-TMI requirements proposed in Supplement 1 to NUREG–0737, "Clarification of TMI Action Plan Requirements." Subsequent to the issuance of the Order, it has come to the Staff's attention that the Order had described the Licensee's commitments erroneously in two instances in the table attached to the Order.

First, the Order required under Item 1b in the attached table that the Licensee make the safety parameter display system (SPDS) fully operational and have operators trained on the SPDS by March 25, 1988. The required completion date should have read "March 25, 1988 or within 6 months of the Start of Cycle 15" to reflect more accurately the Licensee's commitments in this area and to allow some flexibility for delaying completion if the current outage schedule should slip.

Second, the status of Item 3b pertaining to implementation of requirements proposed in Supplement 1 of NUREG–0737 regarding Regulatory Guide 1.97 was described as complete as of July 17, 1984, in the table attached to the July 2, 1986 Order. This item, which was the subject of an earlier order should have indicated only that the Licensee was required to submit and had submitted an implementation schedule by July 17, 1984. The item was not a new requirement under the July 2, 1986 Order and was included on the table only to provide a convenient reference to all of the Licensee's commitments to Supplement 1 to NUREG–0737.

III.

Accordingly, Attachment 1 of the July 2 Order is revised to reflect a completion date for Item 1b of "March 25, 1988, or 6 months from the Start of Cycle 15" and to reflect under Item 3b that the Licensee had completed the requirement to submit a schedule for implementation by July 17, 1984. A copy of the corrected table is attached.

The Order of July 2, 1986, as corrected herein, remains in effect in accordance with its terms.

Dated at Bethesda, Maryland, this 12th day of August 1986.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Director, Division of PWR Licensing—B, Office of Nuclear Reactor Regulation.

HADDAM NECK PLANT LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	Complete 5/13/86.
	1b. SPDS fully operational and operators trained	March 25, 1988 or 6 months from start of Cycle 15.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete 2/28/86.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	February 25, 1988.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG-0737 have been or will be met..	Complete 02/29/84.
	3b. Implement (installation or upgrade) requirements	Schedule submitted by 7/17/84 Complete.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Comnplete 09/01/83.
	4b. Implement the upgraded EOPs	September 1, 1986.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Complete [1].
	5b. Operational Support Center fully functional.	Complete [1].
	5c. Emergency Operations Facility [2] fully functional.	Complete [1].

[1] Except for any additional changes that may be required as a result of other items in this Order.
[2] Relief for backup EOF granted by letter from D. Eisenhut to W. Counsil dated June 4, 1984.

[FR Doc. 86–18583 Filed 8–15–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of schedular exemptions from the requirements of 10 CFR Part 50, Appendix J, to the Connecticut Yankee Atomic Power Company (CYAPCO or the licensee) for the Haddam Neck Plant located at the licensee's site in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant schedular exemptions from the Type C testing requirements of Appendix J for the high pressure safety injection system penetration (P-3), and reverse direction testing of the reactor coolant pump seal water return penetration (P-7). The licensee has determined that modifications to the above systems were necessary for the Haddam Neck Plant to meet the requirements of 10 CFR Part 50, Appendix J.

The Need for the Proposed Action

One of the conditions of all operating licenses for a water-coolant power reactor, as specified in 10 CFR 50.54(o), is that the primary reactor containment shall meet the containment leakage test requirements set forth in 10 CFR Part 50, Appendix J.

In an April 5, 1984 letter, the NRC staff noted that not all containment penetrations at the Haddam Neck Plant are tested in accordance with the Appendix J. The staff concluded that it was acceptable to defer implementation of specific Appendix J and Appendix A modifications until an integrated assessment, i.e., Integrated Safety Assessment Program (ISAP), could be performed.

In a July 31, 1985 letter, the NRC staff formally established the scope of the Haddam Neck Plant ISAP and designated the Appendix J issues as ISAP Topic 1.03, Containment Penetration Evaluations. In this letter, the staff recognized that some issues require exemptions to defer action until the Haddam Neck Plant ISAP could be completed.

By letter dated July 15, 1986, the licensee requested the exemptions presented above.

Environmental Impact of the Proposed Action

For the exemption requests that are strictly schedular, the exemptions would allow the current method of testing to continue until all required modifications are completed. The results of the current tests, in conjunction with the overall integrated containment leak rate test, give reasonable assurance that containment integrity will be provided following a postulated accident.

Thus, radiological releases will not differ from those determined previously and the proposed exemptions do not otherwise affect facility radiological effluent or occupational exposures. With regard to potential nonradiological impacts, the proposed exemptions do not affect plant nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemptions.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemptions, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the schedular exemptions would be to impose shorter extension periods than requested. Such actions would not enhance the protection of the environment and would result in unjustified costs for the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Haddam Neck.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemptions. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letter dated July 15, 1986. This letter is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Russell Library, 123 Broad Street, Middletown, Connecticut 06547.

Dated at Bethesda, Maryland this 12th day of August 1986.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Director, Integrated Safety Assessment Project, Directorate Division of PWR Licensing—B.

[FR Doc. 86-18584 Filed 8-15-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power & Light Co., et al. Availability of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment of Facility Operating License No. NPF-29, issued to Mississippi Power & Light Company, Middle South Energy, Inc., and South Mississippi Power Association, (the licensees), for operation of the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi.

Indentification of Proposed Action: The amendment would consist of changes to the operating license and Technical Specifications (TSs) and woud authorize an increase of the storage capacity of the spent fuel pool (SFP) from 1270 fuel assemblies to 2324 fuel assemblies and an increase of the storage capacity of the upper containment pool (UCP) from 170 to 800 fuel assemblies.

The amendment to the TSs is responsive to the licensee's submittal, dated May 6, 1985. The NRC staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment Related to the Modification of the Spent Fuel Storage Racks at Grand Gulf Nuclear Station, Unit 1, Facility Operating License No. NPF-29, Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Power Association, " dated August 12, 1986.

Summary of Environmental Assessment: The Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel (NRREG-0575), Volumes 1-3, concluded that the environmental impact of interim storage of spent fuel was negligible and the dose of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because of the differences in SFP designs, the FGEIS recommended

licensing SFP expansions on a case-by-case basis.

For Grand Gulf Nuclear Station, Unit 1, the expansion of the storage capacity of the spent fuel pool and the upper containment pool will not create any significant additional radiological effects or non-radiological environmental impacts.

The additional whole body dose that might be received by an individual at the site boundary is less than 0.1 millirem per year; the estimated dose to the population within a 50-mile radius is estimated to be less than 0.1 person-rem per year. These dose are small compared to the fluctuations in the annual does this population receives from exposure to background radiation. The increases in occupational exposures for the proposed operation of the modified spent fuel pool are estimated to add less than one percent to the total annual occupational radiation doses at the plant. This small increase in occupational radiation doses should not affect the licensee's ability to maintain individual occupational doses within the limits of 10 CFR 20.

The only non-radiological discharge altered by the modifications to the SFP and UCP is the waste heat rejected to the Mississippi River. The total load to the Mississippi River will be increased less than 0.03 percent. Thus, there is no significant environmental impact attributable to the discharge waste heat from the station due to this very small increase.

Finding of No Significant Impact

The staff has reviewed the proposed modifications to the facilities relative to the requirements set forth in 10 CFR Part 51. Based on this assessment, the staff concludes that there are no significant radiological or non-radiological impacts associated with the proposed action and that the issuance of the proposed amendment to the license will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, an environmental impact statement need not be prepared for this action.

For further details with respect to this action, see (1) the application for amendment to the Technical Specifications dated May 6, 1985 and supplemental letters dated July 29, August 15, August 30, September 11, September 12, November 1, and December 18, 1985, and March 14, March 15, June 5, June 9, and July 25, 1986, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575), (3) the Final Environmental Statement for Grand Gulf Nuclear Station, Unit 1, issued September 1981, and (4) the Environmental Assessment dated August 12, 1986. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland, this 12th day of August 1986.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director BWR Project Directorate No. 4 Division of BWR Licensing.

[FR Doc. 86–18582 Filed 8–15–86; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Nuclear Plant Chemistry; Cancellation

The **Federal Register** published on Friday, August 8, 1986 (51 FR 28642) contained notice of a meeting of the ACRS Subcommittee on Nuclear Plant Chemistry to be held on Tuesday, August 26, 1986, Room 1046, 1717 H Street, NW, Washington, DC. The meeting has been cancelled.

Dated: August 13, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–18581 Filed 8–15–86; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Information Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of submission of information collection request to the Office of Management and Budget (OMB) for approval.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) and 5 CFR Part 1320, we are announcing submission to OMB for approval of the "Applicant's Statement of Selective Service Registration Status" for completion by Federal job applicants prior to appointment. Recently enacted section 1622 of Pub. L. 99–145 declares nonregistrants ineligible for appointment. The text of the statement will be published as part of our forthcoming regulations on the Selective Service registration requirement. Executive agencies will use the information provided by applicants on statements to determine whether they have registered as required under Selective Service law. For copies of the statement, call James M. Farron, Agency Clearance Officer, on (202) 632–7714.

Comment Date: Comments on this proposal should be received within 10 working days from date of this publication.

ADDRESS: Send or deliver comments to—

James M. Farron, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James M. Farron, (202) 632–7714.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86–18559 Filed 8–15–86; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–15249 (File No. 812–6442)]

FSA Capital, Inc.; Application

August 12, 1986.

Notice is hereby given that FSA Capital, Inc. (the "Applicant"), 300 Delaware Avenue, Suite 1703, Wilmington, Delaware 19899, filed an application on July 28, 1986, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting the Applicant from all provisions of the Act. All interested persons are referred to the application of file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicant states that it is a wholly-owned subsidiary of Franklin Financial Services, Inc. ("FFS"), a Kansas corporation and a wholly-owned, service corporation subsidiary of Franklin Savings Association, a Kansas-chartered stock savings and loan association. Applicant states that it is a limited-purpose corporation created to issue one or more series (a "Series") of bonds (the "Bonds") secured by certain mortgage collateral and will not engage

in any other unrelated business or investment activities.

Applicant states that it will issue Bonds which are secured by "fully-modified pass-through" mortgage-backed certificates fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA"); Guaranteed Mortgage Pass-Through Certificates issued by the Federal National Mortgage Association ("FNMA"); Mortgage Participation Certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC"); and distributions on such certificates (collectively, "Mortgage Certificates") and reinvestment earnings thereon.

Applicant states that each Mortgage Certificates will represent interests in pools of one- to four-family residential mortgage loans which have been purchased in the open market by FFS. FFS will sell the Mortgage Certificates to the Applicant at its then current market value, and the Applicant will assign such Mortgage Certificates to an independent trustee (the "Trustee") as security for a Series of Bonds. The Mortgage Certificates will be held by the Trustee or on behalf of the Trustee by an independent custodian, which custodian will not be an affiliate of the Applicant.

Applicant states that, in the case of each Series of Bonds (i) payments on the mortgage loans underlying the Mortgage Certificates securing such Bonds will be the primary souce of funds for payments of principal and interest due on such Bonds; (ii) such Bonds will be secured by collateral consisting primarily of Mortgage Certificates with an aggregate outstanding principal amount approximately equal to the initial principal amount of such Bonds; (iii) scheduled principal and interest payments on the Mortgage Certificates securing such Bonds, in accordance with the terms of such Mortgage Certificates (together with any required payments from any reserve funds created with respect to such Bonds), plus reinvestment income received thereon (at an assumed reinvestment rate) will be sufficient to make timely payments of interest on the Bonds and to retire each class of Bonds not later than its stated maturity; (iv) the Mortgage Certificates will be pledged in their entirety to the Trustee and will be subject to the lien of the related Indenture (as defined below); and (v) the Bonds will be rated in the highest bond rating category by at least one nationally recognized rating agency.

Each Series of Applicant's Bonds will be issued pursuant to an indenture between Applicant and Trustee as supplemented by one or more supplemental indentures for such series (together referred to as the "Indenture"). Each Series of Bonds will be registered under the Securities Act of 1933 (the "1933 Act"), unless an appropriate exemption is available from such registration, and sold pursuant to a prospectus of private placement memorandum (either herein referred to as the "Prospectus") containing all material disclosures required by the terms of the 1933 Act. Indentures for each offering registered under the 1933 Act will be qualified under the provisions for the Trust Indenture Act of 1939.

Under the Indenture, Applicant will have a limited right to substitute new Mortgage Certificates ("Substitute Mortgage Certificates") for Mortgage Certificates initially pledged as security for the Bonds, provided that such substitution does not result in a reduction of the ratings assigned by one or more nationally recognized rating agencies to the Bonds. Substitute Mortgage Certificates will be required to have payment terms similar to, and scheduled cash flows no less than, those of the Mortgage Certificates being replaced.

The Applicant states that although the Bonds will not be redeemable by the Bondholders, they may be subject to special redemption if the Trustee determines that there is an insufficient cash flow from the Mortgage Certificates to support the outstanding Bonds between certain payment dates for such Bonds. In addition, all or a portion of each Series of Bonds may be subject to redemption at the option of the Applicant under the circumstances set forth in the related Indenture and disclosed in the Prospectus. Applicant states that it will not be able to impair the security afforded by the Mortgage Certificates to the holders to the Bonds of any series ("Bondholders").

Applicant submits that the relief requested is necessary, appropriate and in the public interest because, among other things, Applicant is not the type of entity to which the provisions of the Act were intended to be applied. Additionally, the granting of the requested exemption will not be inconsistent with the purposes of the Act and protection of investors. Investors will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the 1933 Act and thereafter by the Indenture and the Trustee representing their interest under the Indenture.

Applicant expressly agrees that the proposed transactions to be entered into by it will be subject to the following conditions:

(1) Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to Section 4(2) of the 1933 Act;

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. However, the mortgage collateral underlying the Bonds will be limited to Mortgage Certificates guaranteed by GNMA, FNMA or FHLMC;

(3) If new Mortgage Certificates are substituted, the Substitute Mortgage Certificates will: (i) Be of equal or better quality than the Mortgage Certificates replaced; (ii) have similar payment terms and cash flow as the Mortgage Certificates replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Certificates replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, new Mortgage Certificates will not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as mortgage collateral. In no event may any new Mortgage Certificates be substituted for any Substitute Mortgage Certificates;

(4) All Mortgage certificates, funds, accounts or other collateral securing a Series of Bonds will be held by the Trustee or on behalf of the Trustee by an independent custodian. Neither the Trustee nor the custodian will be an affiliate (as the term "affiliate" is defined in Rule 405, 17 CFR 230.405 under the 1933 Act) of the Applicant. The Trustee will be provided with a first priority perfected security or lien interest in and to all Bond collateral;

(5) Each Series of Bonds will be rated in one of two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with the Applicant;

(6) The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the Act; and

(7) No less often than annually, an independent public accountant will audit the books and records of the Applicant and in addition will report on whether the anticipated payments of principal of and interest on the mortgage certificates will contiune to be adequate to pay the principal of the interest on Bonds in accordance with their terms. Upon completion, copies of the auditor's report will be provided to the Trustee.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 5, 1986, at 5:30 p.m., do

so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail to upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18588 Filed 8-15-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Air Traffic Procedures Advisory Committee (ATPAC) to be held from October 20, at 9 a.m., through October 24, 1986, at 4 p.m., at FAA headquarters, 800 Independence Avenue, SW., Washington, DC.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda items.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than October 17, 1986, Mr. Walter H. Mitchell, Executive Director, ATPAC, Air Traffic, Acting ATO-400, 800 Independence Avenue, SW., Washington, DC, 20591, telephone (202) 267-9358. Information may be obtained from the same source.

The next quarterly meeting of the FAA ATPAC is planned to be held from January 13 through January 16, 1987, in Phoenix, Arizona.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on August 11, 1986.

Walter H. Mitchell,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 86-18523 Filed 8-15-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 12, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions 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 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0153
Form Number: None
Type of Review: Extension
Title: Appraisal of Property Upon Transfer to Other Real Estate Owned/ Instructions to Appraiser
Clearance Officer: Eric Thompson, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Internal Revenue Service

OMB Number: 1545-0108
Form Number: IRS Form 1096
Type of Review: Revision
Title: Annual Summary and Transmittal of U.S. Information Returns
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

S.F. Timothy Mullen,

Departmental Reports Management Office.

[FR Doc. 86-18570 Filed 8-15-86; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 159
Monday, August 18, 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).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, August 12, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

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. 46,626-L
Midland Consolidated Office, Midland, Texas

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: August 13, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-18638 Filed 8-14-86; 12:30 p.m.]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, August 12, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

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:

Memorandum and Resolution re:
United American Bank in Knoxville, Knoxville, Tennessee

Request for fiancial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter 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 by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: August 13, 1986.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-18639 Filed 8-14-86; 12:30 pm]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION

Notice of Previously Held Special Meeting

TIME AND DATE: 10:30 a.m., Wednesday, August 13, 1986.

PLACE: 1776 G Street, NW., Washington, DC 20006, Conference Room 8c.

STATUS: Closed.

MATTER CONSIDERED:

1. The Board of Directors reviewed various financial issues related to the Corporation's business. No decisions were made at this meeting.

The Board unanimously voted that Federal Home Loan Mortgage Corporation business required that the meeting be held with less than seven days advance notice.

The Board voted to close the meeting pursuant to 5 U.S.C. 552b(c)(9)(B). The General Counsel certified that the meeting be closed under this exemption.

FOR MORE INFORMATION CONTACT: Alan Hausman, Associate General Counsel and Assistant Secretary, 1776 G Street, NW., P.O. Box 37248, Washington, DC 20013.

Dated: August 14, 1986.

Maud Mater,

Senior Vice President—General Counsel and Secretary.

[FR Doc. 86-18657 Filed 8-14-86; 2:00 pm]

BILLING CODE 6719-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

August 7, 1986.

TIME AND DATE: 10:00 a.m., Thursday, August 14, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Harry Wadding v. Tunnelton Mining Co., Docket No. PENN 84-186-D (Consideration of pending motion);

2. Asarco, Inc., Northwestern Mining Dept., Docket No. WEST 84-48-M (Issues include whether the administrative law judge properly concluded that Asarco violated 30 CFR 57.3-22 (1983), a mandatory safety standard dealing with ground control.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

Helen O. Mockabee,

Acting Agenda Clerk.

[FR Doc. 86-18645 Filed 8-14-86; 12:30 pm]

BILLING CODE 6735-01-M

federal register

Monday
August 18, 1986

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Proposed Establishment of Airport Radar Service Areas; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Nos. 86-AWA-37 and 86-AWA-38]

Proposed Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Airport Radar Service Areas (ARSA) at five locations under two separate Airspace Docket Numbers—86-AWA-37s Charleston AFB/International Airport, SC; and 86-AWA-38, Atlantic City, NJ; Fort Myers, FL; Savannah, GA, and Tallahassee, FL. Each location is a public or military airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA would require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations would promote the efficient control of air traffic and reduce the risk of midair collision in terminal areas.

DATES: Comments must be received on or before December 5, 1986, for Airspace Docket 86-AWA-37, and on or before December 22, 1986, for Airspace Docket No. 86-AWA-38. Informal airspace meeting dates are as follows: Atlantic City Airport, NJ—November 4, 1986; Charleston AFB/International Airport, SC—November 5, 1986; Fort Myers Southwest Florida Regional Airport, FL—November 12, 1986; Savannah International Airport, GA—November 6, 1986; and Tallahassee Municipal Airport, FL—November 20, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 86-AWA-800 Independence Avenue, SW., Washington, DC 20591.

Informal airspace meeting places are as follows:

Atlantic City, NJ, ARSA
Time: 10:00 a.m.
Location: FAA, Technical Center Auditorium, Atlantic City, NJ

Charleston, SC, ARSA
Time: 7:30 p.m.
Location: Trident Technical College, Building 100, Room 169, 7000 Rivers Avenue, Charleston, SC

Fort Myers, FL, ARSA
Time: 7:00 p.m.
Location: Crash Rescue Building, Training Room, Southwest Regional Airport, Fort Myers, FL

Savannah, GA, ARSA
Time: 7:00 p.m.
Location: Georgia Air Guard Field Training Site, Building 510, Savannah Municipal Airport, Savannah, GA

Tallahassee, FL, ARSA
Time: 7:00 p.m.
Location: Florida Department of Transportation, Hayden Burns Building, 605 Suwannee Street, Tallahassee, FL

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

Informal dockets may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert G. Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

Comments Invited

This notice involves five locations organized into two groups. Each group is assigned a separate docket number and comment period. Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA- ." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold informal airspace meetings for all proposed ARSA locations in order to receive additional input with respect to the proposal. The schedule of times and places of the hearings is listed above. No individual meetings will be held at the same time on separate locations in the same region, so that commenters will be able to attend all meetings in which they may have an interest. Persons who plan to attend any of the meetings should be aware of the following procedures to be followed:

(a) The meetings will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) The dates, times, and places for each meeting are listed above. There will be no admission fee or other charge to attend and participate. The meetings will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda to enable early adjournment if the progress of any meeting is more expeditious than planned.

(c) The meetings will not be recorded. A summary of the comments made at each meeting will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted at the discretion of the FAA representative. Participants submitting handout materials should present an original and

two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meetings should not be taken as expressing a final FAA position.

Agenda

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the Federal Register (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR were the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1–2 concluded that TRSA's should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since redesignated ARSA, was the consensus recommendation.

In response, the FAA published NAR Recommendation 1–2.2.1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83–9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (October 28, 1983; 48 FR 50038) in order to provide an operational confirmation of the ARSA concept for Potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining an ARSA and establishing air traffic rules for operation within such an area. Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, and Columbus, OH, airports and also at the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250; March 6, 1985). The FAA has stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which are included in the TRSA replacement program. The task group recommended this criteria consider—among other things—traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. This criteria has been developed and is being published via the FAA directives system.

The FAA has established ARSA's at 62 locations under a paced implementation plan to replace TRSA's with ARSA's. This is one of a series of notices to implement ARSA's at locations with TRSA's.

Related Rulemaking

This notice proposes ARSA designation at five of the locations identified as candidates for an ARSA in the preamble to Amendment No. 71–10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the Federal Register.

The Current Situation at the Proposed ARSA Locations

A TRSA is currently in effect at each of the locations at which ARSA's are proposed in this notice. A TRSA consists of the airspace surrounding a designated airport where ATC provides radar vectoring, sequencing, and separation for all aircraft operating under instrument flight rules (IFR) and for participating aircraft operating under visual flight rules (VFR). TRSA airspace and operating rules are not established by regulation, and participation by pilots operating under VFR is voluntary, although pilots are urged to participate. This level of service is known as Stage III and is provided at all locations identified as TRSA's. The NAR task group recommended the replacement of most TRSA's with ARSA's.

A number of problems with the TRSA program were identified by the task group. The task group stated that because there are different levels of service offered within the TRSA, users are not always sure of what restrictions or privileges exist, or how to cope with them. According to the task group, there is a feeling shared among users that TRSA's are often poorly defined, are generally dissimilar in dimensions, and encompass more area than is necessary or desirable. There are other users who believe that the voluntary nature of the TRSA does not adequately address the problems associated with nonparticipating aircraft operating in relative proximity to the airport and associated approach and departure courses. There is strong advocacy among user organizations that terminal radar facilities should provide all pilots the same service, in the same way, and, to the extent feasible, within standard size airspace designations.

Certain provisions of FAR § 91.87 add to the problem identified by the task group. For example, aircraft operating under VFR to or from a satellite airport and within the airport traffic area (ATA) of the primary airport are excluded from the two-way radio communications requirement of § 91.87. This condition is acceptable until the volume and density of traffic at the primary airport dictates further action.

The Proposal

The FAA is considering an amendment to § 71.501 of Part 71 of the Aviation Regulations (14 CFR Part 71) to establish ARSA's at the following five locations: Atlantic City, NJ; Charleston, SC; Fort Myers, FL; Savannah, GA; and Tallahassee, FL. Each of the above locations is a public or military airport at which a nonregulatory TRSA is currently in effect. The proposed locations are depicted on charts in Appendix 1 to this notice.

The FAA has published a final rule (50 FR 9252; March 6, 1985) which defines ARSA and prescribes operating rules for aircraft, ultralight vehicles, and parachute jump operations in airspace designated as an ARSA.

The final rule provides in part that any aircraft arriving at any airport in an ARSA or flying through an ARSA, prior to entering the ARSA must: (1) Establish two-way radio communications with the ATC facility having jurisdiction over the area, and (2) while in the ARSA, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within the ARSA, two-way radio communications must be maintained with the ATC facility having jurisdiction over the area. For aircraft departing a satellite airport within the ARSA, two-way radio communications must be established as soon as practicable after takeoff with the ATC facility having jurisdiction over the area, and thereafter maintained while operating within the ARSA.

All aircraft operating within an ARSA are required to comply with all ATC clearances and instructions and any FAA arrival or departure traffic pattern for the airport of intended operation. However, the rule permits ATC to authorize appropriate deviations to any of the operating requirements of the rule when safety considerations justify the deviation or more efficient utilization of

the airspace can be attained. Ultralight vehicle operations and parachute jumps in an ARSA may only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR task group recommendation that each ARSA be of the same airspace configuration insofar as practicable. The standard ARSA consists of airspace within 5 nautical miles of the primary airport extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical miles from the primary airport from 1,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviation from the standard has been necessary at some airports due to adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Definitions, operating requirements, and specific airspace designations applicable to ARSA may be found in 14 CFR Part 71, §§ 71.14 and 71.501, and Part 91, §§ 91.1 and 91.88.

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this proposed regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Evaluation

The FAA has conducted a detailed Regulatory Evaluation of the proposed establishment of additional ARSA sites. The major findings of that evaluation are summarized below, and the full evaluation is available in the regulatory docket.

a. Costs.

Costs which potentially could result from the ARSA program fall into the following categories:

(1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.

(2) Costs associated with the revision of charts, notification of the public, and pilot education.

(3) Additional operating costs for circumnavigating or flying over the ARSA.

(4) Potential delay costs resulting from operations within an ARSA rather than a TRSA.

(5) The need for some operators to purchase radio transceivers.

(6) Miscellaneous costs.

It has been the FAA's experience, however, that these potential costs do not materialize to any appreciable degree, and when they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a very small minority of ARSA sites. The reasons for these conclusions are presented below.

FAA expects that the ARSA program can be implemented without requiring additional controller personnel above current authorized staffing levels because participation at most TRSA locations is already quite high, and the reduced separation standards permitted in ARSA's will allow controllers to absorb the slight increase in participating traffic by handling all traffic much more efficiently. Further, because controller training will be conducted during normal working hours, and existing TRSA facilities already operate the necessary radar equipment, FAA does not expect to incur any appreciable implementstion costs. Essentially, the FAA is modifying its terminal radar procedures in the ARSA program in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to remove TRSA airspace depictions and incorporate the new ARSA airspace boundaries. Changes of this nature are routinely made during charting cycles, and the planned effective dates for newly established ARSA's are scheduled to coincide with the regular 6-month chart publication intervals.

Much of the need to notify the public and educate pilots about ARSA operations will be met as a part of this rulemaking proceeding. The informal public meeting being held at each location where an ARSA is being proposed provides pilots with the best opportunity to learn both how an ARSA works and how it will affect their local operations. Because the expenses associated with these public meetings will be incurred regardless of whether or not an ARSA is ultimately established at a proposed site, they are more appropriately considered sunken costs attributable to the rulemaking process rather than costs of the ARSA program. Once the decision has been made to establish an ARSA through a final rule issued in this proceeding, however, any public information costs which follow are strictly attributable to the ARSA program. The FAA expects to distribute a Letter to Airmen to all pilots residing within 50 miles of ARSA sites explaining the operation and configuration of the ARSA finally adopted. The FAA will also issue an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs for the three airports at which ARSA's are being proposed by this notice is estimated to be approximately #2,250. This cost will be incurred only once upon the initial establishment of the ARSA's.

Information on ARSA's following implementation of the program will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and therefore will not involve additional costs strictly as a result of the ARSA progrsm. Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings that will be held at each site following implementation of the ARSA to allow users to provide feedback to the FAA on local ARSA operations. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

FAA anticipates that some pilots who currently transit a TRSA without establishing radio communications or participating in radar services may choose to circumnavigate the mandatory participation airspace of an ARSA rather than participate. Some minor delay costs will be incurred by these pilots because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor Letween the 5- and 10-nautical-mile rings. Although this will not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment (which will be offset somewhat by the descent).

FAA recognizes that the potential exists for delay to develop at some locations following establishment of an ARSA. The additional traffic that the radar facilities will be handling as a result of the mandatory participation requirement may, in some instances, result in minor delays to aircraft operations. FAA does not expect such delay to be appreciable. FAA expects that the greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards will keep delay problems to a minimum. Those that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest

advantage of the efficiencies that an ARSA will permit. This has been the experience at the three locations where ARSA's have been in effect for the longest period of time, and is the trend at most of the locations that have been more recently designated.

The FAA does not expect that any operators will find it necessary to install radio trsnsceivers as a result of establishing the ARSA's proposed in this notice. Aircraft operating to and from primary airports already are required to have two-way radio communications capability because of existing airport traffic areas and therefore will not incur any additional costs as a result of the proposed ARSA's. Further, the FAA has made an effort to minimize these potential costs throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center where the ARSA would otherwise have extended down to the surface. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs.

At some proposed ARSA locations, special situations might exist where establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse impacts on local fixed base and airport operators. Similarly, the FAA has eliminated potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect that any such adverse impacts will occur at the candidate ARSA sites proposed in this notice.

b. Benefits.

Much of the benefit that will result from ARSA's is nonquantifiable, and is attributable to simplification and standardization of ARSA configurations and procedures, which will eliminate much of the confusion pilots currently experience when operating in nonstandard TRSA's. Further, once experience is gained in ARSA operations, the greater flexibility allowed air traffic controllers in handling traffic within an ARSA will enable them to move traffic more efficiently than they currently are able to under TRSA's. These expected savings may or may not offset the delay that some sites may experience after the initial establishment of an ARSA, but are expected to eventually provide overall time savings to all traffic, IFR as well as VFR, that exceed delay as both pilots and controllers become more familiar with ARSA operating procedures.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the experience at the Austin and Columbus ARSA confirmation sites, FAA estimates that near midair collisions may be reduced by approximately 35 to 40 percent. Further, FAA estimates that implementation of the ARSA program nationally may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than $100,000, resulting from the prevention of a minor nonfatal accident between general aviation aircraft, to $300 million or more, resulting from the prevention of a midair collision involving a large air carrier aircraft and numerous fatalities. Establishment of ARSA's at the sites proposed in this notice will contribute to these improvements in safety.

c. Comparison of Costs and Benefits.

A direct comparison of the costs and benefits of this proposal is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to specifically attribute the standardization benefits, as well as the safety benefits, to individual candidate ARSA sites.

FAA expects that any adjustment problems that may be experienced at new ARSA locations will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition to these operational efficiency improvements, establishment of the proposed ARSA sites will contribute to a reduction in near and actual midair collisions. For these reasons, FAA expects that establishment of the ARSA sites proposed in this notice will produce long term, ongoing benefits that will far exceed their costs, which are essentially transitional in nature.

International Trade Impact Analysis

This proposed regulation will only affect terminal airspace operating procedures at selected airports within the United States. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities."

The small entities that could be potentially affected by implementation of the ARSA program are the fixed-base operators, flight schools, agricultural operstors and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. FAA has proposed to exclude almost every satellite airport located within 5 nautical miles of the primary airport at candidate ARSA sites to avoid adversely impacting their operations, and to simplify coordinating ATC responsibilities between the primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement between ATC and the affected airports that establish special procedures for operating to and from these airports. In this manner, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports that potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. FAA has utilized such arrangements

extensively in implementing the ARSA's that have been established to date.

Further, because the FAA expects that any delay problems that may initially develop following implementation of an ARSA will be transitory, and because the airports that will be affected by the ARSA program represent only a small proportion of all the public use airports in operation within the United States, small entities of any type that use aircraft in the course of their business will not be adversely impacted.

For these reasons, the FAA certifies that the proposed regulation will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport Radar Service Areas.

The Proposed Amendment

PART 71—[AMENDED]

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

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

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

§ 71.501 [Amended]

2. § 71.501 is amended as follows:

86–AWA–37

Charleston AFB/International Airport, SC [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of Charleston AFB/International Airport (lat. 23°53'55", N., long. 80°02'27" W.); and that airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL within a 10-mile radius of Charleston AFB/International Airport.

86–AWA–38

Atlantic City Airport, NJ [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Atlantic City Airport (lat. 39°23'33" N., long. 74°27'24" W.) excluding that airspace within a 1-mile radius of the Nordheim Flying K Airport (lat. 39°23'33" N., long. 74°27'24" W.); and that airspace extending upward from 1,300 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the Atlantic City Airport.

Fort Myers Southwest Florida Regional Airport, FL [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the Southwest Florida Regional Airport (lat. 26°32'10" N., long. 81°45'18" W.); and that airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport. This airport radar service area is effective during the specific days and hours of operation of Southwest Florida Regional Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Savannah International Airport, GA [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Savannah International Airport (lat. 81°12'09" N., long. 32°07'39" W.); and that airspace extending upward from 1,300 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the airport, excluding that airspace within R–3005D. This airport radar service area is effective during the specific days and hours of operation of Savannah Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Tallahassee Municipal Airport, FL [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Tallahassee Municipal Airport (lat. 30°24'26" N., long. 84°21'21" W.); and that airspace extending upward from 1,400 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the airport. This airport radar service area is effective during the specific days and hours of operation of Tallahassee Tower and Approach Control as established in advance by a Notice to Airmen. The effective dstes and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in Washington, DC, on August 12, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

BILLING CODE 4910–13–M

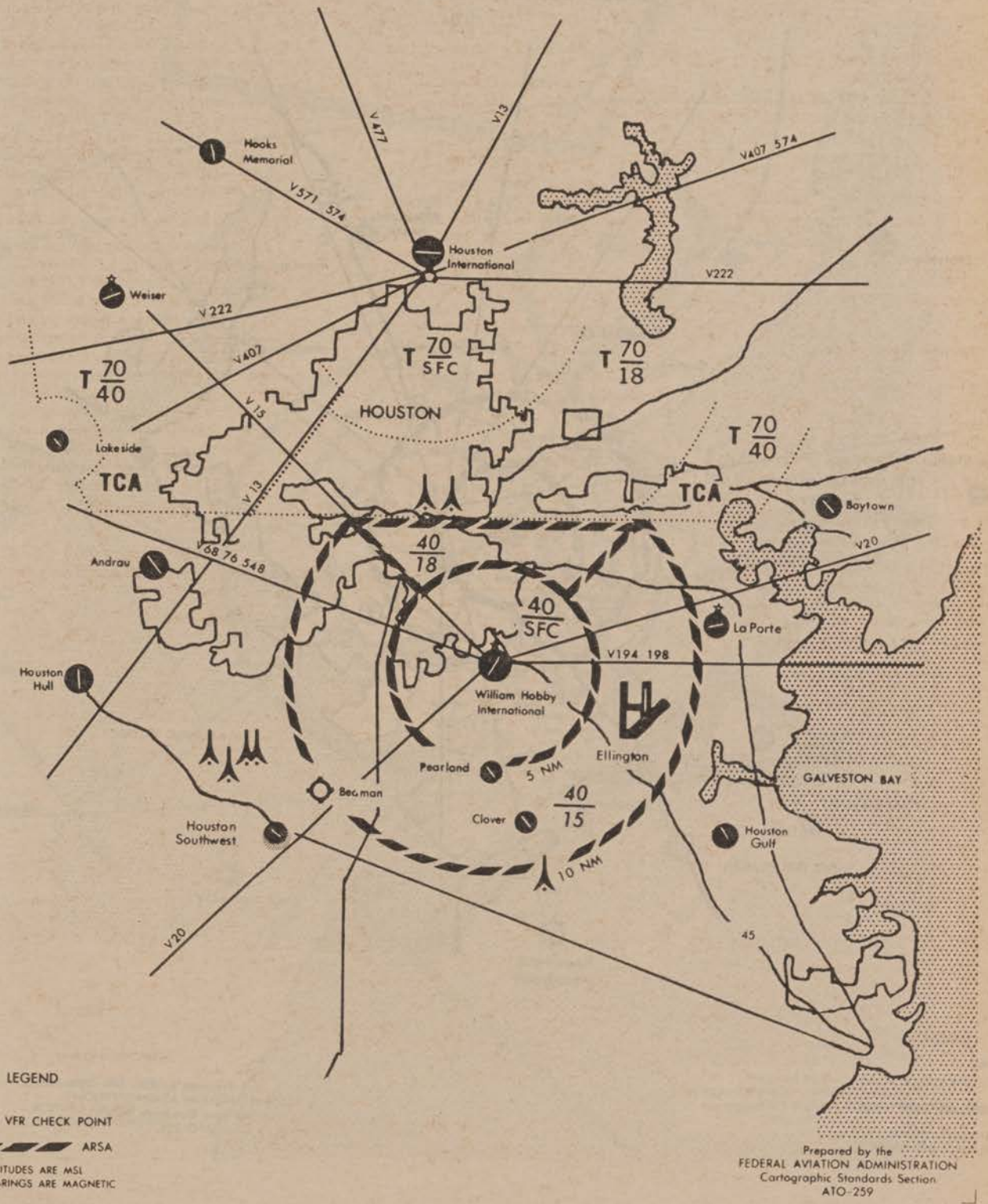
AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

HOUSTON, TEXAS

HOBBY INTERNATIONAL AIRPORT

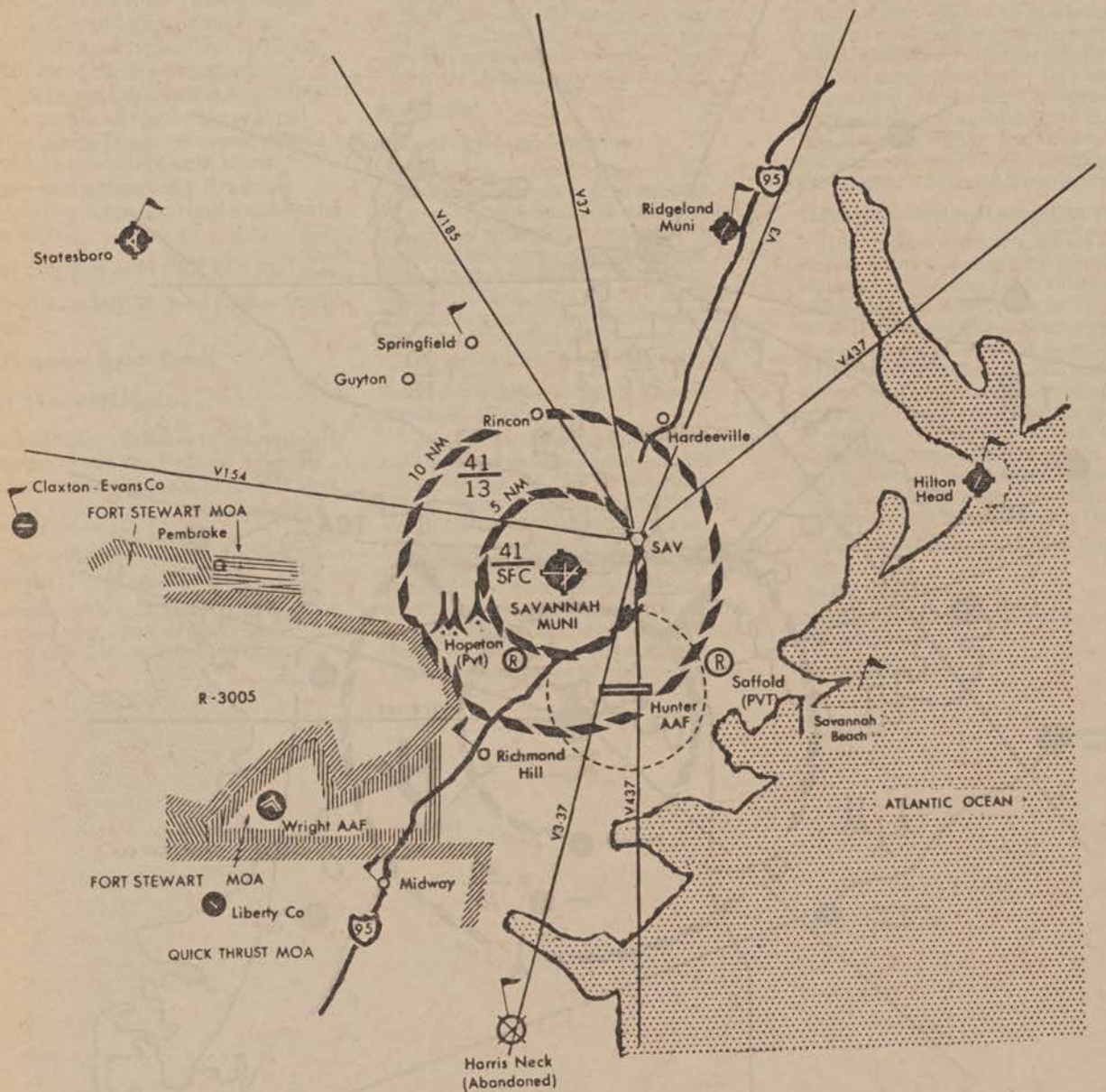
FIELD ELEV. 47' MSL



AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

SAVANNAH, GEORGIA
SAVANNAH INTERNATIONAL AIRPORT
FIELD ELEV. 51' MSL



LEGEND

VFR CHECK POINT

ARSA

ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

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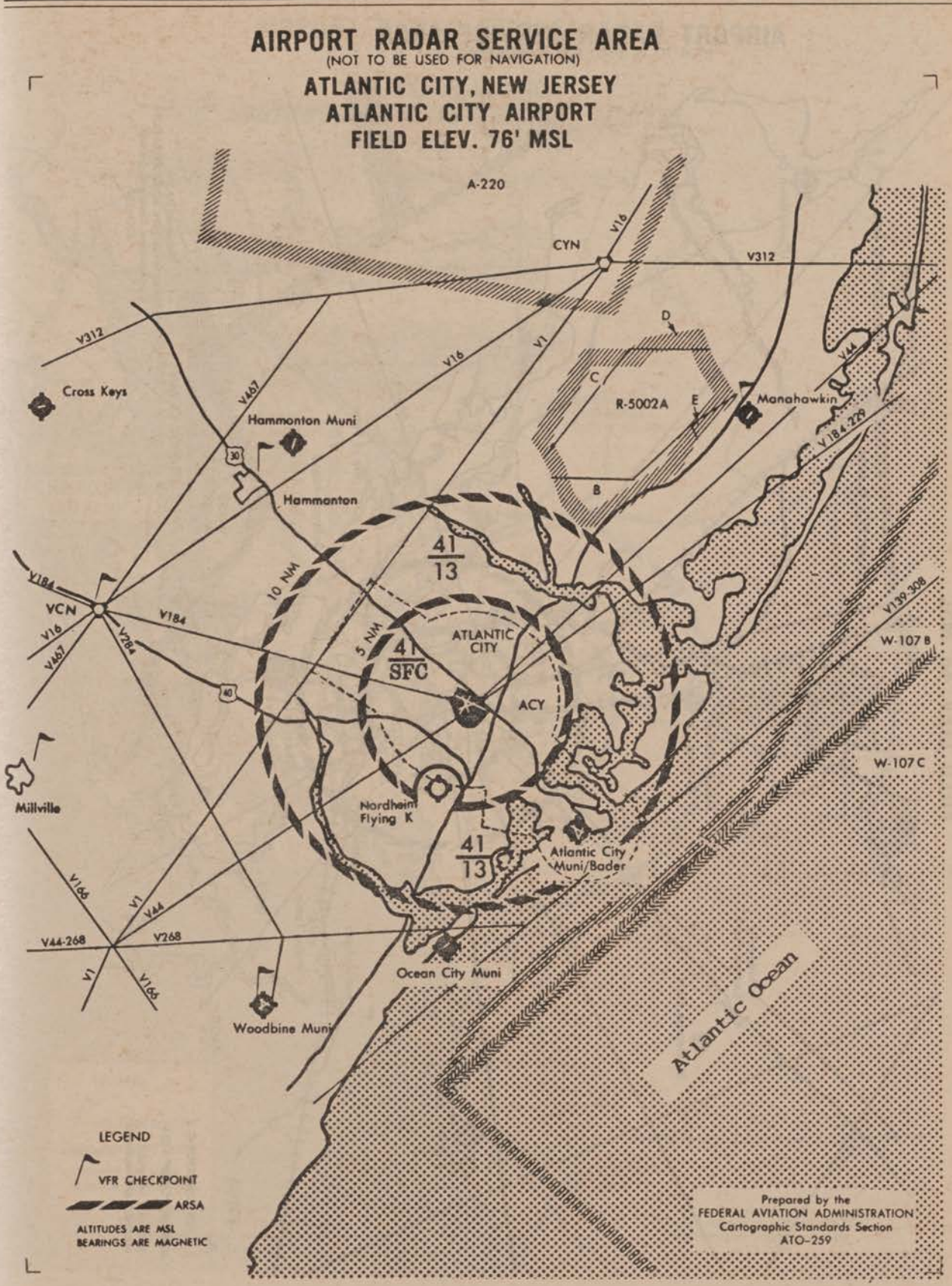
AIRPORT RADAR SERVICE AREA
(NOT TO BE USED FOR NAVIGATION)
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ATLANTIC CITY AIRPORT
FIELD ELEV. 76' MSL
A-220
CYN
V16
V312
D
C
E
B
R-5002A
Manahawkin
V44
V184-229
V1
V16
V312
V467
Cross Keys
Hammonton Muni
Hammonton
30
40
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10 NM
5 NM
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ARSA
ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC
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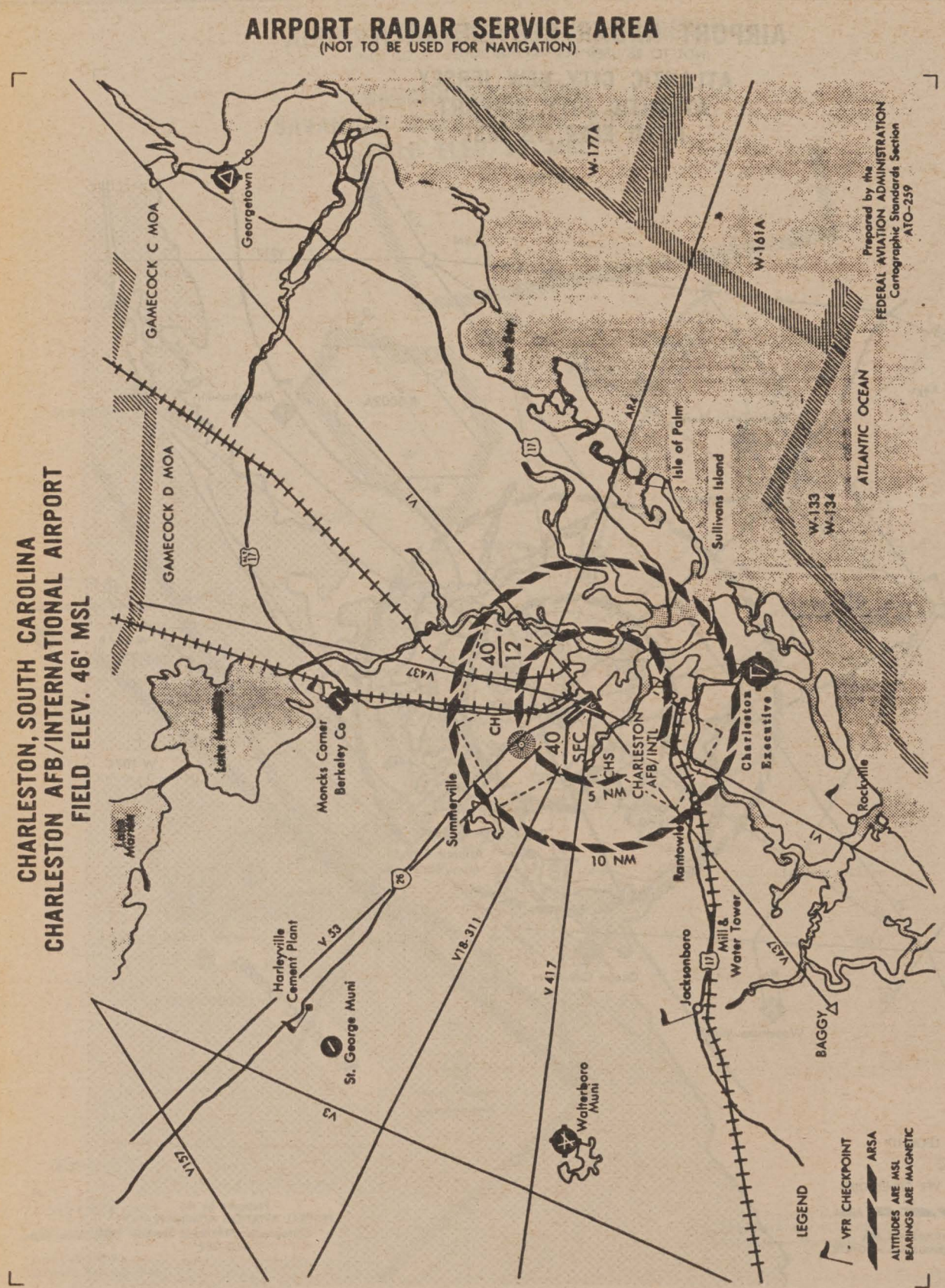
ATO-259


AIRPORT RADAR SERVICE AREA
(NOT TO BE USED FOR NAVIGATION)
CHARLESTON, SOUTH CAROLINA
CHARLESTON AFB/INTERNATIONAL AIRPORT
FIELD ELEV. 46' MSL
Prepared by the
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ATO-259
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GAMECOCK D MOA
Georgetown Co
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CH
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SEC
CHS
CHARLESTON AFB/INTL
Charleston Executive
Rockville
Moncks Corner Berkeley Co
Lake Moultrie
Lake Marion
Summerville
10 NM
Ramtowle
Mill & Water Tower
Jacksonboro
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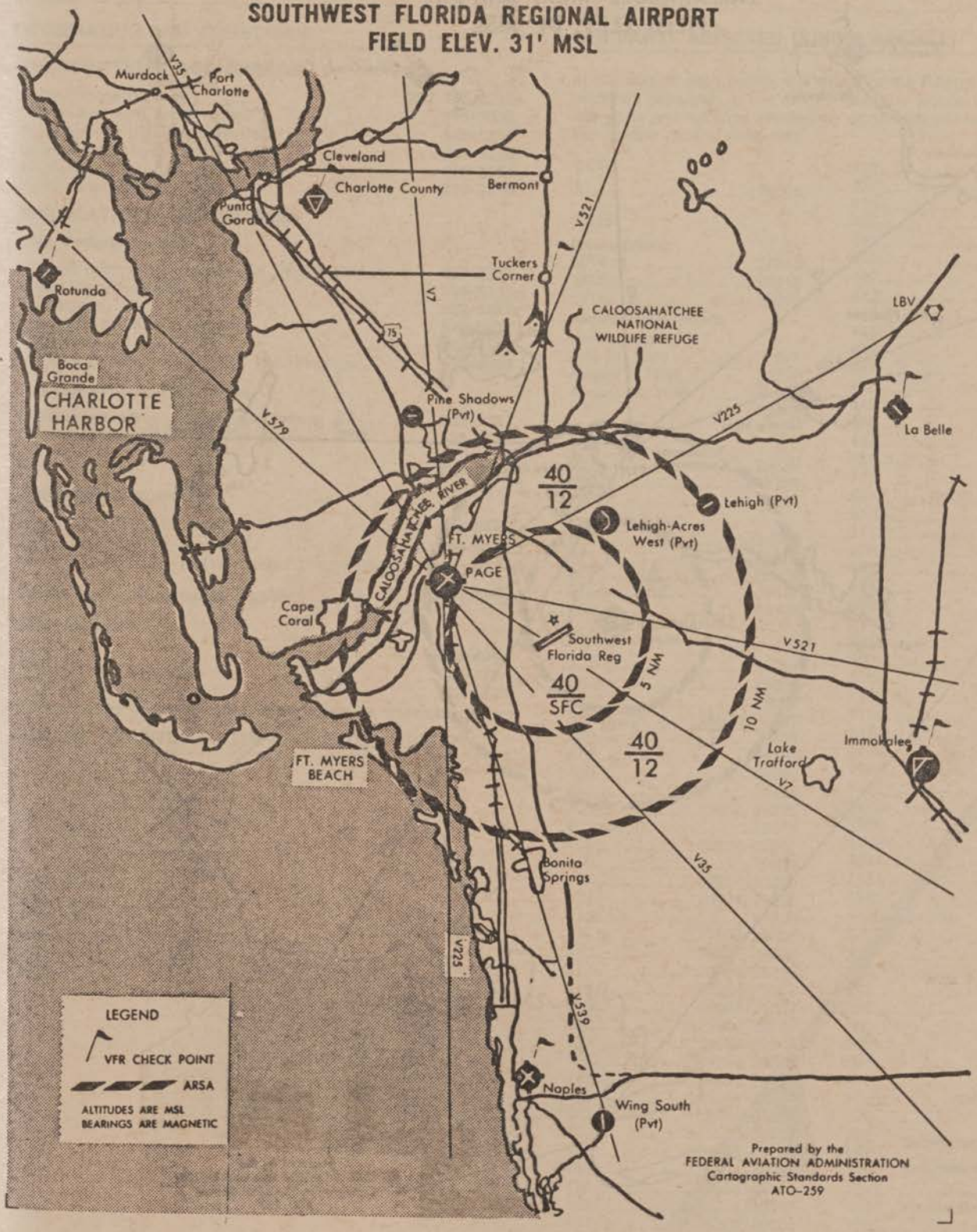
ARSA
ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

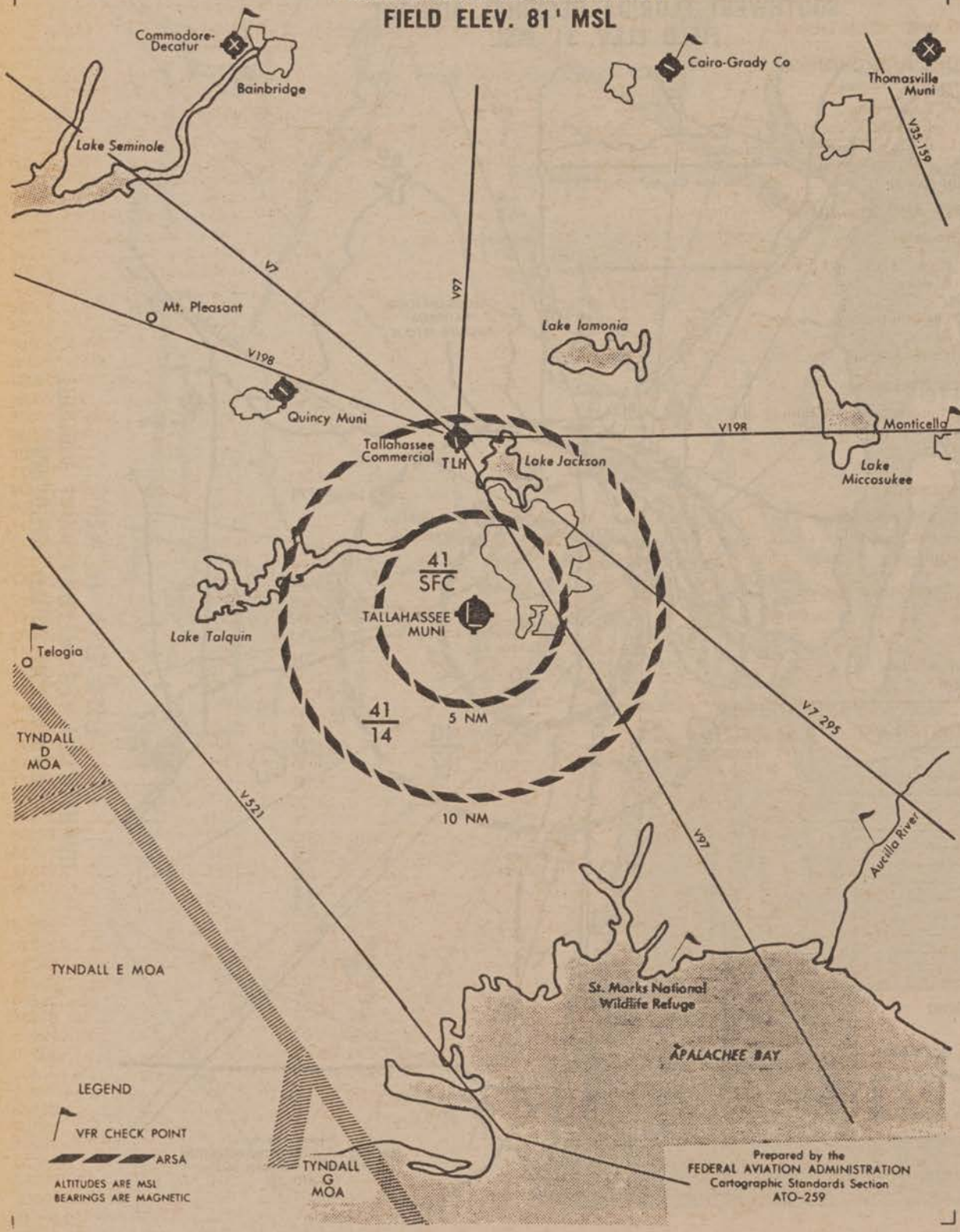
FT MYERS, FLORIDA
SOUTHWEST FLORIDA REGIONAL AIRPORT
FIELD ELEV. 31' MSL



AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

TALLAHASSEE, FLORIDA
TALLAHASSEE MUNI AIRPORT
FIELD ELEV. 81' MSL



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Monday, August 18, 1986

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S.J. Res. 256/Pub. L. 99-379

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[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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